

This Software License and Services Agreement (“Agreement”) describes the terms and conditions that apply to AINS Software and Services.

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### **Section 1: Licensing and Software**

- A. **License.** Subject to the terms and conditions of this Agreement (including the termination provisions herein), AINS grants Customer a limited, personal, non-transferable, non-assignable, non-exclusive, revocable license to: 1) install and run Software (where AINS is delivering licenses to Customer and access to such software is not being provided as a service by AINS), or 2) use and allow use of the Software, Software-as-a-Service (“SaaS”), Platform-as-a-Service (“PaaS”), and/or Infrastructure-as-a-Service (“IaaS”), as described in an Order, both in accordance with the Documentation provided to Customer and solely for Customer’s internal purposes. In the event Customer exceeds the Maximum Usage, Customer shall be liable to AINS for the excess at AINS’ commercial rates.
- B. **AINS Hosting.** Where Customer has purchased SaaS, PaaS, or IaaS Service under an Order or separately purchased Hosting services, AINS will provide Customer with: (1) remote access to the applicable AINS Software, Software-as-a-Service, Platform-as-a-Service, and/or Infrastructure-as-a-Service as described in the Order, and (2) Software Maintenance as a Product preventative maintenance for that Software for the duration of the subscription or license period specified in an Order. Software hosted by AINS is subject to the terms and conditions of the AINS Service Level Agreement, or other written Service Level Agreement between AINS and Customer for deployments from a third-party cloud service provider (such as AWS). As between the parties, AINS will have sole control over its hosting

environments and may change those hosting environments and cloud service providers in its sole discretion

- C. **On-Premises Installation and Third-Party Hosting.** AINS Software may be installed on equipment owned and managed by Customer and/or on third-party equipment (whether or not managed by Customer) (“Alternative Hosting”). Despite the foregoing, Alternative Hosting is conditioned on Customer: (1) notifying AINS of the address and name of the entity operating the Alternative Hosting facility; (2) authorizing AINS to share the name and address of such entity with Third-Party Licensors; and (3) Customer and such entity entering into a written agreement (to which AINS is a third-party beneficiary) in which the Alternative Hosting entity agrees to: (a) store and/or load AINS Software only on computers and media that are secure from unauthorized access; (b) only operate the AINS Software and make it available to Customer over the Internet or other transmission medium and not for any other purpose; (c) not attempt to reverse engineer, disassemble, decompile, or otherwise derive the source code or other AINS proprietary information from the AINS Software, and (d) otherwise comply with the terms and conditions of this Agreement to the same extent as Customer and assist AINS in enforcing its terms as applicable (such as terminating or suspending Customer’s access). Except as separately agreed-upon, AINS shall have no liability for maintaining any particular service level in connection with any Alternative Hosting described herein. Customer may make one (1) copy of the Software for archival and backup purposes only.
- D. **Users.** Customer may permit any User to access and use the Software (subject to the Maximum Usage), on condition that: (1) Customer advises that User in writing of the terms of this Agreement and any other restrictions on use or access required by AINS, and the User agrees in writing to be bound by the same; and (2) Customer provides reasonable assurances upon request that the requirements of this Agreement have been satisfied. Each User requires a separate license for each Software product they access, and each User also requires a separate license for each environment in which they will be accessing that application (e.g. production vs. testing). AINS reserves the right to generate User reports for to determine User counts, and to monitor use of the Software in connection therewith. Without limiting the foregoing, Customer shall provide AINS with a User report upon request.
- E. **Maintenance.** Software Maintenance as a Product includes the publishing of bug and defect fixes via patches and updates and upgrades in function and technology to maintain the operability and usability of the current version of the Software in accordance with AINS’ general release practices, for the duration of the maintenance subscription. AINS retains sole discretion over the determination whether an apparent issue with the software is a bug or defect that requires remediation under existing agreements with Customer, or otherwise constitutes a change or modification request that might require the purchase of additional services. Software Maintenance as a Product is included with the purchase of Software-as-a-Service. Customers who purchase term or perpetual licenses must separately purchase a maintenance subscription to receive Software Maintenance as a Product.
- F. **Changes.** AINS may, in its sole discretion, make any changes to the Software and Services that it deems necessary or useful to: (1) maintain or enhance: (a) the quality or delivery of the Software or Services; (b) the competitive strength of or market for the Software and Services; or (c) the Software or Services’ cost efficiency or performance; or (2) to comply with applicable laws, rules, and regulations. In the event that AINS discontinues or diminishes the functionality of the Software and Services that Customer has contracted for, Customer shall be entitled to a pro rata refund for any fees paid not used.

