



# RESOLUTION No. 19-166

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### RESOLUTION AUTHORIZING A SOFTWARE AS A SERVICE (SaaS) AGREEMENT WITH INNOVATIVE INTERFACES INCORPORATED FOR THE IMPLEMENTATION OF AND FIVE-YEAR SUBSCRIPTION TO THE POLARIS HOSTED INTEGRATED LIBRARY SYSTEM (ILS) IN AN AMOUNT NOT TO EXCEED \$327,462 FOR THE FIVE-YEAR AGREEMENT, AND AMENDING THE FISCAL YEAR 2018/19 LIBRARY BUDGET (4/5 AFFIRMATIVE VOTE REQUIRED)

WHEREAS, the Nevada County Community Library reviewed the Placer County competitive bids for a new software as a service (SaaS) ILS; and

WHEREAS, the Library selected the Polaris system proposed by Innovative Interfaces Incorporated, and selected by Placer County by conducting a competitive procurement of these services.

NOW, THEREFORE BE IT RESOLVED that the Nevada County Board of Supervisors approves and authorizes the Chair of the Board to execute an Agreement with Innovative Interfaces Incorporated for ILS software implementation and subscription services for a total amount over five years of \$327,462, and authorizes the Auditor-Controller to release \$25,434 from the Library Fund balance and amend the Fiscal Year 2018/19 Library budget as follows:

Increase:  
1165 60201 581 1000 521520      \$25,434

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 23rd day of April, 2019, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.

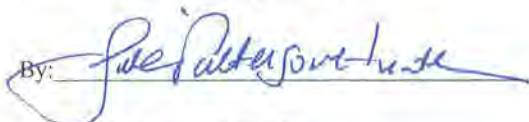
Noes: None.

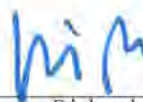
Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By: 



Richard Anderson, Chair

4/23/2019 cc: Library\*  
AC\*

**INNOVATIVE INTERFACES INCORPORATED**  
**SUBSCRIPTION LICENSE AGREEMENT**

This Subscription License Agreement ("License Agreement") is entered into by and between Innovative Interfaces Incorporated, a California corporation ("Innovative"), and the party identified as Client below ("Client"), as of the "Effective Date" also set forth below.

<b>Client</b>	County of Nevada
<b>Address</b>	950 Maidu Avenue Nevada City, CA 95959-8619
<b>Client Technical Contact:</b>	Name: Yolande Wilburn Phone: (530) 265-7050
<b>Customer No.</b>	CU9733
<b>Effective Date</b>	April 23, 2019

**1. Definitions.**

"GTCs" means the Innovative Interfaces Incorporated Subscription License Agreement General Terms and Conditions in effect as of the time of execution of this License Agreement, a copy of which can be found in Exhibit B.

"Support Terms" means the Innovative Interfaces Incorporated Maintenance and Support Terms and Conditions, as may be amended from time to time by Innovative, a copy of which can be found in Exhibit C.



"Hosting Terms" means the Innovative Interfaces Incorporated Hosting Terms and Conditions, as may be amended from time to time by Innovative, a copy of which can be found in Exhibit D.

**2. General.** Innovative and Client agree that this License Agreement is a binding agreement between the parties and is governed by the GTCs, Support Terms and, if the attached Pricing Exhibit indicates that Client has purchased hosting services, then the Hosting Terms, all of which are made a part hereof. This License Agreement, the GTCs, Support Terms, Hosting Terms, if applicable, and all other exhibits, schedules and terms and conditions referenced by or in this License Agreement, the GTCs, Support Terms or Hosting Terms together constitute the "Agreement." Client acknowledges and agrees that it has had the opportunity to review the Agreement, including without limitation, the GTCs, Support Terms and Hosting Terms, prior to the execution of this License Agreement. Innovative recommends that Client print a copy of each component of this Agreement for Client's records. Unless otherwise specified, capitalized terms in this License Agreement have the same meaning as those in the GTCs. Application of the U.N. Convention on Contracts for the International Sale of Goods is hereby excluded.

**EXHIBITS TO LICENSE AGREEMENT**

A	PRICING EXHIBIT
B	GENERAL TERMS AND CONDITIONS
C	MAINTENANCE AND SUPPORT TERMS AND CONDITIONS
D	HOSTING SERVICES TERMS AND CONDITIONS

In witness whereof, the parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

Client	Innovative
County of Nevada	Innovative Interfaces Incorporated
By: 	By: 
Name: Richard Anderson	Name: Bill Gadals
Title: Chairman	Title: VP FP+A
Date: 4/23/2019	Date: 4-5-2019

**Exhibit A**

**Pricing Exhibit**

1. **Fees.** All Fees must be paid to Innovative within 30 days following receipt of the invoice.
2. **Term.** Subject to the early termination provisions set forth in the GTCs, this Agreement will be effective for an initial term of five (5) years following the Effective Date (the "Initial Term"). This Agreement may be renegotiated by Client and Innovative for additional one (1) year terms (each, a "Renewal Term" and, together with the Initial Term, the "Term"), unless either party gives the other not less than ninety (90) days' prior written notice of its intent to terminate this Agreement effective as of the end of the then-current Term. Commencing upon year 2 and thereafter, Innovative will have the right to increase rates hereunder by 3% over the previous year.

All prices are in accordance with Pricing Exhibit Quote No. EST-INC9064 and includes all items listed in the Pricing Exhibit. Total amount for Subscription Licensing, Maintenance, Support and Hosting Services shall not exceed \$255,502 for five (5) years commencing with the start date of this contract.

Year 1	\$48,125
Year 2	\$49,569
Year 3	\$51,056
Year 4	\$52,587
Year 5	\$54,165

[APPROVED SOFTWARE LICENSE QUOTE FOLLOWS THIS PAGE]



# Pricing Exhibit

Page 1 of 2

Innovative Interfaces Incorporated  
 1900 Powell St.  
 Suite 400  
 Emeryville CA 94608  
 United States

**Date** 2/5/2019  
**Quote #** EST-INC9064  
**Payment Terms** Net 30  
**Overall Contract Term (Months)** 60  
**Contract Start Date**  
**Contract End Date**  
**Sales Rep** Carrie Pearson  
**Site Code**  
**Expires** 3/31/2019

**Bill To**  
 Nevada County Community Library  
 980 Helling Way  
 Nevada City CA 95959-8619  
 United States

**Ship To**  
 Nevada County Community Library  
 980 Helling Way  
 Nevada City CA 95959-8619  
 United States

**Currency**  
 US Dollar

Item	Item Category	Qty	Description	Options	Unit Price	Amount
Polaris Success Bundle - Public		1	Polaris Public Success Bundle  Polaris is an integrated library system solution to manage physical and digital resources and library patron accounts. Combines library operational workflows with open architecture and APIs for integration with external systems. Cloud hosted solution with web interface. Supports staff tasks and patron access services. Public Success Bundle includes Core Bundle functionality and adds: eContent Integration, Carousel, Outreach, up to 10 SIP2 Licenses, Community Profiles, Staff-Facing eCommerce, Integration with 3rd Party Vendors & RESTful APIs.			28,125.00
Staff User Licenses	License - Term	35	The Polaris Staff Client is licensed software that allows the end user to access all of the Polaris functionality based on the permissions that are set in System Administration. This includes Circulation, Patron Services, Cataloging, Acquisitions, Serials, Utilities and System Admin. Additional License for additional Staff User License. A separate staff user license is required for each concurrent connection made from a staff client to the Polaris ILS server, including from Polaris Web Application (aka Leap).		150.00	5,250.00
Polaris Dedicated Hosting - US/APAC	License - Term	1	Dedicated Cloud Hosting environment for Polaris in production enables libraries to eliminate the overhead of maintaining an on premise server for Polaris ILS. When Polaris is hosted, Innovative takes responsibility for release upgrades, backups, and system / environment maintenance & security updates. Includes Terminal services, PAC services, Reporting services, Screwdriver services		11,500.0000...	11,500.00
Polaris VPN	License - Term	1	The Virtual Private Network add-on service establishes a virtual tunnel between customer's primary location to their Innovative hosted solution location, leveragings Amazon Virtual Private Gateway components. The		2,500.00000...	2,500.00



# Pricing Exhibit

Page 2 of 2

Date  
Quote #

2/5/2019  
EST-INC9064

Innovative Interfaces Incorporated  
1900 Powell St.  
Suite 400  
Emeryville CA 94608  
United States

Item	Item Category	Qty	Description	Options	Unit Price	Amount
Additional Patron Languages	License - Term	1	<p>VPN tunnel is created over IPsec (Internet Protocol security) ensuring private, secure communications over Internet through the use of cryptographic security services. Customer gateway devices supporting statically-routed VPN connections must adhere to Innovative functional requirements available upon request.</p> <p>Multilingual PAC enables libraries to expand service to the segments of a community whose primary language is not English by providing the PAC in their native language. Patrons or staff can change the display of the PAC to their language of choice. All screens are translated into the chosen language, including menus, buttons, tool tips, title bars and the messages that are defined in System Administration. Added languages also supported for ExpressCheck self-check kiosks and Notices.</p>	Polaris Language s: Spanish	750.00	750.00

**Total Fees** US\$48,125.00

**Exhibit B**  
**Innovative Interfaces Incorporated**  
**Subscription License Agreement**  
**General Terms and Conditions**

The parties agree that their contractual relationship with respect to the Software will be governed by the terms and conditions of (1) this Subscription License Agreement General Terms and Conditions ("GTCs"), (2) the applicable Innovative Interfaces Incorporated Subscription License Agreement(s) (each, a "License Agreement"), (3) the Innovative Interfaces Incorporated Maintenance and Support Terms ("Support Terms"), (4) the Innovative Interfaces Incorporated Hosting Terms ("Hosting Terms"), if applicable, and (5) all other applicable exhibits, schedules and terms and conditions referenced by or in the GTCs, License Agreement(s), Support Terms and Hosting Terms. Each License Agreement, together with the terms and conditions of this GTC, Support Terms and Hosting Terms and all applicable exhibits or schedules incorporated by reference or referenced therein will constitute and be construed as a separate agreement. Unless otherwise specified, capitalized terms in these GTCs have the same meaning as those in the License Agreement.

**1. Software License.**

a. Subject to the terms and conditions of this Agreement, including without limitation Client's payment of all of the Fees (defined below) due hereunder, Innovative hereby grants to Client a limited, nonexclusive, non-sub-licensable, nontransferable license to use the components of its software applications, modules, and other products that are listed in the Pricing Exhibit to the License Agreement (collectively, the "Software"). The license granted in the preceding sentence will be for the duration of the term of this Agreement and will automatically expire upon the termination or expiration of this Agreement or as otherwise specified in this Agreement.

b. Client and, where applicable, its Authorized Users (defined below) may use the Software (including any Client Configurations) (i) only for the management of the library and for servicing its patrons (including permitting Authorized Users to search library catalogues), and not on an outsourced basis, as a service bureau, for resale, or similarly on behalf of or for the direct or indirect benefit of third parties, and (ii) only in accordance with the other terms of this Agreement. Client will be responsible for its Authorized Users' compliance with the terms hereof. Without limiting the foregoing, Client agrees that it and its Authorized Users will: (i) comply with all applicable laws regarding the transmission of data, including, without limitation, any applicable export control and data protection laws; and (ii) not use the Software for illegal purposes.

c. Subject to Section 12 (Client Configurations), other than Innovative, no one is permitted to copy, modify, reverse engineer, decompile, or disassemble the Software, create derivative works thereof, or separate the Software into its component files. All rights to the Software that are granted to Client in this Agreement are limited to the object code versions of the Software and in no event will Client be deemed to have any right, title or interest in the source code of the Software.

d. The Software may be used by the base number of Client's worldwide employees, third-party auditors, agents and contractors ("Authorized Users") set forth in the Pricing Exhibit to the License Agreement for such Software and such additional Authorized Users as may be hereafter identified to Innovative by Client for which Client pays the additional Fees referred to in Section 5(a) of this Agreement. Each Authorized User license is allocable to a single full-time user of the Software and may be transferred to another user only on a full-time basis. Authorized User license(s) may not be shared on a part time or concurrent user basis.

e. The license granted to Client pursuant to this Agreement will include, at no additional cost, a license to use all new scheduled major releases, service pack releases, and hot fixes of the Software offered generally by Innovative to its clients during the term of this Agreement (collectively, "New Releases"). "New Releases" do not include new or additional modules, applications or other software now or hereafter offered by Innovative, each of which require a separate license and payment of additional license fees. The term "Software" will be deemed to include New Releases. Additional fees at Innovative's then-prevailing professional service rates will apply for implementation of New Releases.

f. Innovative offers support for the Software in accordance with the Support Terms, the terms of which are incorporated by reference herein.

g. The license granted hereunder grants Client the right to use a single production instance (copy) of the Software and up to two (2) additional instances (copies) of the Software for non-production use at no additional charge. All copies of the Software are subject to the terms of this Agreement. Non-production use includes training, development, testing, quality assurance, staging or preproduction provided that the copies of the Software are not used in a production environment or as a backup to production. Except to the extent expressly set forth in a License Agreement, this license grant does not provide Client with any rights to hosting services.