- G. **Subcontracting.** AINS may from time to time in its discretion engage third parties to perform any of its obligations hereunder (including the Services) provided that AINS shall remain liable for the actions and services provided by such subcontractors at all times.

## **Section 2: Professional Services**

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- A. **Statement of Work.** AINS Services, including, but not limited to, Software maintenance, design, development, integration, support, training, installation, configuration, data integration, and data migration services, shall be subject to a statement of work signed by authorized representatives of both parties (each, a “Statement of Work” or “SOW”) setting forth the scope, level of effort, duration, and other details of the Services to be performed. AINS shall have no obligation to provide any Services in excess of the Maximum Usage defined in an Order and accompanying SOW, or to provide any Services not set forth in an Order or SOW. Customer shall be responsible for travel expenses in accordance with FAR 31.205-46 and the Federal Travel Regulation (FTR). Customer shall only be liable for such travel expenses as approved by Customer and funded under the applicable ordering document.
- B. **Help Desk.** If so indicated on an Order, AINS will use commercially reasonable efforts to provide Help Desk support, as further set forth in the attached AINS Help Desk Policy (attached hereto as Attachment B).
- C. **Independent Contractor.** AINS shall perform all Services and provide all deliverables (including AINS Software) as an independent contractor. This Agreement does not establish a teaming, joint venture, joint employer, or partnership between the Parties. Neither AINS nor Customer shall be considered an employee, agent, or representative of the other. Nothing in this agreement grants to either Party the right to make commitments of any kind for, or on behalf of, the other Party.

## **Section 3: Customer Obligations**

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- A. **Compliance with Laws.** In connection with Customer’s use of the Software and receipt of the Services, Customer and AINS shall comply with all applicable laws, rules, and regulations, including any applicable export restrictions, including the Export Administration Act of 1979, the Export Administration Regulations issued by the United States Department of Commerce, the International Traffic in Arms Regulations, and economic sanctions programs implemented by the Office of Foreign Assets Control.
- B. **Infrastructure, Training, and Approvals.** Customer must provide at least the minimum IT infrastructure (hardware and software) necessary for the proper and secure functioning of the Software. Customer shall promptly install all updates, patches and bug fixes provided by AINS and/or comply and assist with AINS’ efforts to do the same. Customer must ensure that Users receive sufficient training and are given access to the necessary hardware, software, and network infrastructure to be able to operate the Software in accordance with the documentation and AINS instructions. Customer must make best efforts to obtain all approvals, clearances, or certifications necessary in a timely manner so as to meet or exceed an agreed-upon delivery schedule, including personnel badging, authorities-to-operate, and other pre-conditions to AINS’ performance under the contract. To the extent consistent with FAR 52.233-1, AINS will be relieved of performing any obligations hereunder (including the

Services) if (a) Customer fails to obtain any such approvals, clearances, or certifications, or (b) such performance is dependent or otherwise reliant on Customer timely cooperating with AINS or otherwise providing AINS information, materials, or similar items.

- C. **Controls.** Customer and its Users will access AINS hosted Software through one or more password-protected access methods as specified by AINS (collectively “Access Methods”). Customer is solely responsible for ensuring that the Access Methods are known to and used by only the relevant Users. Customer must use best security and IT system sharing practices to ensure that Users comply with the terms and conditions of this Agreement. As between the parties and all other persons and entities, Customer is liable for any breaches of this Agreement by its Users and to implement reasonable controls on access to and use of AINS Software in order to comply with this Agreement. Customer shall promptly notify AINS of any unauthorized access to any Access Methods.
- D. **Restrictions on Use.** Customer shall not nor attempt to, nor permit, procure, enable, or request any other person or entity to distribute, disclose, market, rent, lend, lease, sell, resell, or transfer the Software, or any license or Services to any third party without AINS’ prior written consent. Customer may not use any Restricted Release licenses or Software to generate revenue or profits. Customer may not use AINS Software or Services for any illegal purpose under applicable laws or any purpose deemed by AINS in its sole discretion to be offensive or otherwise harmful. AINS Software should not be used in circumstances where errors or inaccuracies in the content, functionality, services, data or information provided by the Software, or the failure of the Software, could lead to death, personal injury, or severe physical or environmental damage.
- E. **Prompt Reporting.** Customer must promptly report to AINS any unauthorized use or access to the Software, or other violation of this Agreement. Customer must promptly report any Software bugs or Software issues to AINS and comply with AINS’ reasonable requests in connection with bug and Software issue resolution, including by providing AINS with timely access to data and Customer personnel. Customer shall be responsible for the accuracy and completeness of all data and information provided to AINS in connection with this Agreement.
- F. **Cooperation.** Customer must cooperate fully with the terms of this Agreement. Customer shall support AINS in investigating and remedying alleged violations of this Agreement, including validations and audits of Customer’s deployment and use of the Software. Such cooperation may include, but is not limited to, providing usage logs generated by the Software and otherwise providing access to Customer’s files and equipment to verify Customer’s use of the Software is and was in accordance with the terms of this Agreement. AINS reserves the right to include and employ means within the Software to monitor and/or limit Customer usage in accordance with this Agreement.