2. **Acceptance.** Following the execution of the Agreement by the parties, Innovative will deliver the Software, in its preconfigured, out-of-the box format, to Client (i) via the Internet, if Client has purchased hosting services from Innovative pursuant to the Hosting Terms or (ii) by making it available to Client to download via an FTP site, if Client has not purchased hosting services from Innovative pursuant to the Hosting Terms. Client will be deemed to have accepted the Software upon initial delivery.

3. **Ownership.**

a. All Intellectual Property Rights (defined below) in the Software and also including, without limitation, all improvements, enhancements, modifications, Client-specific upgrades, or updates to the Software, developed by either party, solely or jointly (collectively, "Innovative Products"), will remain the exclusive, sole and absolute property of Innovative or the third parties from whom Innovative has obtained the right to use the Innovative Products. Intellectual property created by Innovative pursuant to this Agreement, or any other party at the request or direction of Innovative, will be owned by Innovative. "Intellectual Property Rights" means any and all intellectual property rights existing from time to time under any law or regulation, including without limitation, patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, or privacy rights law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations of any of the foregoing, now or hereafter in force and effect worldwide. Client hereby assigns to Innovative all right, title and interest in any feedback and suggestions it provides to Innovative regarding the Software or other products commercialized by Innovative now or in the future. This Agreement does not convey to the Client any interest in or to the Innovative Products or any associated Intellectual Property Rights, but only a limited right to use the Software to the extent set forth in this Agreement, which right is terminable in accordance with the terms of this Agreement and is otherwise subject to the limitations, restrictions, and requirements contained herein. If Client configures or otherwise modifies the Software using an API licensed hereunder, Client will also have a license to use such configurations or modifications as part of the Software on the terms set forth in Section 1. Rights not expressly granted to the Client are hereby expressly reserved by Innovative.

b. For purpose of this Agreement, as between Innovative and Client, any Intellectual Property Rights in the Innovative Products to the extent owned by any third party will be and remain the exclusive property of such third party. The Software may include third-party software and products, which are described in the documentation and/or Specifications made available to Client by Innovative, and any third-party pass-through terms relating to such third-party software and products are identified therein (or by other mode of disclosure).

c. Except as expressly stated herein, Client will exclusively have and retain all right, title and interest, including all associated Intellectual Property Rights, in and to data that Client enters into the Software or disclosed by Client to Innovative in its performance hereunder ("Client Data"), and, as between Client and Innovative, such Client Data will remain the sole property of Client. Client hereby grants to Innovative a license to use Client Data (i) to process the Client Data pursuant to Client's business requirements, (ii) for maintenance and support of the Software, (iii) to collect and use aggregate, non-identifying and anonymized data, and (iv) for research and development purposes. Client acknowledges and agrees that it will have no rights in any products or services created or sold by Innovative or its affiliates that use any of the Client Data in the manner set forth in (iii) or (iv) of the preceding sentence. To the extent that applicable law requires any permissions or authorizations to have been obtained prior to submission of Client Data to Innovative (including without limitation from individuals to whom the data pertains), Client warrants and covenants that it (and its Authorized Users, as applicable) will have first obtained the same permissions or authorizations prior to transmitting such data to Innovative. Client will defend, indemnify and hold harmless Innovative in the event of any third-party claim arising from a breach of the aforesaid warranty and covenant.

4. **Insurance.**

a. During the performance of this Agreement, Innovative shall maintain in full force and effect the following insurance coverages:



i. Commercial General Liability Insurance: (County Resolution No. 90674) Innovative shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:

1. Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount of \$1,000,000.
2. An endorsement naming County of Nevada and its officers, agents, employees and volunteers as an additional insured under said policy, with respect to claims or suits arising from Innovative's product(s) and/or the services provided under this contract;
3. A provision that said insurance shall be primary and other insurance maintained by the Client shall be excess only and not contributing with Innovative's insurance; and
4. Innovative shall provide thirty (30) days written notice to Client of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days' notice for non-payment of premium). Upon receipt of such notice, Client will provide Innovative in writing a notice that Innovative has until the effective date of termination, change in coverage protection, or reduction in coverage limits to secure new insurance coverage as required herein, and that Innovative's failure to do so will constitute default under the terms of this Agreement.

#### **5. Fees; Expenses; Payment Terms.**

a. In consideration of receiving a limited license to use the Software, Client will pay the fees set forth in the Pricing Exhibit to the License Agreement (the "Fees") on the terms set forth therein. Initial invoicing under this Agreement will occur when the Software is made available to Client; subsequent renewal invoices will be sent to Client prior to the date such payment is due. Invoices for any Renewal Terms may be provided to Client up to 90 days prior to the effective date of such Renewal Term. Client will notify Innovative in writing if Client hereafter requires additional Authorized Users or additional Software modules, and will pay the fees for such additional Authorized Users or additional Software modules in accordance with the terms set forth on the invoice for such fees. The Software may, from time to time, electronically transmit to Innovative reports verifying the type and number of Authorized Users, and Innovative may utilize license keys or other reasonable controls to enforce Authorized User license limitations. Client will cooperate with Innovative in all such efforts.

b. All Fees are exclusive of all taxes and similar fees now in force or enacted in the future or imposed on the delivery and license of the Software, all of which Client will be responsible for and will pay in full, other than taxes based on Innovative's net income. Client will provide Innovative its state issued Direct Pay Exemption Certificate (or equivalent certificate), if applicable, upon execution of this Agreement. In the event an applicable taxing authority, as a result of an audit or otherwise, assesses additional taxes for goods or services sold under this Agreement at any time, Client and not Innovative will be solely responsible for payment of such additional taxes and all costs associated with such assessment, including without limitation, interest, penalties and attorney's fees. Additionally, should Client be required under any applicable law or regulation, domestic or foreign, to withhold or deduct any portion of the payments due to Innovative hereunder, then the sum due to Innovative will be increased by the amount necessary to yield to Innovative an amount equal to the sum Innovative would have received had no withholdings or deductions been made.

c. Where this Agreement establishes a due date for a payment and/or a recurring method for payment, payment will be due and payable on such due date and/or according to the method specified. Other fees or expenses charged pursuant to this Agreement will be paid at the amounts set forth in the invoice within 30 (thirty) days of the date of the invoice. All amounts stated herein and all Fees determined hereunder are in U.S. Dollars, unless otherwise required by applicable law.

d. Any invoices not paid when due will accrue interest at the rate of 1% per month or the maximum rate permitted by law, whichever is greater.

#### **6. Limited Warranty.**

a. Innovative warrants, solely for the benefit of Client, that:

- i. It has the corporate power and authority to enter into this Agreement and to grant Client the license to the Software hereunder; and
- ii. The Software will conform in all material respects to the applicable technical documentation for the Software provided to Client by Innovative and expressly identified by Innovative as the specifications for the Software (collectively, the "Specifications").

b. EXCEPT FOR (i) THE WARRANTIES EXPRESSLY STATED ABOVE IN THIS SECTION AND (ii) ANY WARRANTY, REPRESENTATION OR CONDITION TO THE EXTENT THE SAME CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW, INNOVATIVE AND ITS LICENSORS, AFFILIATES, AGENTS, SUBCONTRACTORS AND SUPPLIERS MAKE NO REPRESENTATIONS OR WARRANTIES, AND EXPRESSLY DISCLAIM AND EXCLUDE ANY AND ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING BY OR UNDER STATUTE, COMMON LAW, CUSTOM, USAGE, COURSE OF PERFORMANCE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, INNOVATIVE AND ITS LICENSORS, AFFILIATES, AGENTS, SUBCONTRACTORS AND SUPPLIERS DO NOT WARRANT, AND EXPRESSLY DISCLAIM ANY REPRESENTATION OR WARRANTY, THAT THE SOFTWARE OR OTHER DELIVERABLES PROVIDED BY OR ON BEHALF OF INNOVATIVE WILL SATISFY CLIENT'S REQUIREMENTS OR THAT THEIR USE OR OPERATION WILL BE ERROR OR DEFECT-FREE OR UNINTERRUPTED OR AVAILABLE ON THE INTERNET, OR THAT ALL PRODUCT DEFECTS WILL BE CORRECTED. EXCEPT FOR THE EXPRESS WARRANTIES IN SECTION 6(a), THE SOFTWARE, INCLUDING ALL CONTENT, IS PROVIDED "AS IS," WITH ALL FAULTS AND WITHOUT ANY GUARANTEES REGARDING QUALITY, PERFORMANCE, SUITABILITY, TIMELINESS, SECURITY, DURABILITY, INTEGRABILITY OR ACCURACY, AND CLIENT ACCEPTS THE ENTIRE RISK OF AND RESPONSIBILITY FOR SELECTION, USE, QUALITY, PERFORMANCE, SUITABILITY AND RESULTS OF USE THEREOF, INCLUDING ALL CONTENT GENERATED THROUGH USE THEREOF.

c. As the exclusive remedy of Client for a breach of the limited warranties set forth in Section 6, for any error or other defect for which Innovative is solely responsible, Innovative will, at its option, either (i) correct or repair the Software, or (ii) accept termination of this Agreement and refund the unused balance of any prepaid Fees for the Software, prorated for the period commencing on the date the error or defect was reported by Client to Innovative and continuing throughout the balance of the period to which such Fees apply. None of the above warranties or remedies in this Section 6 will apply with respect to any Software that has been damaged or modified by any party other than Innovative, or used in a manner for which the Software is not designed or intended.

7. **LIMITATIONS ON LIABILITY.** IN NO EVENT WILL INNOVATIVE BE LIABLE FOR LOST PROFITS OR OTHER INCIDENTAL OR CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES UNDER ANY CIRCUMSTANCES WHATSOEVER, EVEN IF INNOVATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF THEY WERE OTHERWISE FORESEEABLE. INNOVATIVE'S TOTAL LIABILITY FOR TORT, CONTRACT AND OTHER DAMAGES WILL NOT EXCEED THREE TIMES THE TOTAL AMOUNT OF ALL FEES PAID TO INNOVATIVE BY CLIENT UNDER THE APPLICABLE SOW UPON WHICH A CLAIM IS FIRST ASSERTED AGAINST INNOVATIVE, LESS AGGREGATE DAMAGES PREVIOUSLY PAID BY INNOVATIVE UNDER THIS AGREEMENT. INNOVATIVE WILL NOT BE LIABLE FOR ANY CLAIM OR DEMAND AGAINST CLIENT BY ANY THIRD PARTY EXCEPT FOR THE INDEMNIFICATION SET FORTH IN SECTION 8. THESE LIMITATIONS OF LIABILITY WILL APPLY TO ALL CLAIMS AGAINST INNOVATIVE IN THE AGGREGATE (NOT PER INCIDENT) AND TOGETHER WITH THE DISCLAIMER OF WARRANTIES ABOVE WILL SURVIVE FAILURE OF ANY EXCLUSIVE REMEDIES PROVIDED IN THIS AGREEMENT.