#### **Section 4: Customer Technical Restrictions**

Except as expressly authorized herein or in the Documentation, or pursuant to a separate written agreement between AINS and Customer, Customer shall not nor attempt to, nor permit, procure, enable, or request any other person or entity to:

- A. **Copying.** Copy or reproduce the Software.
- B. **Modifications.** Modify, adapt, or prepare any derivative based on AINS Software, or any part thereof. Subject to AINS' written approval, Customer may add extensions to the Software's capabilities, including, but not limited to, connectors, components, plug-ins, external system integrations, and expressions ("Extensions"). Customer has sole responsibility for the support of these Extensions, and any errors, malfunctions, or interferences caused in or to AINS Software by the Extensions. AINS has no obligations with respect to the installation or use of Extensions, and Extension-related issues are not covered by any AINS support, service level, or warranty requirements.
- C. **Reverse Engineering.** Decompile, transform, , reverse engineer, recompile, reverse compile, translate, disassemble, or discover the source code of all or any portion of the Software.
- D. **Security Reviews.** Conduct any technical security integrity review, penetration test, load test, denial-of-service simulation, or vulnerability scan in connection with the Software or Services.
- E. **Testing Disclosure.** Disclose the results of Software performance benchmarks to any third party without AINS' prior written consent.
- F. **Bots.** Use any software tool designed to automatically emulate the actions of a human user (also known as "robots" or "bots") in connection with the Software or Services.
- G. **Open Source Software.** Use Open Source or any third-party software in connection with AINS Software in any manner that might require that the AINS Software be disclosed or distributed in source code form, made available free of charge, modifiable without restriction by recipients, or otherwise become subject to any Open Source license.
- H. **APIs.** Use any application programming interfaces ("APIs"), macros, and/or user interfaces not supported by AINS that interfere with the Software and/or its data in any respect.
- I. **Links.** Use any Internet "links" to the Software or other method of "framing" or "mirroring" any content available on the Software on any other server or Internet-based device.
- J. **Competitive Products.** Use the Software or Services to (1) create, market, or distribute any product or service that is competitive with any product or service of AINS, or (2) act as a service bureau on behalf of, or to otherwise provide processing services or support to, any third party.
- K. **Challenge.** Contest, challenge, or otherwise make any claim or take any action adverse to AINS' ownership of or interest in the Software or Services.

- L. **Removal of Notices.** Remove, modify, or obscure any copyright, trademark, or patent notice, or other proprietary or restrictive notice or legend, contained in the Software or on any copies of the Software.

### **Section 5: Purchase Orders and Payments**

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- A. **Order Requirements.** Each purchase order executed by the parties' authorized representatives ("Order") is incorporated in this Agreement. The parties shall cooperate to ensure each Order includes, as applicable: (1) A defined subscription period, license term, or period of performance; (2) Product and service descriptions; (3) The Maximum Usage purchased by Customer (e.g. number of Users or funded hours) and a Statement of Work; and (4) Final agreed-upon cost per item.
- B. **Delivery and Acceptance.** For on-premises Software or Alternative Hosting, AINS will deliver one copy of the Software electronically, on tangible media, or by other means, in AINS' sole discretion, to Customer. Risk of loss of any tangible media on which the Software is delivered will pass to Licensee on delivery to carrier. Delivery of SaaS and PaaS licenses shall be completed upon AINS' provisioning of licenses to Customer and Customer's ability to access the SaaS or PaaS environment (regardless of whether Customer has received an Authority to Operate such software as of that date). Services (and related deliverables), other than Help Desk, shall be delivered according to milestones described in an SOW or project plan and are considered accepted upon delivery. Help Desk shall be delivered upon delivery of the covered Software licenses.
- C. **Prompt Payment.** Payments shall be made promptly in full and in accordance with this Agreement and any invoice issued by AINS, without any setoff, recoupment, counterclaim, deduction, debit, or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable law). Late payments shall incur interest at the interest rate established by the Secretary of the Treasury as provided in [41 U.S.C. 7109](#), which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.
- D. **Invoicing.** AINS shall invoice Customer within thirty (30) days following delivery. Customer shall pay all fees when and as specified therein, but in any event no later than thirty (30) days after the date of invoice. Customer is responsible for providing complete and accurate billing and contact information to AINS and promptly notifying AINS of any changes to such information. AINS shall state separately on invoices taxes excluded from the fees, and Customer shall pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption.
- E. **Reserved..**
- F. **Reinstatement.** Reinstatement of subscriptions to maintenance and support Services that have lapsed or been discontinued by Customer shall be subject to a fee equal to 100% of the then current annual commercial fee for such Software or Services, multiplied by the number of years or pro-rated for any part thereof during which such Software or Services were discontinued.