#### 8. **Indemnification.**

a. If a third party files a legal action in a court of competent jurisdiction against Client claiming the Software, as delivered to Client by Innovative, directly infringes such third party's U.S. copyright or U.S. patent, Innovative will defend Client against such legal action, provided that Client promptly notifies Innovative in writing of the legal action and fully cooperates with Innovative in the defense of such legal action. Innovative will also indemnify Client from all damages and out-of-pocket costs (including reasonable attorneys' fees) finally awarded by a court of competent jurisdiction in connection with any such legal action, or agreed to by Innovative in a settlement. Innovative will control all aspects of the defense and conduct the defense and any settlement negotiations in any such third-party legal action. This indemnification is limited to the Software in the form delivered to Client and does not cover claims arising from (x) modifications thereto not made by Innovative, or, even if by Innovative, at the request of Client; (y)

use of the Software in combination with other software or items not provided by Innovative, or (z) third party modifications (including addition of source code) to the Software.

b. As the exclusive remedy of Client under the limited indemnity set forth in Section 8.a, if the use of the Software by Client is enjoined, Innovative will, at its sole option: (i) obtain for Client the right to continue to use the Software, (ii) modify the Software to remove the cause of the legal action, (iii) replace the Software at no additional charge to Client with a substantially similar, non-infringing product, which will then be subject to the provisions of this Agreement, or (iv) terminate this Agreement and refund to Client that portion of the Fees allocable to the infringing component of the Software, prorated for the period Client's use of the Software is enjoined. None of the above warranties or remedies will apply with respect to any element of the Software that has been modified by any party other than Innovative, or used in a manner for which the Software is not designed or intended. This Section states Innovative's entire liability and Client's exclusive remedies for infringement of intellectual property rights of any kind.

## 9. Confidentiality.

a. Client acknowledges that all documentation, audit reports, technical information, software, Specifications and other information pertaining to the Software, and/or Innovative's business interests or activities, product pricing, financial information, methods of operation or customers that are disclosed by any party to Client in the course of performing this Agreement are the confidential and proprietary information of Innovative. Innovative acknowledges that Client Data and other proprietary Client materials are the confidential information of Client. The information and materials described in the preceding sentences is referred to herein as "Confidential Information." Notwithstanding the foregoing, the term "Confidential Information" does not include information pertaining to a party if (i) such information is generally known to the public through no improper action or inaction by the other party, (ii) was, through no improper action or inaction by the other party, in the possession of the other party prior to the Effective Date, or (iii) rightly disclosed to the other party by a third party if such disclosure does not violate the terms of any confidentiality agreement or other restriction by which such third party may be bound.

b. All Confidential Information will be held in confidence and may not be copied, used or disclosed other than as set forth in this Agreement. Each party must take all reasonable efforts to protect the confidentiality of and prevent the unauthorized use of any such Confidential Information by any third party within such party's control. Each party may disclose Confidential Information (i) to the receiving party's employees and contractors required to have access to such Confidential Information for the purposes of performing this Agreement or using the Software, provided each party hereto notifies its employees and contractors accessing such Confidential Information of the confidentiality obligations in this Section 9; or (ii) if such disclosure is in response to a valid order of any court, statute, or other governmental body ("Order"), in which event, the disclosing party must use reasonable efforts to provide the other party with prior notice of such Order, to the extent legally permitted to do so. Under no circumstances will Confidential Information received from Innovative be disclosed to any competitor of Innovative without Innovative's advance written permission.

c. Recognizing any improper use or disclosure of any Confidential Information by either party may cause the party whose Confidential Information is improperly used or disclosed irreparable damage for which other remedies may be inadequate, a party whose Confidential Information is improperly used or disclosed will have the right to petition for injunctive or other equitable relief from a court of competent jurisdiction as appropriate to prevent any unauthorized use or disclosure of such Confidential Information.

d. If the parties have previously executed a nondisclosure agreement ("NDA"), any Confidential Information exchanged pursuant to such NDA will remain confidential, and will as of the date of the execution of this Agreement be deemed Confidential Information within the meaning of this Agreement and also be governed by the terms hereof.

e. Any information obtained by Innovative or a subcontractor, such as Hosting Vendor, that is considered confidential by federal or state law, shall remain confidential and not disclosed unless court ordered to do so. The Software must employ industry standard protections to prevent unauthorized access of confidential data. Any unauthorized access to data that will violate this confidentially statement shall promptly be reported to Client.

f. Innovative shall not use Client's library patron details such as names, addresses, etc., for any purpose other than providing requested services to Client and shall not transmit Client data to any third party, except as requested by Client or due to Client Configuration.

g. Innovative shall have five (5) days from the date it receives notice of required disclosure from section b. above to seek a protective order against the disclosure of such information under the California Public Records Act. Innovative shall have sole responsibility for defense of the actual "Confidential" designation of such information. Innovative and County understand and agree that any failure by Innovative to respond to the notice provided by County and/or communicate in good faith on the disclosure requirement, in accordance with the provisions above, shall constitute a complete waiver by Innovative of any rights regarding the information designated "Confidential" by Innovative, and County shall disclose such information pursuant to applicable procedures required by the Public Records Act.

#### 10. Term; Termination.

a. The term of the Agreement is set forth in the License Agreement.

b. If either party hereto fails to perform or comply with any material term or condition of this Agreement, specifically including Client's failure to pay any Fees (such party being the "Breaching Party"), and such failure continues unremedied for 30 (thirty) days after receipt of written notice, the other party may terminate this Agreement. Notwithstanding the foregoing, if the Breaching Party has in good faith commenced to remedy such failure and such remedy cannot reasonably be completed within such 30-day period, then the Breaching Party will have an additional 30 (thirty) days to complete such remedy, after which period the other party may terminate this Agreement if such failure continues unremedied.

c. Client may terminate this Agreement at any time during the Initial Term effective as of the date of the next annual anniversary of the Effective Date if Client's budget (funding) is eliminated and Client provides written evidence to Innovative of the elimination of Client's budget (funding), such evidence to be in the form and substance reasonably requested by Innovative.

d. Except for a termination by Client pursuant to Section 10.b., and unless as otherwise set forth in this Agreement, upon any termination of this Agreement, all prepaid Fees will be nonrefundable and Client will be responsible for all Fees and expenses for the Software provided prior to and as of the date of termination. Any termination of this Agreement will not waive or otherwise adversely affect any other rights or remedies the terminating party may have under the terms of this Agreement. Upon termination of this Agreement, the rights and duties of the parties will terminate, other than the obligation of the Client to pay Fees and costs in accordance herewith, and the obligations of the parties pursuant to Section 1.c. (Software License), Section 3 (Ownership), Section 5 (Fees; Expenses; Payment Terms), Section 7 (Limitations on Liability), Section 8 (Indemnification), Section 9 (Confidentiality), Sections 10.d. and 10.e. (Termination), Section 12 (Client Configurations) and Section 14 (General). Within 30 (thirty) days of receipt of a written request following a termination of this Agreement, each party must return or destroy all Confidential Information of the other party, as requested in writing by the other party. Notwithstanding the foregoing, a party will not be obligated to destroy data containing Confidential Information of the other party when it would be commercially impracticable for the receiving party to do so (for example, when Confidential Information is contained in e-mail stored on backup tapes or other archival media), but for so long as such receiving party is in possession of such Confidential Information of the other party, the terms of Section 8 (Confidentiality) hereof will continue to restrict the receiving party's use or disclosure of such Confidential Information. Neither party will be liable to the other for any termination or expiration of this Agreement in accordance with its terms.

e. If directed by Client, Innovative shall cooperate with Client and Client's other vendors and contractors to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Innovative shall cooperate with Client to accomplish a complete transition of the services as set forth in this Agreement being terminated to Client or to any replacement provider designated by Client, without any interruption or adverse impact on those services or any other services provided by third parties. Innovative shall fully cooperate with Client and any new service provider and otherwise promptly take all steps, including but not limited to providing to County or any new service provider all requested information or documentation required to assist Client in effecting a complete transition to the new service provider. Innovative shall provide all information or documentation regarding the services to be transitioned, including but not limited to data conversion tables, client files, interface specifications, and training materials. Innovative shall provide for the prompt and orderly conclusion of all work required under the Agreement, as Client may direct, including completion or partial completion of projects, documentation of work in process, and other measures to assure an orderly transition to Client or the Client's

designee. All Innovative work done as part of the disentanglement shall be performed by Innovative and will be reimbursed by the Client at Innovative's standard rate for exit services. Innovative shall not receive any additional or different compensation for the work otherwise required by the Agreement. Innovative's obligation to provide the Services shall not cease until the disentanglement is completed to the Client's reasonable satisfaction.

11. **Third Party Software.** The Software may contain third-party and/or "open source" code provided under third-party license agreements. The terms and conditions of such third-party license agreements will apply to such source code in lieu of these terms, where applicable, and Client is responsible for compliance therewith. A listing of certain third-party and/or open source code contained in the Software, the respective license terms applicable to such code, and certain related notices are included in the documentation and/or Specifications made available to Client by Innovative. Except as required for the authorized use of the Software as contemplated herein, Client may not use any name or trademark of any supplier of third party or open source code without such party's prior written authorization.

Client shall execute all documents reasonably requested by Innovative and will abide by all reasonable requirements with respect to Third Party Software licensed or sublicensed by Innovative to Client hereunder, or necessary to the performance of the Software hereunder in accordance with the Specifications, and Client agrees to maintain in effect all required licenses and approvals of all applicable third persons.

Any third party technologies required to properly execute the Software may change over time. Additional network, communications or computer resources may be required to enable Client to install and use enhancements, promotions or new versions of the Software.

12. **Client Configurations.** Client will be permitted to use one or more application programming interfaces (APIs) made available by Innovative to configure the Software hereunder in accordance with the Specifications (such configurations or other modifications, "Client Configurations"). Client will not use any other API to modify or configure the Software. No API may be used to create any Client Configuration that, in whole or in part, mimics any material functionality of any software or service developed or marketed by Innovative or that would reasonably be deemed competitive to any software or service developed or marketed by Innovative if the Client Configuration were to be released to the public market. Innovative disclaims all representations and warranties, express or implied, regarding Client Configurations and assumes no liability whatsoever with respect to Client Configurations. Client agrees to indemnify and hold harmless Innovative from all damages and out-of-pocket costs (including reasonable attorney fees) for any third-party action based on a claim that any Client Configuration infringes a copyright or a patent, or constitutes an unlawful disclosure, use or misappropriation of another party's trade secrets.

13. **Back-Up Activities.** Except to the extent that Client purchases Innovative's hosting service or back-up services, Client has the sole responsibility for the maintenance and protection of all data input into the Software, including, without limitation, the making, storing and security of back-up and archive copies of such data and the Software (collectively "Back-Up Activities"), and Client acknowledges Innovative will not perform any Back-Up Activities for or on behalf of Client.