### **Section 6: Term and Termination**

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- A. **Term and Renewal.** The license(s) and/or Services described herein terminate upon expiration of the period specified in Customer's Order ("Term"). If no period is specified, the Term is one (1) year from

the date of purchase. SaaS and Software licensed for a finite duration, and Service subscriptions, may be renewed for successive one (1) year terms at the then-current commercial price upon the expiration of the initial license or maintenance term by executing a written order.

- B. **Termination for Cause.** When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, AINS shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.
- C. **Reserved.**
- D. **Effect of Termination or Suspension.** Upon termination or suspension of a license or subscription Term, AINS may immediately deactivate Customer's account or otherwise prohibit Customer's and any User's access to AINS Software or Services, as applicable. Customer shall remain liable to AINS for all fees accrued and/or payable to AINS prior to the effective date of termination and suspension.
- E. **Survival.** Sections 2(C), 3(E), 4, 5, 6(D), 6(E), 7 (other than Section 7(D)), 8, 9, 10, 11, 12(E), 12(F), 13, 14, 15, and 16 shall survive termination for any reason (except for Section 11 that shall survive for one year).
- F. **Return of AINS Property.** Customer acknowledges that following termination of Customer's license, services, and/or this Agreement for any reason, Customer shall return all AINS property and proprietary information (including Confidential Information) to AINS and that AINS may immediately deactivate Customer's account or otherwise prohibit Customer's and any third-party licensee's access to AINS Software, as applicable.

### **Section 7: U.S. Federal Government Purchaser and End User Provisions**

The following additional terms and conditions in this Section 7 shall apply to AINS Software and Services used by or on behalf of the U.S. Federal Government. Conflicts between the terms in this Section 7 and other terms of the Agreement or Order, if any, shall be resolved in favor of the former.

- A. **Proprietary Rights**
  - 1. **Commercial Computer Software and Commercial Items.** FAR 12.211 Technical Data and Far 12.212 Computer Software apply. The Software and Services described in this Agreement and accompanying Order are Commercial Items subject to FAR 52.212-4. AINS Software products and software deliverables are Commercial Products and Restricted Computer Software as described, below and under FAR 52.227-14, and include Limited Rights Data as defined therein. Any non-Software deliverables provided under this Agreement containing AINS' copyrighted or other protected or proprietary material is provided as Limited Rights Data. AINS Services may also include Restricted Computer Software and/or Limited Rights Data.