14. **General.**

a. **No Waiver.** The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder will not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

b. **Independent Contractor.** Client acknowledges that Innovative is at all times an independent contractor and that Client's relationship with Innovative is not one of principal and agent nor employer and employee. No Innovative personnel will be entitled to participate in any compensation or benefits plan of Client.

c. **Force Majeure.** Neither party will be liable or responsible for any delay or failure in performance if such delay or failure is caused in whole or in part by fire, flood, explosion, power outage, war, strike, embargo, government regulation, civil or military authority, hurricanes, severe wind, rain, other acts of God, acts or omissions of carriers, third-party local exchange and long distance carriers, utilities, Internet service providers, transmitters, vandals, or hackers, or any other similar causes that may be beyond its control (a "Force Majeure Event").

d. **Notice.** Any notice or communication required to be given by either party must be in writing and made by hand delivery, express delivery service, overnight courier, electronic mail, or fax, to the party receiving such

communication. Unless otherwise instructed in writing, such notice will be sent to the parties at the addresses set forth on the first page of the License Agreement. All communications pursuant to this Section will be deemed delivered as follows: (a) upon receipt, if delivered personally or by a recognized express delivery or courier service; or (b) when electronically confirmed, if delivered by facsimile.

e. Invalidity. Any provision of this Agreement which is invalid, illegal, or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal, or unenforceable in any other jurisdiction.

f. Counterparts. This Agreement may be executed by the parties in separate counterparts by original, .pdf (or similar format for scanned copies of documents) or facsimile signature, each of which when so executed and delivered will be deemed an original, but all such counterparts will together constitute but one and the same instrument.

g. Publicity. Except as provided in this Section, neither party will make any press release, public statement or other disclosure regarding the terms of this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, Innovative will have the right to issue public statements pertaining to the existence of the business relationship between Innovative and Client, including the right to limited use of Client's name, logo and other reasonable non-confidential information in press releases, web pages, advertisements, and other marketing materials.

h. Assignment. Neither party has the power to assign, license, or sub-license any of its rights or obligations hereunder without the prior written consent of the other party, which will not be unreasonably withheld. Any assignment, license, or sub-license attempted without such consent will be void. Notwithstanding the foregoing, a party may assign this Agreement without the other party's consent (i) as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets or capital stock; or (ii) to an Affiliate of such party provided that any such assignment will not release the assigning party from its obligations under this Agreement.

i. Waiver of Jury Trial; Governing Language. EACH PARTY HEREBY WAIVES ITS RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE OR LEGAL PROCEEDING ARISING OUT OF THIS AGREEMENT OR THE SUBJECT MATTER HEREOF. This Agreement and all proceedings hereunder will be conducted in the English language; any translation of this Agreement into another language will be for convenience only but will not modify the meaning hereof. Only a written instrument duly executed by both parties may modify this Agreement.

j. Jurisdiction and Venue. This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

k. Entire Agreement. This Agreement contains the entire understanding of the parties, and supersedes all prior agreements and understandings relating to the subject matter hereof, provided that nothing herein will diminish or affect any separate services agreement or statement(s) of work issued thereunder. The parties represent that they are sophisticated commercial entities, have had the opportunity to consult with their own counsel, and have included in this Agreement all terms material to the parties' rights and obligations with respect to the subject matter hereof and intend this document to be the final expression of their contractual intent. The parties further represent and acknowledge that communications exchanged between the parties during contract negotiation (including, without limitation, requests for proposal ("RFPs") and Innovative's responses to such RFPs; questionnaires and responses to same, quotes) do not constitute a part of this Agreement. Purchase orders, work orders or other such documents submitted by Client will be for Client's internal administrative purposes only and the terms and conditions contained in any such purchase order, work order or other such document will have no force or effect and will not amend or modify this Agreement. In the event of any inconsistencies or conflicts among the GTCs, a License Agreement or any other exhibits or schedules referenced by these GTCs, the following order of priority will control: 1. License Agreement, 2. GTCs and 3. any other terms, agreements, exhibits or schedules included in, or referenced by the Agreement.

**Exhibit C**  
**Innovative Interfaces Incorporated**  
**Maintenance and Support**  
**Terms and Conditions**

These Maintenance and Support Terms and Conditions ("Support Terms") apply to the License Agreement. Unless otherwise specified, capitalized terms in these Support Terms have the same meaning as those in the GTCs. The terms set forth herein supplement, but do not replace or modify, the GTCs.

1. **Maintenance and Support.** Innovative will offer maintenance and support on the terms set forth herein ("Maintenance and Support") for the latest generally available version of the Software and for certain earlier versions in accordance with Innovative's support policy. Standard Maintenance and Support is included with the price for the annual license set forth in the License Agreement.

2. **Error Response.** Error descriptions (each an "Error"), the Error severity levels and corresponding targeted response time per level are each described in the table below. The Targeted Response Times in the table below identify the response times that Innovative will target for the corresponding Error, however, such Targeted Response Times are not guaranteed.

<b>Severity</b>	<b>Description</b>	<b>Target Response Time</b>
One - Site Down	A major component of the software is in a non-responsive state and severely affects library productivity or operations. A high impact problem that affects the entire library system. Widespread system availability, production system is down	1 hour
Two – Critical	Any component failure or loss of functionality not covered in Severity 1 that is hindering operations, such as, but not limited to: excessively slow response time, functionality degradation; error messages; backup problems; or issues affecting the use of the module or the data	2 business hours; excludes holidays and weekends
Three - High	Lesser issues, questions, or items that minimally impact the work flow or require a work around	2 business days; excludes holidays and weekends
Four – Routine	Issues, questions, or items that don't impact the work flow. Issues that can easily be scheduled such as an upgrade or patch	4 business days; excludes holidays and weekends

3. **Error Reporting and Diagnosis.**

a. Client may designate up to 3 persons as the contacts that will report Errors to Innovative and be Innovative's primary contact for the provision of Maintenance and Support pursuant to the terms of this Agreement (such representative is referred to herein as the "Client Contact"). When a Client Contact reports an Error, Innovative will use commercially reasonable efforts to diagnose the root cause of the Error ("Diagnosis"). Upon completing the Diagnosis, each Error will be classified as either a "Warranty Error" or a "Non-Warranty Error" pursuant to Section 3.b. below. Innovative will use commercially reasonable efforts to diagnose and repair both Warranty and Non-Warranty Errors as described below.

b. "Warranty Errors" are all Errors that do not qualify as Non-Warranty Errors. "Non-Warranty Errors" are Errors resulting from any of the following causes: (i) misuse, improper use, alteration or damage of the Software; (ii) operator error; (iii) incorrect data entry by Client; (iv) third-party software not part of the Software; (v) errors and/or limitations attributable to Client environment; (vi) Client's failure to incorporate any New Release previously provided to it by Innovative which corrects such Error; (vii) modification of the Software performed by Client; and (viii) technical consulting services provided by Innovative at Client's request (e.g., change orders, integration development, or configuration design and implementation), unless Client notifies Innovative of such technical

consulting services problem within the applicable warranty period set forth in the governing statement of work, change order or agreement. Client acknowledges that the Software is intended for use only with the software and hardware described in the Specifications provided by Innovative from time to time, and Client will be solely responsible for its adherence thereto.

4. **Complimentary and Chargeable Support.** Innovative will respond to all reported Errors pursuant to Section 2 above and will use commercially reasonable efforts to resolve Warranty Errors at no additional charge if Client has purchased and is current on its payment for Maintenance and Support; however, Innovative may charge Client for such effort with respect to Non-Warranty Errors according to the following process: (i) When the Client Contact reports any Error, prior to commencing the Diagnosis for the Error, Innovative will notify the Client Contact that the Diagnosis and repair effort will be at no charge to Client unless the reported Error is determined to be a Non-Warranty Error, in which case only the first two hours of Diagnosis will be at no charge; and (ii) Innovative will then commence the Diagnosis unless instructed otherwise by the Client Contact. If more than two hours are required for the Diagnosis of Non-Warranty Errors, then such additional Diagnosis hours will be charged to Client at Innovative's then-current rate for technical services. Once the Diagnosis is complete, the Client Contact will be given the option of having Innovative proceed with repairing the Non-Warranty Error, and, if so requested, Innovative will provide an estimate of the total cost for such effort. If agreed to by the Client Contact, Innovative will undertake to repair the Non-Warranty Error and charge Client for the associated technical services performed.

5. **Ticket Management and Escalation.** Innovative manages all reported issues using a ticket management system, and provides an Internet portal for Clients to report issues. Clients may review the status of issues reported online. When an Error is either unresolved or not resolved in a timely fashion, the Client should contact Innovative representatives pursuant to Innovative's escalation policy made available on Innovative's Internet portal.

6. **Data Privacy and Security.** Innovative shall conduct an internal data security risk assessment and implement reasonable administrative, technical, and physical safeguards designed to protect Client information from unauthorized disclosure. Innovative shall update the risk assessment and related safeguards at least annually. Upon request by the Client, Innovative agrees to provide documentation sufficient to demonstrate Innovative's compliance with the terms of this paragraph.



**Exhibit D**  
**Innovative Interfaces Incorporated**  
**Hosting Services**  
**Terms and Conditions**

These Hosting Services Terms and Conditions ("Hosting Terms") apply to the License Agreement if, and only to the extent that, Hosting Services are identified on the Pricing Exhibit to the License Agreement as a purchased service. Unless otherwise specified, capitalized terms in these Hosting Terms have the same meaning as those in the GTCs. The terms set forth herein supplement, but do not replace or modify, the GTCs.

**1. Hosting Services.** The following terms apply for all purposes to Client's license to and use of the Software under the Agreement.

**2. Hosting Solution.** Innovative offers clients a standard cloud-based hosting option (the "Standard Plan"). The table below sets forth the features of the Standard Plan. This option provides industry-leading security and monitoring at a SOC 1/SOC 2 Type 2/ISO 27001-audited datacenter by a top-tier cloud hosting provider (the "Hosting Provider"), with the flexibility to meet clients' data storage, data recovery, and information security policy requirements. Innovative shall arrange hosting of the Software on behalf of the Client at a data storage center within the United States (excluding the U.S. territories). Innovative shall notify Client of any change in Hosting Vendor within thirty (30) days following such change.

<b>Feature</b>	<b>Standard</b>
24x7 infrastructure monitoring	✓
Dedicated production environment	✓
99.9% guaranteed infrastructure uptime**	✓
Dedicated public IP address and custom URL	✓
Operating system installation and management	✓
Library software installation and upgrades	✓
Data backups	Daily
Archive data backup retention	30 days

**3. Hosting Solution System Configuration.** The hosting systems are configured to meet the solution requirements as per the Hosting Terms set forth on the Pricing Exhibit to the License Agreement.

**4. Disaster Recovery.** Innovative will maintain a Disaster Recovery Plan with respect to the services provided to the County. For purposes of this Agreement, a "Disaster" shall mean any unplanned interruption of the operation of or inaccessibility to Innovative's service in which Innovative, using reasonable judgment, requires relocation of processing to a recovery location. Innovative shall notify Client as soon as possible after Innovative deems a service outage to be a Disaster. Innovative shall move the processing of the Client's services to a recovery location as expeditiously as possible and shall coordinate the cut-over. During a disaster, optional or on-request services shall be provided by Innovative only to the extent adequate capacity exists at the recovery location and only after stabilizing the provision of base services.

**5. Security Controls.**

a. Generally. Subject to the terms of the Agreement, Innovative implements industry-recognized best practices to prevent the unintended or malicious loss, destruction or alteration of Client's data resident in the Software.

b. Access Control. Highly available redundant firewall and edge routers are configured to control access to hosted systems

c. Network Systems Audit Logging. All network logon activity and password changes are logged, monitored, controlled and audited. All intrusion detection and firewall log monitoring is done through services provided by the Hosting Provider. The pertinent log files and configuration files related to customer's hosted solution are retained for seven days and can be made available upon request for audit and problem resolution, as may be required.

d. Encryption. Encryption for data-in-transit is provided as a part of the Standard Plan.

e. Network Monitoring. All network systems and servers are monitored 24/7/365. Innovative will monitor its systems for security breaches, violations and suspicious (questionable) activity. This includes suspicious external activity (including, without limitation, unauthorized probes, scans or break-in attempts) and suspicious internal activity (including, without limitation, unauthorized system administrator access, unauthorized changes to its system or network, system or network misuse or program information theft or mishandling). Innovative will notify Client as soon as reasonably possible of any known security breaches or suspicious activities involving Client's production data or environment, including, without limitation, unauthorized access and service attacks, e.g., denial of service attacks.

f. Physical Security. The Software resides in systems configured for the customer out of Innovative's hosting location. The physical infrastructure used to support Software licensed to Client (and services purchased by Client from Innovative, as applicable), including the servers, storage, switches, and firewalls, are either provided by the Hosting Provider or owned by Innovative. Innovative partners with datacenter providers who are designed to satisfy requirements of most security sensitive customers with constant monitoring, high automation, high availability, and highly accredited to global security standards, including: PCI DSS Level 1, ISO 27001, FISMA Moderate, FedRAMP, HIPAA, and SOC 1 (formerly referred to as SAS 70 and/or SSAE 16) and SOC 2.

g. Security Audits. Client may perform audits of Innovative's security best practices. Innovative will share various security audit reports as requested by Client.

h. Information Security Auditing/Compliance. Innovative's hosting providers undergo SOC 1/SOC 2 Type 2/ISO 27001 audits each year by independent third-party audit firms. Innovative also holds the internationally-recognized ISO 27001:2013 standard for its information security management system supporting the hosting solutions.

i. \*\*The 99.9% guaranteed infrastructure uptime is subject to the following Service Level Agreement (SLA):

i. Hours of operation/exclusive remedy for service unavailability. Innovative offers a monthly infrastructure uptime target of 99.9% of Scheduled Up-Time to Client. Scheduled Up-Time means all of the time in a month that is not Scheduled Downtime or Third Party Unavailability. In the event that Innovative fails to provide Client with 99.9% infrastructure uptime for three consecutive months, Client will be entitled to receive a credit equal to the prorated amount of the Fees for the period in which Innovative failed to provide such infrastructure uptime during such months upon receipt of written notice from Client. The remedies set forth in this Paragraph (i) are the exclusive remedies of the Client for Innovative's failure to provide Client with 99.9% infrastructure uptime.

ii. Scheduled Downtime. Scheduled Downtime means the period of time which Innovative or the Hosting Provider, conduct periodic scheduled system maintenance for which Innovative will provide the Client with advance notice. Innovative will make commercially reasonable efforts to provide Client notice of scheduled system maintenance 48 hours in advance.

**INNOVATIVE INTERFACES INCORPORATED**  
**MASTER PROFESSIONAL SERVICES AGREEMENT**

This Master Professional Services Agreement ("Services Agreement") is entered into by and between Innovative Interfaces Incorporated, a California corporation ("Innovative"), and the party identified as Client below ("Client"), as of the "Effective Date" also set forth below.

<b>Client</b>	County of Nevada
<b>Address</b>	950 Maidu Avenue Nevada City, CA 95959-8619
<b>Client Technical Contact</b>	Name: Yolande Wilburn Phone: (530) 265-7050
<b>Effective Date</b>	April 23, 2019
<b>License Agreement Date</b>	April 23, 2019

1. **Definitions.**

- a. "GTCs" means the Innovative Interfaces Incorporated Master Professional Services Agreement General Terms and Conditions in Exhibit A.
- b. "SOW" means one or more Statements of Work attached as an exhibit hereto and executed by the parties hereto from time to time on or after the Effective Date.



2. **General.** Innovative and Client agree that this Services Agreement is a binding agreement between the parties and is governed by the GTCs, which are made a part hereof. This Services Agreement, the GTCs and all other exhibits, schedules and terms and conditions referenced by or in this Services Agreement or the GTCs together constitute the "Agreement." Client acknowledges and agrees that it has had the opportunity to review the Agreement, including without limitation, the GTCs, prior to the execution of this Agreement. Innovative recommends that Client print a copy of each component of this Agreement for Client's records. Unless otherwise specified, capitalized terms in this Services Agreement have the same meaning as those in the GTCs. Application of the U.N. Convention on Contracts for the International Sale of Goods is hereby excluded.

**EXHIBITS TO SERVICES AGREEMENT**

A	General Terms and Conditions
B	Statement(s) of Work
C	Pricing Exhibit

[Signature page follows]

In witness whereof, the parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

Client	Innovative
County of Nevada	Innovative Interfaces Incorporated
By: 	By: 
Name: Richard Anderson	Name: Bill Gadala
Title: Chairman	Title: VP FP +A
Date: 4-23-19	Date: 4-5-2019

**Exhibit A**  
**Master Professional Services Agreement**  
**General Terms and Conditions**

The parties agree that their contractual relationship with respect to the Services will be governed by the terms and conditions of (1) this Master Professional Services Agreement General Terms and Conditions ("GTCs"), (2) the applicable Innovative Interfaces Incorporated Master Professional Services Agreement(s) (each, a "Services Agreement"), and (3) all other applicable exhibits, schedules and terms and conditions referenced by or in the GTCs and Services Agreement(s). Each Services Agreement, together with the terms and conditions of these GTCs and all applicable exhibits or schedules incorporated by reference or referenced therein will constitute and be construed as a separate agreement. Unless otherwise specified, capitalized terms in these GTCs have the same meaning as those in the Services Agreement.

**1. Scope and Performance of Services.**

- a. Each SOW will detail (i) the requirements for implementation of the Software (as defined below) or such other professional consulting services as the parties may mutually agree (the "Services"), and (ii) any tangible work product or other deliverables to be provided to Client by Innovative in conjunction with the Services ("Work Product"), each of which is subject to the terms and conditions set forth in this Agreement. Any such SOW, when executed by the parties, will be deemed incorporated into this Agreement and made a part hereof for all purposes. Innovative will provide the Services on the terms contained in this Agreement. The term "Software" has the meaning assigned in that separate License Agreement between the parties dated as of the License Agreement Date identified in the Services Agreement.
  - b. Client will be deemed to have accepted the Services as billed on a time and material basis unless otherwise specified in the applicable SOW.
  - c. Innovative is permitted to, at its sole cost and expense, subcontract the performance of some or all of the Services provided that (i) Innovative's subcontractor agrees in writing to abide by the terms of this Agreement, and (ii) Innovative remains fully responsible for the performance of such subcontractor in accordance with the terms hereof. In performing any Services at Client's site, Innovative's and its subcontractors' personnel (collectively, the "Consulting Personnel") must adhere to all reasonable personal conduct and security policies of Client provided in writing to Innovative in advance. Unless otherwise agreed to by both parties, the Consulting Personnel will observe the working hours and holiday schedules of Client while working on Client's premises.
  - d. Although Innovative will perform much of the Services at its offices with its equipment, in order to facilitate the performance of the Services, Client will make available in a timely manner, at no charge to Innovative, all facilities, programs, files, equipment, documentation, test data, sample output, or other information and resources reasonably required by Innovative for the performance of the Services ("Client Resources"). Innovative and its subcontractors are hereby granted a nonexclusive, non-transferrable, non-sub-licensable, fully paid-up license to use the Client Resources during the term of this Agreement for the sole purpose of performing the Services. Innovative will not be liable for any damages related to delays caused by Client's failure to fulfill the foregoing obligations.
- 2. Change Orders.** The parties may make changes to the Services specified in an SOW by executing a mutually agreeable "Change Order" that sets forth (i) a description of the change(s), and (ii) the price and payment terms (if any) for the change(s). Once so approved, the Change Order will constitute a formal amendment to the applicable SOW, and will be deemed incorporated into this Agreement and made a part hereof for all purposes.

**3. Proprietary Rights and Ownership.**

- a. All Intellectual Property Rights (as defined below) in the Services and Work Product provided or made available to Client by Innovative hereunder (including all improvements, enhancements, modifications or updates) ("Innovative Products") will remain the exclusive, sole and absolute property of Innovative or the third parties from whom Innovative has obtained the right to use the Innovative Products. Intellectual property created by Innovative pursuant to this Agreement, or any other party at the request or direction of Innovative, will be owned by Innovative. "Intellectual Property Rights" means any and all intellectual property rights existing from time to time under any law or regulation, including without limitation, patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, or

privacy rights law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations of any of the foregoing, now or hereafter in force and effect worldwide. During the term of this Agreement, subject to the terms and conditions set forth herein, Client will have a personal, non-transferable, non-exclusive, right and license to use the Work Product solely for the Software and internal business purposes of Client. Client will at all times retain all intellectual property rights in all Client Data (as defined in the License Agreement) and any proprietary information and materials provided by Client in connection with the Services provided hereunder.

- b. For purposes of this Agreement, as between Innovative and Client, any intellectual property in the Innovative Products to the extent owned by any third party will be and remain the exclusive property of such third party.
- c. Client acknowledges that Innovative is engaged in the process of continuously improving its products which provide software solutions to manage libraries for a wide variety of clients and that Innovative will continue these activities. Nothing in this Agreement will be deemed to preclude or limit Innovative from using intellectual property developed in the provision of the Services hereunder and/or developing any products, end-user services, or other deliverable materials for itself or other clients, so long as such services and/or products do not incorporate Client's Confidential Information or Client Data.
- d. If, in the course of receiving the Services, Client Data is provided by Client or its vendors to Innovative, such Client Data will be managed in accordance with the License Agreement.

#### **4. Insurance.**

- a. During the performance of this Agreement, Innovative shall maintain in full force and effect the following insurance coverages:
  - i. Commercial General Liability Insurance: (County Resolution No. 90674) Innovative shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:
    - 1. Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount of \$1,000,000.
    - 2. An endorsement naming the County of Nevada and its officers, agents, employees and volunteers as an additional insured under said policy, with respect to claims or suits arising from Innovative's product(s) and/or the services provided under this contract;
    - 3. A provision that said insurance shall be primary and other insurance maintained by the Client shall be excess only and not contributing with Innovative's insurance; and
    - 4. Innovative shall provide for thirty (30) days written notice to Client of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days' notice for non-payment of premium). Upon receipt of such notice, Client will provide Innovative in writing a notice that Innovative has until the effective date of termination, change in coverage protection, or reduction in coverage limits to secure new insurance coverage as required herein, and that Innovative's failure to do so will constitute default under the terms of this Agreement.

#### **5. Fees; Expenses; Payment Terms.**

- a. In consideration for the Services, Client agrees to pay the fees set forth in each applicable SOW or Pricing Exhibit (the "Fees"). Additionally, Client will be responsible for all reasonable out-of-pocket costs and expenses (e.g. travel, copying and courier services) incurred by Innovative in its performance of this Agreement.
- b. All Fees and expenses will be billed up to twice monthly in arrears or as may otherwise be specified in the applicable SOW or Pricing Exhibit. All Fees, expenses and any other amounts owing under this Agreement are due and payable on the terms set forth in the Pricing Exhibit. All amounts stated herein and all Fees determined hereunder are in U.S. dollars.

- c. All Fees are exclusive of all taxes and similar fees now in force or enacted in the future or imposed on the delivery of the Services, all of which Client will be responsible for and will pay in full, other than taxes based on Innovative's net income. Client will provide Innovative its state-issued Direct Pay Exemption Certificate (or equivalent certificate), if applicable, upon execution of this Agreement. In the event an applicable taxing authority, as a result of an audit or otherwise, assesses additional taxes for goods or services sold under this Agreement at any time, Client and not Innovative, will be solely responsible for payment of such additional taxes and all costs associated with such assessment, including without limitation, interest, penalties and attorney's fees. Additionally, should Client be required under any applicable law or regulation, domestic or foreign, to withhold or deduct any portion of the payments due to Innovative hereunder, then the sum due to Innovative will be increased by the amount necessary to yield to Innovative an amount equal to the sum Innovative would have received had no withholdings or deductions been made.
- d. Any invoices not paid when due will accrue interest at a rate of 1% per month or the maximum rate permitted by law, whichever is greater.