- a. **Restricted Computer Software.** Restricted Computer Software may be: (1) Used or copied for use with the computer(s) for which it was acquired, including use at any U.S. Federal Government installation to which the computer(s) may be transferred; (2) Used or copied for use with a backup computer if any computer for which it was acquired is inoperative; (3) Reproduced for safekeeping (archives) or backup purposes; (4) Modified, adapted, or combined with other computer software, provided that the modified, adapted, or combined portions of the derivative software incorporating any of the delivered, commercial computer software shall be subject to same restrictions set forth in this contract; (5) Disclosed to and reproduced for use by support service contractors or their subcontractors, subject to the same restrictions set forth in this contract; and (6) Used or copied for use with a replacement computer.
  - b. **Limited Rights Data.** Limited Rights Data may be reproduced and used by the Government with the express limitation that the Limited Rights Data will not, without written permission of AINS, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for pre-approved purposes; provided that the Government makes such disclosure subject to prohibition against further use and disclosure;
  - c. **Custom Software Development.** FAR 52.227-14,(MAY 2014), applies to developments or data first produced on behalf of the Government, and AINS is a small business as described in FAR 27.302 and U.S.C. 35.202. Upon payment of all amounts due, U.S. Federal Government Customers shall receive unlimited rights to use, reproduce, prepare derivative works from, perform publicly, and display publicly AINS' work product which is specifically developed for the Customer and not otherwise the property of AINS as described herein. The ability to access such software or exercise such rights may be subject to the Customer's continued license of AINS Software, if such Software is necessary for its operation and proper functioning. AINS reserves the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by AINS in the performance of the contract.
2. AINS may advertise Customer's purchase and use of AINS Software and Services to the extent permitted by the General Services Acquisition Regulation (GSAR) 552.203-71.
- B. Termination and Suspension**
1. **Termination for the Government's convenience.** The Government may terminate any license term or Service order for its sole convenience. In the event of such termination, AINS shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work, and Customer shall immediately cease all use of licensed Software. Subject to the terms of this contract, for previously unpaid Software or Services AINS provided prior to the termination date, AINS shall be paid a percentage of the contract price reflecting the percentage of the work performed and Software usage prior to the notice of termination, in addition to such costs as allowable and sustainable under FAR 31.205-42 and 52.249-6. AINS shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the AINS' records. AINS shall not be paid for any work performed or costs incurred which reasonably could have been avoided.



2. **Termination for cause.** The Government may terminate any license term of Service order for cause in the event of any default by AINS, or if AINS fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to AINS for any amount for Software, supplies, or Services not accepted, and AINS shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.
- C. **Disclosures of Confidential Information.** The Freedom of Information Act, 5 U.S.C. 552, requires that certain information be released, despite its classification herein as “Confidential”. Such limited information may be disclosed pursuant to the Freedom of Information Act, but only to the extent necessary to comply with its terms and after due notice is given to AINS with an opportunity to interject.
- D. **Warranty.** For all Software and Services other than SaaS Software hosted by AINS, AINS shall repair or replace non-conforming Software or re-perform non-conforming Services at no increase in contract price. If repair, replacement, or re-performance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of non-conforming Software or Services. The Government must exercise its post-acceptance rights 1) within a reasonable time after the defect was discovered or should have been discovered, but in no event more than thirty (30) days after delivery; and 2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.
- E. **Limitations of Liability.** Nothing herein shall operate to impair or prejudice the U.S. Government’s right a) to recover for fraud or crimes arising out of or relating to this Agreement under any Federal fraud statute, including without limitations the False Claims Act (31 U.S.C. §§ 3729 through 3733), or b) to express remedies provided under any applicable FAR, GSAR, or other clause incorporated into this Agreement by contract or Order with the Government. This section shall not impair the U.S. Government’s right to recover for fraud or crimes arising out of or related to this Agreement under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733. The foregoing limitation of liability shall not apply to personal injury or death resulting from Licensor’s negligence; or for any other matter for which liability cannot be excluded by law.
- F. **Disputes**

  1. Recourse against the United States for any alleged breach of this Agreement for non-intellectual property claims must be made under the terms of the Federal Tort Claims Act or as a dispute under the Contract Disputes Act 41 U.S.C. Chapter 71 and FAR 52.233-1, as applicable. AINS shall proceed diligently with performance under this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising hereunder.
  2. References to and incorporation of statutes, including the Federal Acquisition Regulations (FAR) shall be read so as to continue to give full force and effect to any non-expressly conflicting portions of this Agreement.
- G. **Assignments and Novations.** FAR 52.232-23 (Assignment of Claims), and FAR 42.12 (Novation and Change of-Name Agreements) apply.

- H. **Purchases.** The Government may place orders for Software and Services pursuant to FAR 8.405, or as otherwise agreed-upon. All Orders must be fully funded.
- I. **Prompt Payments.** The U.S. Federal Government shall make prompt payment in accordance with the Prompt Payment Act (31 USC 3903) and related regulations (5 CFR part 1315).

### **Section 8: Proprietary Rights, Trademarks, and Publicity**

- A. **Limited Rights.** This Agreement is not a sale and does not convey to Customer any rights of title or ownership in or to the Software or Services, or any derivatives thereof. All rights not expressly granted to Customer hereunder are reserved by AINS (or Third-Party Licensors, as applicable).
- B. **AINS Intellectual Property.** AINS (or Third-Party Licensors, as applicable) shall retain all right, title, and interest in and to all existing AINS or third-party intellectual property, including without limitation the Software and any copies thereof, including any copies, suggestions, ideas, enhancement requests, feedback, recommendations, translations, modifications, adaptations, derivations, or other information provided by Customer or any other party related to AINS' Software, including any improvement or development thereof, and AINS' performance of any Services hereunder. Customer acknowledges that such ideas, enhancements, or other information or improvements provided to or by Customer in connection with this Agreement and/or AINS Software or Services are owned exclusively by AINS, and that any improvements, developments, or other works provided by AINS are not "works made for hire" under applicable copyright laws. In furtherance of the foregoing, Customer hereby irrevocably assigns all right, title, and interest in the foregoing to AINS.
- C. **Customer Intellectual Property.** Customer shall retain ownership of all Customer Data and pre-existing Customer intellectual property. Customer grants AINS a non-exclusive, irrevocable, world-wide, royalty-free, fully-paid up license during the Term to use any Customer intellectual property and Customer Data to the extent necessary for AINS to perform its obligations and exercise its rights under this Agreement. If such pre-existing materials are incorporated within or derivative of AINS Software, Customer hereby grants AINS a non-exclusive, transferable, fully-paid up, irrevocable, perpetual, world-wide license to use, distribute, license, reproduce, modify, and otherwise make use of such materials, in AINS' sole discretion and/or for AINS' benefit.
- D. **Trademarks.** Except as otherwise expressly granted in this Agreement, no license, right, or interest in or to any AINS trademark, trade name, or service mark is granted hereunder. The AINS name and logo and the product names associated with the Software are trademarks of AINS or third parties, and no right or license is granted to use them. Customer may replace AINS logos and marks appearing on the Software log-in pages and other functional web pages in the Software with the Customer's marks and logos, provided these marks and logos do not violate the intellectual property rights of AINS or any third-party or any other terms of this Agreement. Customer agrees to promptly remove any such logos

or marks that AINS rejects, in AINS' reasonable discretion. Except as otherwise set forth above, Customer may not remove from the Software, or alter, any of the trademarks, trade names, or service marks contained in the Software, or add any other notices or markings to the Software without AINS' prior written consent.

- E. **Publicity.** Customer hereby grants AINS the right to issue a press release announcing that Customer has become a customer of Company, and to use Customer's name for purposes of advertising the Customer's relationship with AINS consistent with GSAR 552.203-71.

### **Section 9: Customer Data**

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- A. **Rights in Data.** Except for the limited purposes specified in this Agreement, Customer is the owner of all Customer Data and, except as set forth in this Agreement, shall retain all rights and title to Customer Data, as well as all liabilities associated with its collection, processing, and retention.
- B. **License Grant.** Customer grants to AINS a royalty-free, fully-paid up, non-exclusive, irrevocable, world-wide, royalty-free, transferable license to collect, store, monitor, process, host, use, display, copy, and transmit Customer Data for the duration of the Order Term to: (1) perform AINS' obligations under this Agreement, including providing Customer with Software and Services; (2) enforce the terms of this Agreement; (3) improve and develop new products and services (and AINS will own all such improvements, products, and services); and (4) for other legitimate business purposes. Without limiting the foregoing, and despite anything to the contrary in this Agreement, AINS may collect and compile Services Data based on Customer Data and Customer's use of the Software. As between the parties, all rights and title in the Services Data, including all intellectual property rights therein, are the exclusive property of AINS. Customer acknowledges that AINS may (a) make Services Data publicly available in compliance with applicable law, and (b) use Services Data to the extent and in the manner permitted under applicable law, in each case of (a) and (b) on condition that Services Data do not identify Customer, Customer Data, or Users.
- C. **Restrictions.** AINS shall use and process Customer Data only as set forth herein or as directed by the Customer and implement reasonable technical and organizational security measures to protect the Customer Data against unauthorized or unlawful use and against accidental loss, destruction, damage, alteration, or disclosure. These measures shall be appropriate to the harm or damage which might reasonably result from any unauthorized or unlawful use, accidental loss, destruction, damage, alteration, or disclosure, and having regard to the nature of the Customer Data, or as otherwise agreed-upon in writing. AINS shall take reasonable steps to ensure that all AINS staff required to access the Customer Data are informed of the confidential nature of the Customer Data and comply with the obligations set out in this clause and not publish, disclose, or divulge any of the Customer Data to any third party except as described below or unless directed in writing to do so by the Customer. AINS retains the right, but not the obligation, to remove any data from AINS Software, environments and hardware that may, in AINS' sole discretion, violate this Agreement or that is otherwise objectionable.