**6. Limited Warranty.**

- a. Innovative warrants, solely for the benefit of Client, that all Services rendered pursuant to this Agreement will be performed in professional manner consistent with industry practices. Innovative agrees to re-perform any Services not in compliance with this warranty brought to its attention within thirty (30) days after those Services are performed.
- b. Innovative warrants, solely for the benefit of Client that for a period of 30 (thirty) days after delivery, the Work Product delivered will perform in accordance with the specifications contained in the applicable SOW. Innovative agrees to correct any such Work Product not in compliance with this warranty brought to its attention within the foregoing warranty period.
- c. The exclusive remedy of Client under the limited warranties set forth in Sections 6(a) and 6(b) are set forth in Sections 6(a) and 6(b), respectively.

d. EXCEPT FOR (i) THE WARRANTIES EXPRESSLY STATED ABOVE IN THIS SECTION AND (ii) ANY WARRANTY, REPRESENTATION OR CONDITION TO THE EXTENT THE SAME CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW, INNOVATIVE AND ITS AFFILIATES, AGENTS, SUBCONTRACTORS AND SUPPLIERS MAKE NO REPRESENTATIONS OR WARRANTIES, AND EXPRESSLY DISCLAIM AND EXCLUDE ANY AND ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING BY OR UNDER STATUTE, COMMON LAW, CUSTOM, USAGE, COURSE OF PERFORMANCE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, INNOVATIVE AND ITS AFFILIATES, AGENTS, SUBCONTRACTORS AND SUPPLIERS DO NOT WARRANT, AND EXPRESSLY DISCLAIM ANY REPRESENTATION OR WARRANTY, THAT THE SOFTWARE OR OTHER DELIVERABLES PROVIDED BY OR ON BEHALF OF INNOVATIVE WILL SATISFY CLIENT'S REQUIREMENTS OR THAT THEIR USE OR OPERATION WILL BE ERROR OR DEFECT-FREE OR UNINTERRUPTED OR AVAILABLE ON THE INTERNET, OR THAT ALL PRODUCT DEFECTS WILL BE CORRECTED. EXCEPT FOR THE EXPRESS WARRANTIES IN SECTIONS 6(a) AND 6(b), THE SERVICES AND WORK PRODUCT ARE PROVIDED "AS IS," WITH ALL FAULTS AND WITHOUT ANY GUARANTEES REGARDING QUALITY, PERFORMANCE, SUITABILITY, TIMELINESS, SECURITY, DURABILITY, INTEGRABILITY OR ACCURACY, AND CLIENT ACCEPTS THE ENTIRE RISK OF AND RESPONSIBILITY FOR SELECTION, USE, QUALITY, PERFORMANCE, SUITABILITY AND RESULTS OF USE THEREOF.

7. **LIMITATIONS ON LIABILITY.** IN NO EVENT WILL INNOVATIVE BE LIABLE FOR LOST PROFITS OR OTHER INCIDENTAL OR CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES UNDER ANY CIRCUMSTANCES WHATSOEVER, EVEN IF INNOVATIVE HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF THEY WERE OTHERWISE FORESEEABLE. INNOVATIVE'S TOTAL LIABILITY FOR TORT, CONTRACT AND OTHER DAMAGES WILL NOT EXCEED THREE TIMES THE TOTAL AMOUNT OF ALL FEES PAID TO INNOVATIVE BY CLIENT UNDER THE APPLICABLE SOW UPON WHICH A CLAIM IS FIRST ASSERTED AGAINST INNOVATIVE, LESS AGGREGATE DAMAGES PREVIOUSLY PAID BY INNOVATIVE UNDER THIS AGREEMENT. INNOVATIVE WILL NOT BE LIABLE FOR ANY CLAIM OR DEMAND AGAINST CLIENT BY ANY THIRD PARTY EXCEPT FOR THE

INDEMNIFICATION SET FORTH IN SECTION 8. THESE LIMITATIONS OF LIABILITY WILL APPLY TO ALL CLAIMS AGAINST INNOVATIVE IN THE AGGREGATE (NOT PER INCIDENT) AND TOGETHER WITH THE DISCLAIMER OF WARRANTIES ABOVE WILL SURVIVE FAILURE OF ANY EXCLUSIVE REMEDIES PROVIDED IN THIS AGREEMENT.

8. **Indemnification.** Innovative will defend Client in any legal action filed by a third party against Client claiming the Services or Work Product as delivered to Client by Innovative pursuant to Section 1 infringes a U.S. copyright or U.S. patent; provided in each case that Client promptly notifies Innovative in writing of such claim and fully cooperates with Innovative in the defense of such claim. Innovative will also indemnify and hold Client harmless from any and all damages and costs (including reasonable attorney's fees) finally awarded by a court of competent jurisdiction in connection with any such claim, or agreed by Innovative in a settlement of such claim. Innovative will conduct the defense and any settlement negotiations in any such third-party action arising as described herein. This indemnification is limited to the Services and Work Product in the form delivered to Client and does not cover claims arising from (x) modifications thereto not made by Innovative, or, even if by Innovative, at the request of Client; (y) use of the Services and Work Product in combination with other software or items not provided by Innovative; or (z) third-party source code included in the Services and Work Product. If the use of the Services or Work Product by Client is enjoined, Innovative will, at its sole option: (i) obtain for Client the right to continue to use the Services or Work Product, (ii) modify the Services and Work Product to remove the cause of the claim, action or suit, (iii) replace the Services and Work Product at no additional charge to Client with an equally suitable, non-infringing service or work product, which will then be subject to the provisions of this Agreement, or (iv) terminate this Agreement and refund to Client that portion of the Fees allocable to the infringing component of the Services and Work Product, prorated for the period Client's use of the Services and Work Product is enjoined. None of the above warranties or remedies will apply with respect to any element of the Services and Work Product that has been modified by any party other than Innovative, or used in a manner for which the Services and Work Product are not designed or intended. This section states Innovative's entire liability and Client's exclusive remedies for infringement of intellectual property rights of any kind.

9. **Confidentiality.**

- a. Innovative acknowledges that any Client Resources or information, data, or documents disclosed by Client to Innovative in its performance hereunder are confidential and proprietary information of Client. Client acknowledges that all documentation, technical information, Software and other information pertaining to the Services, and/or Innovative's business interests or activities, methods of operation or customers that are disclosed by any party to Client in the course of performing this Agreement are the confidential and proprietary information of Innovative. The information and materials described in the two preceding sentences are referred to herein as "Confidential Information." Notwithstanding the foregoing, the term "Confidential Information" does not include information pertaining to a party if such information (i) is generally known to the public through no improper action or inaction by the other party, (ii) was, through no improper action or inaction by the other party, in the possession of the other party prior to the Effective Date, or (iii) was rightly disclosed to the other party by a third party if such disclosure does not violate the terms of any confidentiality agreement or other restriction by which such third party may be bound.
- b. All Confidential Information will be held in confidence and will not be copied, used or disclosed other than as set forth in this Agreement. Each party will take all reasonable efforts to protect the confidentiality of and prevent the unauthorized use of any such Confidential Information by any third party within such party's control. Each party may disclose Confidential Information (i) to the receiving party's employees and contractors required to have access to said Confidential Information for the purposes of performing this Agreement or using the Work Product, provided that such parties have entered into a non-disclosure agreement offering similar protection as is provided under this Agreement; or (ii) if such disclosure is in response to a valid order of any court, statute, or other governmental body, in which event, the disclosing party will use reasonable efforts to provide the other party with prior notice of such required disclosure.
- c. Recognizing that any improper use or disclosure of any Confidential Information by either party may cause the party whose Confidential Information is improperly used or disclosed irreparable damage for which other remedies may be inadequate, a party whose Confidential Information is improperly used or disclosed will have the right to petition for injunctive or other equitable relief from a court of competent jurisdiction as appropriate to prevent any unauthorized use or disclosure of such Confidential Information.



- d. Innovative shall have five (5) days from the date it receives notice of required disclosure from section b. above to seek a protective order against the disclosure of such information under the California Public Records Act. Innovative shall have sole responsibility for defense of the actual "Confidential" designation of such information. Innovative and County understand and agree that any failure by Innovative to respond to the notice provided by County and/or communicate in good faith on the disclosure requirement, in accordance with the provisions above, shall constitute a complete waiver by Innovative of any rights regarding the information designated "Confidential" by Innovative, and County shall disclose such information pursuant to applicable procedures required by the Public Records Act.

**10. Term; Termination.**

- a. This Agreement will be effective as of the Effective Date and will remain in effect until terminated as permitted under this section. Client may terminate this Agreement or an SOW at any time without cause upon 30 (thirty) days prior notice. Client may terminate this Agreement at any time if Client's budget (funding) is eliminated and Client provides written evidence to Innovative of the elimination of Client's budget (funding), such evidence to be in the form and substance reasonably requested by Innovative. Innovative may terminate this Agreement or an SOW for cause (i) if Client breaches any material term or condition of this Agreement or an SOW and such breach continues unremedied for 30 (thirty) days after delivery of written notice of such breach to Client, or (ii) if Client is declared bankrupt, admits its inability to satisfy its debts, or enters into any negotiation with its creditors for the settlement of its debts. Any notice of termination expressly purporting to terminate this Agreement in its entirety will also effectively terminate any and all SOWs then outstanding. Contrarily, any notice of termination purporting only to terminate one or more SOWs (but not purporting to terminate this Agreement or otherwise remaining silent as to the termination of this Agreement) will effectively terminate only such identified SOW(s), in which event this Agreement and all other outstanding SOWs will survive.
- b. Upon any termination of this Agreement, all paid Fees will be nonrefundable and Client will be responsible for all Fees and expenses for all Work Product provided or Services performed up to, and including, the date of termination. Otherwise, the rights and duties of the parties will terminate other than the obligation of the Client to pay Fees and expenses in accordance herewith, and the obligations of the parties pursuant to Section 3 (Ownership), Section 7 (Limitations on Liability), Section 8 (Indemnification), Section 9 (Confidentiality), and the governing law and venue provisions of this Agreement. Any termination of this Agreement will not waive or otherwise adversely affect any other rights or remedies the terminating party may have under the terms of this Agreement. Within 30 (thirty) days of a termination of this Agreement, each party must return or destroy all Confidential Information of the other party, as requested by the other party.

11. **Consulting Personnel.** Innovative agrees to keep accurate and complete records of tasks and hours of the Consulting Personnel in performing the Services. Innovative will be solely responsible for, at its own cost, verifying the employment history, educational and professional credentials and licenses, and criminal history of each of the Consulting Personnel. In providing the Services, Innovative will not knowingly utilize Consulting Personnel who have been convicted of fraud, theft, larceny, embezzlement or any other felony or other crime of moral turpitude. Innovative is solely responsible to ensure that all Consulting Personnel are in compliance with the Immigration Reform and Control Act of 1986 ("IRCA"). Specifically, Innovative will comply fully with the record keeping and other requirements of IRCA, including without limitation all I-9 requirements. Client is not responsible for sponsorship of any workers who perform Services for it at the request of Innovative. For Innovative employees working in the United States pursuant to this Agreement, Innovative will provide to Client only workers for whom Innovative has confirmed legal liability to perform services as employees in the United States, and for whom all required record keeping under IRCA has been performed and maintained. No Consulting Personnel will be entitled to participate in any compensation or benefits plan of Client. Innovative will be solely responsible for the payment of wages and any employee benefits to or on behalf of the Consulting Personnel for work performed under this Agreement and for withholding of any and all federal, state and local income taxes, paying social security taxes, unemployment insurance in an amount and under such terms as required by federal, state, or local law.

12. **Back-Up Activities.** Client has the sole responsibility for the maintenance and protection of all data provided by Client to Innovative for performance of the Services, including, without limitation, the making, storing and security of back-up and archive copies of such data (collectively "Back-Up Activities"), and Client acknowledges Innovative will not perform any Back-Up Activities for or on behalf of Client.

**13. General.**

- a. No Waiver. The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder will not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.
- b. Independent Contractor. Client acknowledges that Innovative is at all times an independent contractor and that Client's relationship with Innovative is not one of principal and agent nor employer and employee. No Consulting Personnel will be entitled to participate in any compensation or benefits plan of Client.
- c. Force Majeure. Neither party will be liable or responsible for any delay or failure in performance if such delay or failure is caused in whole or in part by fire, flood, explosion, power outage, war, strike, embargo, government regulation, civil or military authority, hurricanes, severe wind, rain, other acts of God, acts or omissions of carriers, third party local exchange and long distance carriers, utilities, Internet service providers, transmitters, vandals, or hackers, or any other similar causes that may be beyond its control.
- d. Notice. Any notice or communication required to be given by either party must be in writing and made by hand delivery, express delivery service, overnight courier, electronic mail, or fax, to the party receiving such communication. Unless otherwise instructed in writing, such notice will be sent to the parties at the addresses set forth on the first page of the Service Agreement. Notice will be deemed given on the date of receipt or first refusal by the recipient. All communications pursuant to this Section will be deemed delivered as follows: (a) upon receipt, if delivered personally or by a recognized express delivery or courier service; or (b) when electronically confirmed, if delivered by facsimile.
- e. Invalidity. Any provision of this Agreement which is invalid, illegal, or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal, or unenforceable in any other jurisdiction.
- f. Counterparts. This Agreement may be executed by the parties in separate counterparts by original, .pdf (or similar format for scanned copies of documents) or facsimile signature, each of which when so executed and delivered will be an original, but all such counterparts together constitute but one and the same instrument.
- g. Publicity. Except as provided in this Section, neither party will make any press release, public statement or other disclosure regarding the terms of this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, Innovative will have the right to issue public statements pertaining to the existence of the business relationship between Innovative and Client, including the right to limited use of Client's name, logo and other reasonable non-confidential information in press releases, web pages, advertisements, and other marketing materials.
- h. Assignment. Neither party has the power to assign, license, or sub-license any of its rights or obligations hereunder without the prior written consent of the other party, which will not be unreasonably withheld. Any assignment, license, or sub-license attempted without such consent will be void. Notwithstanding the foregoing, a party may assign this Agreement without the other party's consent (i) as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets or capital stock; or (ii) to an affiliate of such party provided that any such assignment will not release the assigning party from its obligations under this Agreement.
- i. Waiver of Jury Trial; Governing Language. EACH PARTY HEREBY WAIVES ITS RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE OR LEGAL PROCEEDING ARISING OUT OF THIS AGREEMENT OR THE SUBJECT MATTER HEREOF. This Agreement and all proceedings hereunder will be conducted in the English language; any translation of this Agreement into another language will be for convenience only but will not modify the meaning hereof. Only a written instrument duly executed by both parties may modify this Agreement.
- j. Jurisdiction and Venue. This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.
- k. Entire Agreement. This Agreement contains the entire understanding of the parties, and supersedes all prior agreements and understandings relating to the subject matter hereof, provided that nothing herein will diminish

or affect any separate confidentiality agreement, license agreement or other document issued thereunder. The parties represent that they are sophisticated commercial entities, have had the opportunity to consult with their own counsel, and have included in this Agreement all terms material to the parties' rights and obligations with respect to the subject matter hereof and intend this document to be the final expression of their contractual intent. The parties further represent and acknowledge that communications exchanged between the parties during contract negotiation (including without limitation requests for proposals ("RFPs") and responses to such RFPs, questionnaires and responses to same) do not constitute a part of this Agreement. Purchase orders, work orders or other documents submitted by Client will be for Client's internal administrative purposes only and the terms and conditions contained in any such purchase order, work order or other document will have no force or effect and will not amend or modify this Agreement. In the event of any inconsistencies or conflicts among the GTCs, a Services Agreement or any other exhibits or schedules referenced by these GTCs, the following order of priority will control: 1. Service Agreement, 2. GTCs and 3. Any other terms, agreements, exhibits or schedules included in, or referenced by the Agreement.

**Exhibit B**  
**Statement of Work**

[Statement of Work follows]



## Statement of Work

This Statement of Work (the "SOW") dated April 23, 2019 is entered into pursuant to the Master Professional Services Agreement between County of Nevada ("Client") and Innovative Interfaces Incorporated ("Innovative") effective as of April 23, 2019 (the "Agreement"). Innovative and Client may each be referred to as "Party" from time to time or collectively as "Parties".

### I. Purpose of this Statement of Work

This SOW outlines the Professional Services that will be provided by Innovative in order to implement the Polaris Success Bundle purchased under the Subscription License Agreement. The SOW provides an overview of the scope of the project and cost to complete the engagement based on Innovative's prior experience with similar projects and discussions with Client. The Client hereby acknowledges that the SOW will capture all detailed requirements and documents the high-level requirements and implementation approach discussed. A final detailed requirements document will be provided to the Client for sign off on the final functional scope.

### II. Implementation Methodology

Innovative will provide an industry proven implementation methodology that ensures the success of both the project management and technical aspects of the software implementation project. This methodology is shown below:

## Innovative Project Management Methodology



The goal of Innovative's project management is to ensure 1) that all aspects of the project are tracked and managed effectively, 2) risks and issues are tracked and managed effectively, and 3) all project personnel, at Innovative and the Client, have on-demand access to all project management tools, documentation, and status information.

To facilitate access to project information and resources, by Innovative and the Client, Innovative will establish an online project management site using Smartsheet. The project management site will serve as the master archive for all project planning and management documents and databases, product documentation, training documentation, and inter-staff communication tools. The site will be established immediately upon award of the contract, and access for Client project staff will be established immediately upon request by the Client's



project manager. The project management site will serve as the primary communication and sharing hub for the project management documents, tools, and methods.

Following contract signing, the Innovative project manager will work directly with the Client's implementation team to finalize a project schedule, and to reserve resources within our implementation team. The final schedule will be negotiated directly with the Client and take into account Client staff availability for profiling and project management, training, workflow consultation, and the various technical tasks that are required.

### **III. Scope of Services**

#### **a. Project Initiation and Kickoff**

During this phase the parties set up Smartsheet to manage the project, agree on project team members for both parties, and setup the project reporting and timeline management process. The Project Manager will execute the project plan for Innovative, and work in conjunction with the migration team at the Client. Key elements of the process include:

- Jointly developing a project schedule, at the beginning of the project, to track the execution and delivery of every key aspect of the migration project
- Jointly developing a list of project risks that need to be planned for and managed during the implementation project, as well as assigning the individuals responsible for managing each area
- Regularly scheduled conference calls between the project team at Innovative and the Client, to review the status of project tasks, discuss and resolve areas of concern, and discussion of risk areas
- Regular status reports to the Client
- Working sessions, early in the project, to develop the plans named above, to explain the implementation process, answer questions, and to develop the policy and data mappings that will be required to configure Polaris and load your data

#### **b. Profiling**

##### **i. Innovative will provide 2 days of onsite Profiling:**

- Profiling services are conducted as extended working sessions, between the Innovative Project Manager and the ILS automation team at the Client. During the working sessions, the Project Manager will work with the automation team to document an extensive collection of system policy and profile information including, in part:
  - System, library and branch identities and locations, hours of operation, holidays, free days, patron and statistical categories, shelving locations, collections, material types, and numerous other operations parameters
  - Network and workstation data
  - Policy data such as circulation policies, fines and fees, notifications and notification policies, overdues, holds policies, holds routing, and numerous other pieces of policy information.

A comprehensive set of profiling guides, and worksheets, will be provided to the Client in advance of system profiling. These guides will allow the Client to understand the profiling decisions that must be made by the automation team and allow for data collection to commence in advance of the profiling working sessions with the Project Manager. The provided guides, as well as the consultation provided by the Project Manager during the profiling working sessions, assist the Client in understanding the decisions being made, their impact on system operation once in production, and the implications of some profiling decisions on other decisions that must be made. Following profiling sessions, the Innovative project manager will use existing system migration tools to load the policy and profile information directly into the Polaris test/training database.

#### **c. Software Setup and Access in Cloud Environment**



Innovative will install the Polaris Success bundle in the Cloud environment and upon completion, the Client will confirm access to the software bundle outlined below and accept the software installation phase as complete.

- Polaris Premium Bundle
  - Acquisitions
    - EDI - Electronic Ordering
    - EDI - Electronic Invoicing
    - Titles to Go
    - Selection Lists
  - Cataloging
    - Automatic Authority Control
    - Export Express
    - Z39.50 Client, Broadcast & Server
  - Circulation
    - Classic Inventory Control
    - Collection Agency / Debt Collection (Unique Management)
    - eCommerce - PowerPAC
    - Self-Check using Express Check
    - Floating Collections
    - Held Item Delivery
    - Outreach
    - Interlibrary Loan
    - RFID Integration
    - Notices
    - Offline Circulation
    - Patron Images
    - SIP2 Interface for Self Check
    - Volume Level Holds
  - eContent Integration
  - Unlimited PowerPAC Users
    - Carousel Toolkit
    - Community Profiles w/ Campaigns
    - Children's PAC
    - Did you mean? (spellcheck)
    - Feature It
    - Location-based Profiles & PowerPAC Localization
    - Patron Self-Registration
    - Remote Patron Authentication against Polaris patron DB
    - RSS Feed Builder
    - URL Detective
  - Serials
    - Claiming
  - Polaris REST APIs
  - Polaris Canned Reports
  - Simply Reports
  - SQL query access with Microsoft reporting services

#### d. Data Migration

Innovative will employ a "one database" concept for the Polaris implementation. The one database concept means that a single "shell" database is created at the beginning of the implementation, and as the implementation proceeds, successive layers of data and configuration are added to the database. The same database that the Client starts with at the beginning of the implementation is the same database that the Client eventually goes

live on at the end of the implementation. The evolution of the database will proceed as follows:

- i. Shortly after the initial training server installation is completed, Innovative will, put a "profiling database" in place. Access to the database will be provided to Client staff under initially controlled conditions. The evolutions of the database are described below. Each evolution of the database builds on the information gained from the testing of the previous evolution and replaces the previous evolution:
  - The first evolution of the database will occur during system profiling, when Client staff will work with the Innovative project manager to profile the system. Following system profiling working sessions, between the Client and Innovative, system policies, permission groups, users, workstations, and other data will be entered directly into the database to configure it for the Client's implementation.
  - The second evolution of the database will occur when the first (test) data load is completed. Following the test load, the database becomes the "training database". At this point in the implementation a fully functional, and fully populated, Polaris database exists. This database will be used for all profile and data migration testing and analysis, workflow analysis and consultation, and for all training.
  - The third evolution of the database will occur in preparation for Go Live. The final data load is done on the profiled database and it is ready for production use.
- ii. Innovative will provide Data Migration Services to migrate the Client's data from their existing ILS into the Polaris ILS include analysis, mapping and loading of data into the Polaris Test/Training Database, as well as migration and loading of the production database immediately prior to go-live on Polaris.
- iii. Data migration is performed in accordance with the specifications put forth in the Innovative Data Migration Guide. This guide specifies all data types that will be migrated from the legacy system. Included records are bibliographic, authority, item, patron, checkout, holds and fines records. If the Client desires that other data types be migrated, feasibility and cost of migration will be determined at the time of the request.
- iv. During the course of the data load, the Client is responsible for working with Innovative on data verification to ensure that all of the data is migrated and reconciled over the course of the implementation. Pricing includes two full loads (test and production). Because of our data loading methodology, additional loads are usually not required. However, if the Client desires additional loads to be performed, they can be quoted for an additional cost.

**e. Software Configuration**

Innovative will adapt the fully functional out of box software to the Clients' unique needs. These services include configuration of the base software to fit the policy and profile information documented during Profiling services.