- D. **Compliance with Laws.** Customer shall comply with any and all applicable rules, laws, and regulations applicable to Customer Data, including, but not limited to, the Privacy Act of 1974, the Health Insurance Portability and Accountability Act, the Gramm-Leach-Bliley Act, the California Consumer Privacy Act, Digital Millennium Copyright Act, and the E.U. General Data Protection Regulation. Such liability includes providing legally adequate notices, obtaining necessary consents for the collection, processing and storage of Customer Data, and data belonging to, originating from, or regarding any third-party, and processing such data in accordance with applicable laws and regulatory or contractual obligations. Without limiting the foregoing, Customer shall ensure that it has all rights and permissions necessary to provide the Customer Data to AINS and for AINS to perform its obligations and exercise its rights with respect to the Customer Data, as set forth in this Agreement. Customer is responsible for handling and processing all requests, demands, and notices sent to Customer (or any User) by any third-party relating to such party's rights under applicable laws, and for appropriately responding in accordance therewith.
- E. **Data Migration and Deletion.** Upon termination of a license or subscription, and only upon Customer's request within sixty (60) days thereof, AINS will provide Customer with an export of all Customer Data in AINS' possession in a common format of AINS' choosing. AINS shall have no other obligation to migrate Customer Data to or from AINS Software, or to maintain any Customer Data for more than thirty (30) days after the termination or expiration of the license or subscription, unless otherwise agreed between the Parties. After that sixty (60)-day period, AINS will have no obligation to maintain or provide Customer's Data, and may thereafter delete or destroy all copies of Customer Data in Company systems or otherwise in Company possession or control, unless legally prohibited and excluding any copies of Customer Data that may be retained on backup media beyond the end of such period pursuant to Company's then-current back-up procedures.

## **Section 10: Confidentiality**

- A. **Use of Confidential Information.** Customer agrees that it will treat AINS' Confidential Information with at least the same degree of care that it uses in protecting its own confidential and proprietary information, but in no event less than a reasonable degree of care. Customer agrees that Confidential Information disclosed to it shall be used solely in furtherance of and as described in this Agreement. Customer shall not copy or reproduce, in whole or in part, any Confidential Information without the prior written consent of AINS. Except as expressly agreed in writing, Confidential Information shall not be used by Customer to invent, create, modify, adopt, or manufacture any hardware or software or other products, services, or processes.
- B. **Disclosure of Confidential Information.** Customer shall not disclose any Confidential Information to any individuals, including employees, except as is necessary for performance under this Agreement. Customer shall not disclose any Confidential Information to any third parties without AINS' prior written consent. Customer shall advise any individual and/or entity receiving Confidential Information of the limitations on its use and disclosure set forth herein. Customer shall ensure that all disclosures to its employees or to third-parties hereunder are marked with appropriate legends, as required or permitted under Government regulations, in order to preserve the proprietary nature of the information and AINS' rights therein. Customer shall be responsible for any unauthorized use and

disclosure of Confidential Information by any individual or entity to whom the Customer provides AINS' Confidential Information, as if committed by Customer. Customer may disclose Confidential Information as required by any law, regulation, court order, subpoena, or other compulsive legal or administrative process, on condition that: (a) Customer (unless prohibited by law) immediately notifies AINS and provides AINS with any relevant documentation upon request, including, but not limited to, Confidential Information in Customer's possession that it believes it must disclose; (b) Customer actively resists, restricts, and limits disclosure of Confidential Information, including, but not limited to, by making lawful objections to demands, obtaining confidentiality agreements and protective orders, and using redactions and confidentiality markings; and (c) Customer fully cooperates with any lawful and reasonable efforts by AINS to protect its Confidential Information from disclosure. AINS recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

- C. **Return and Destruction.** Upon written request by AINS, Customer shall promptly: (1) Cease and desist from any use or disclosure of AINS' Confidential Information; (2) Return any of AINS' Confidential Information in its possession or under its control to AINS; and (3) Upon AINS' express direction, destroy any of AINS' Confidential Information in its possession or under its control and certify its destruction in a manner agreeable to AINS.

## **Section 11: Defense and Indemnification**

- A. **Software Copyright Infringement.** THIS SECTION STATES AINS' SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT CONCERNING THE SOFTWARE.