- f. Training Services** are delivered through onsite and web-based sessions. Training topics will be detailed in the schedule during the preparation phase based on Client go-live priorities and target dates.

The training sessions will include the following:

- o 6 days of training onsite
  - o 3 Days of Patron Services and Cataloging Training
  - o 2 Days of Acquisitions Training
  - o 1 Day of Serials Training



- o 26 hours of instructor led online training
  - o System Administration
  - o Simply Reports
  - o Community Profiles
  - o Outreach Services
  - o Export Express
  - o Feature IT
  - o ILL
  - o PAC Webinar

**g. Authority Control Processing**

This implementation will include authority control processing for the Client's bibliographic data. Although Innovative will coordinate the logistics for this processing, and perform data extraction/loading/linking of authority data and updated bibliographic records, the actual authority control processing will be performed by Backstage Library Works ("Backstage"). Innovative has a close, and long standing relationship with Backstage Library Works, and has completed numerous off-the-shelf and custom authority control and record cleanup/enhancement projects with them. The cost of Backstage's services are included in Innovative's pricing. Services to be provided include:

- i. Extraction of bibliographic data, in a format suitable for Backstage
- ii. Coordination of processing profiling between Backstage and Client
- iii. Participation, as needed, in technical interchange sessions between Backstage and the Client
- iv. Bib file extracted and sent to Backstage
- v. Reload of new permanent authority headings
- vi. Relinking of bibliographic and authority MARC data
- vii. Reindexing of the database

Authority control processing projects are typically completed in a 3-5 week period. Backstage will conduct processing against a limited data set, which the Client will be able to evaluate prior to final processing of the full data set. Following extraction of bibliographic data to be sent to Backstage, and completion of the project. Innovative can perform extraction of a "gap" bib file, containing newly cataloged bibliographic records, to be sent to Backstage immediately before final processing.

**h. VPN Implementation**

Innovative will provide all project management, and technical coordination, to implement a Virtual Private Network (VPN) to secure network traffic between the Client's facility and Innovative's hosting environment.

**i. Go-Live**

The Go-Live phase will begin one to two weeks before go-live (based on the schedule to be negotiated with the Client), when the final extraction of bibliographic records from the legacy database takes place. The key steps in the final go-live process are as follows:

- i. Bibliographic records are extracted from the legacy ILS. At this point the Client will begin "modified cataloguing". New items can be added to the legacy system and attached to existing bibliographic records. However, new bibliographic records can't be created, and existing bibliographic records can't be deleted or modified.
- ii. The go-live version of the Polaris staff client will be deployed to staff workstations, as required. "Offline circulation files" will be distributed to staff stations that will be used for circulation and patron registration during the offline period that proceeds go-live.



- iii. The final data extraction will be performed from the legacy ILS (items, patrons, circ and holds data, etc.). At this point no more work can be done in the legacy ILS.
- iv. Staff begin off-line circulation in Polaris. In this mode staff can check items in and out, and new patrons can be registered.
- v. A copy of the Polaris test/training database will be copied to the Polaris production server.
- vi. Client staff will work with Innovative, and other vendors, to switch 3rd party products and services to point to the Polaris production database.
- vii. The production data load is completed. Offline circulation files are uploaded to the Polaris production database.
- viii. In-library PAC stations are switched to point to the Polaris PAC. Staff begin circulation in Polaris in on-line mode, and the Client goes live on Polaris.
- ix. During the Go Live process, Innovative provides 3 days of onsite support to provide consulting and assistance, as needed.

**j. Acceptance Testing**

Client will have thirty (30) days to verify functions outlined in the scope of work. Material defects not in compliance must be submitted in writing. Innovative shall clarify and resolve blocker problems within thirty (30) days of receipt of report or provide the Client with a written estimate of when resolution will occur. Within seven (7) days of receipt of notice of resolution from Innovative, the Client shall retest the function and confirm that the function has or has not been resolved. If not resolved, Innovative will continue working to resolve the problem until resolution is accepted by the Client. Once resolved, the Client's rights provided above will reset giving the Client another thirty (30) days.

**IV. Project Timeline**

The following draft timeline begins one week after contract signing and outlines overall steps and responsibilities for a typical Polaris implementation. Event order and event time frames may be adjusted, e.g. time allotted for Client tasks may be extended or compressed. A project plan tailored to Client will be mutually agreed upon after project kickoff. The work plan, milestones, and deliverables will include a delivery/completion schedule that clearly identifies the deliverables and the time of delivery.

MAJOR TASKS	DATES
Contract Signing	Week 1
Initial Phone Call with Customer to discuss project and profiles	Week 1
Library set-up in Supportal (Access, Documentation, Usage)	Week 2
Kick-off Meeting	Week 2
Site Visit (Profile creation)	Week 3
Server staging and implementation of VPN gateway	Week 4
Library System completes and submits Profiles to Project Manager	Week 6
Data Pull for Test load	Week 6
Implementation Profile input, review, and finalization	Week 7
Data Mapping	Week 8
Test data load	Week 9
Polaris QA of Data Load	Week 10



Library System has access to Test database for review and training	Week 11
Training – P1 – Circulation, Cataloging and PAC	Week 13
Acceptance Testing by Library System occurs	Week 13
Library System internal staff training	Week 13
Third Party prep and testing	Week 13
Training – P2 – Acquisitions and Serials	Week 17
Other selected training via Webinar	Week 18
Prepare for Polaris Offline	Week 20
Data Sign-off for Production load	Week 20
Library System is Offline with Polaris	Week 21
Final data migration on Production server	Week 21
Final Data QA	Week 21
Library System review of Production database and upload files	Week 21
Library System is Live on Polaris	Week 21
Transition to Polaris Support	Week 23

**V. Fees and Payment Terms**

All prices listed below are based on the deliverables included in this Statement of Work.

Item	Price
Polaris Success Bundle Implementation Services	\$54,000
Authority Control Setup	\$3,150
Authority Control Services (3 <sup>rd</sup> Party) – Backstage	\$4,810
Polaris VPN One Time installation – Service	\$10,000
<b>Total</b>	<b>\$71,960</b>
Estimated Hours	740

The Total Service Fees and hours estimated for this project are \$71,960 (USD) and 740 hours. These estimates are based on a Time and Materials (T&M) based arrangement, and are made in good faith based on the activities, approach and assumptions contained in this Statement of Work. Innovative will provide regular updates on the project budget for Client planning purposes. The quote contained herein is an estimate and may be affected by the final scope agreed and in any additional Change Requests.

This Statement of Work estimate is valid for 30 days. Any delays in deliverables that are attributable to the customer may result in additional Services fees.

**VI. Innovative Services Team**

The process of ensuring a seamless migration to a new integrated library system begins immediately after contract signing. After the contract is signed, Innovative will assign a project team to your implementation. The project team will consist of:

- a. **Project Manager:** The Project Manager has extensive knowledge of the Polaris ILS, the Polaris ILS database, library workflows, and library data. All Polaris Project Managers have years of project management experience and have implemented ILS migrations for many libraries.



- b. **Data Analyst:** The data migration specialist is responsible for creating, maintaining, and executing the SQL scripts, and other software, required for migrating your existing ILS databases into the Polaris ILS database. All Polaris Data Migration Specialists have extensive SQL skills, in-depth knowledge of MARC and other library data, and many years of experience in migrating ILS data.
- c. **Polaris Trainer/Consultant:** One or more Polaris trainers/consultants will be assigned to your implementation, shortly after the project kicks off. Your trainers are selected based on their knowledge of the specific subsystems and options that you will be implementing, as well as their experience in training similar libraries. All Polaris trainers have significant experience in ILS operations and training.
- d. **Polaris System Engineer:** The Polaris System Engineer performs the staging and installation for your Cloud system.
- e. **Executive Sponsor:** The Executive Sponsor is assigned to the project to provide oversight, be an escalation point, ensure the success of the project, and participate in the project steering committee.

By assigning this multidisciplinary team to your implementation we can maximize the familiarity of the project team with your library and your implementation.

Because of the size and complexity of the implementation, the project team will be augmented by a cross-functional team made up of representatives from a range of departmental teams within Innovative. The following individuals will be supplemental resources to the Innovative project team:

- a. **Director of Project Management, and Director of Data & Installation Services:** Responsible for conducting in-house audits of project status and for serving as senior liaison to the senior management team at the Client.
- b. **Manager of Polaris Support:** Will be responsible for assessing ongoing Support requirements throughout the implementation and assigning additional support personnel as required.

## VII. Client Implementation Team

In order to ensure a successful implementation, Innovative requests that the Client designate individuals from your staff to assume responsibility for the following roles

- a. **Executive Sponsor:** Provides executive oversight, ensuring the project is aligned to meet the goals of the Client project and Steering Committee.
- b. **Project Manager:** Works directly with the Innovative Project Manager to ensure that risks are mitigated, appropriate communication is achieved, and milestones are met. Works with Innovative Project Manager to coordinate work plans, schedules, and teams' work. Will manage day-to-day operational aspects and ensure deliverables are met. Responsible for Project Steering Committee status reporting and Executive communications.
- c. **Librarian Lead:** Works closely with Project Managers to ensure requirements are comprehensive and representative of the needs of the Client. The Librarian Lead will coordinate with key members of the team as required.
- d. **Technical Lead:** Will be responsible for assisting with Client responsibilities related to data migrations and any other system level duties required by Client.

## VIII. Implementation Assumptions

As part of the Innovative proposal for the implementation, we have outlined the following project assumptions which are critical to the successful delivery of the project:

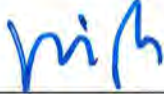

- a. Client will have adequate resources available to ensure timely completion of any Client tasks outlined in the project schedule.



- b. Timeline for the completion of this project will be established, through joint planning conversations between the Client and Innovative during the initial stage of the project.
- c. Client will provide a technical point of contact who is able to provide, or coordinate access to, necessary information and library resources. This includes information related to server access, collecting and providing any prerequisite information required to support installation and configuration of software, and other needs that may arise during the project.
- d. A maximum of 12 attendees are allowed in individual training sessions.

IN WITNESS WHEREOF each party has caused this SOW to be executed by its duly authorized representatives.

**AGREED:**

<b>County of Nevada</b>	<b>Innovative Interfaces Incorporated</b>
By: 	By: 
Name: Richard Anderson	Name: Bill GADALA
Title: Chairman	Title: VP FP+A
Date: 4-23-19	Date: 4-5-2019

**Exhibit C**  
**Pricing Exhibit**

**Additional Terms:**

1. **Fees.** All Fees, expenses and other amounts owed to Innovative must be paid to Innovative within 30 days following receipt of the invoice.

[Approved Quote follows]



# Pricing Exhibit

Innovative Interfaces Incorporated  
 1900 Powell St.  
 Suite 400  
 Emeryville CA 94608  
 United States

**Date** 2/5/2019  
**Quote #** EST-INC9065  
**Payment Terms** Net 30  
**Sales Rep** Carrie Pearson  
**Technical Contact** CU7573 Nevada County Library ; C...  
**Site Code**  
**Expires** 3/31/2019

**Bill To**  
 Nevada County Community Library  
 980 Helling Way  
 Nevada City CA 95959-8619  
 United States

**Ship To**  
 Nevada County Community Library  
 980 Helling Way  
 Nevada City CA 95959-8619  
 United States

**Currency**  
 US Dollar

Item	Item Category	Qty	Description	Options	Unit Price	Amount
Polaris Public Success Bundle Implementation Services	Services	1	Polaris Public Success Bundle Implementation Services		60,000.00	54,000.00
Authority Control Implementation	Services	1	Authority Control Implementation		3,500.00	3,150.00
Custom Services	Services	1	Backstage Library Works Authority Control Project		4,810.00	4,810.00
Polaris VPN OneTime Installation	Services	1	One-time service to enable Virtual Private Network add-on service for Polaris ILS		20,000.00	10,000.00

**Total Fees** US\$71,960.00