1. **Scope.** AINS will have the right to intervene to defend Customer at its own expense in any action against Customer alleging that the Software directly infringes any U.S. copyright or misappropriates any trade secret recognized as such under the Uniform Trade Secret Law, and AINS will pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim or that are agreed to in a monetary settlement of such action, on condition that (a) Customer notifies AINS in writing within thirty (30) days of the claim; (b) To the extent allowed by 28 U.S.C. 516, AINS has control of the defense and all related settlement negotiations; and (c) Customer provides AINS with the assistance, information, and authority necessary to perform the above. Reasonable expenses incurred by Customer in providing such assistance may be reimbursed by AINS.
2. **Exclusions.** AINS shall have no defense or indemnification obligation or other liability for any claim of infringement based on: (a) Any use of the Software not in accordance with this Agreement or for purposes not intended by AINS; (b) Customer's failure to implement a work-around, release, update or other modification to or for the Software as provided or directed by AINS; (c) ; (c) trademarks, service marks, content, software or other materials provided by the Customer or developed for Customer pursuant to written specifications or instructions provided by Customer; (d) Software provided in accordance with specifications or requirements mandated by Customer;

or (d) The combination, operation, or use of any Software with programs, data, products, or hardware not furnished by AINS, if such infringement would have been avoided by the use of the Software without such items (the claims described in (a)-(d) are "Customer IP Claims").

3. **Remedies.** In the event the Software becomes, or is likely to become in AINS's sole discretion, the subject of an infringement or misappropriation claim, AINS may, at its expense (subject to Customer's obligations in Section 11(B)), and in addition to and not in lieu of its applicable obligations in Section 11(A)(1): (a) Modify the Software to be non-infringing; (b) Obtain for Customer a license to continue using the Software; (c) Substitute the Software with reasonably comparable software; or (d) If, in AINS' opinion, none of the foregoing remedies are commercially feasible or practicable, terminate the license for the infringing Software and refund any prepaid fees covering the remainder of the license or subscription period for that Software after the effective date of termination, in which case Customer shall cease using (and as applicable, return to AINS) such Software.

B. Reserved..

C. RESERVED.

## **Section 12: Warranties**

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- A. **Authority.** The Parties represent and warrant that they have all requisite power and authority to enter into this Agreement and to perform their obligations hereunder. This Agreement constitutes a valid and binding obligation of the Parties, enforceable against each other in accordance with its terms.
- B. **Software Warranty.** AINS warrants that AINS Software will substantially perform the functions described in the Documentation when operated in accordance with the Documentation and this Agreement. Customer's sole and exclusive remedy for breach of the foregoing warranty is limited to the repair of the Software at AINS' expense. ALL OTHER SOFTWARE AND SERVICES ARE DELIVERED AND DEEMED ACCEPTED "AS IS". AINS DOES NOT WARRANT THAT THE SOFTWARE, SERVICES, OR ANY DELIVERABLE WILL MEET CUSTOMER'S REQUIREMENTS, OR THAT THE SOFTWARE, SERVICES, OR ANY DELIVERABLE WILL OPERATE IN THE COMBINATIONS WHICH CUSTOMER MAY SELECT FOR USE, OR THAT THE OPERATION OF THE SOFTWARE OR ANY DELIVERABLE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL SOFTWARE, SERVICE, OR DELIVERABLE ERRORS WILL BE CORRECTED.
- C. **Services Warranty.** AINS warrants that all Services provided under this Agreement will be performed in a good and workmanlike manner consistent with applicable industry standards. Customer's sole and exclusive remedy for breach of the foregoing warranty is limited to the reperformance of the defective Services at AINS' expense.
- D. **Exclusions.** The warranties in Sections 12(B) and (C) shall not apply to issues related to: (1) Restricted Releases; (2) the acts or omissions of non-AINS personnel; (3) misuse, theft, vandalism, fire, water, or other peril; (4) moving or relocation of the installed Software not authorized by AINS; (5) any alterations or modifications made to any Software by Customer or any person or entity other than

AINS; (6) use of the Software other than in the operating environment specified in the technical specifications and according to the Documentation; (7) Customer's supplied computers or operating environment, including changes or modifications thereto; (8) Customer's failure to implement a work-around, release, update or other modification to or for the Software as provided or directed by AINS; (9) Customer violations of this Agreement; (10) coding, software, information, or specifications created or provided by Customer; or (11) Delays not solely attributable to AINS (collectively, "Warranty Exceptions").

- E. THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ANY AND ALL WARRANTIES IMPLIED FROM CUSTOM, USAGE IN TRADE, OR COURSE OF DEALING, TITLE, OR NON-INFRINGEMENT, REGARDLESS OF ANY KNOWLEDGE OF CUSTOMER'S PARTICULAR NEEDS. THE INFORMATION AND COMPUTER SOFTWARE AND SERVICES PROVIDED UNDER THIS AGREEMENT ARE PROVIDED "AS IS" WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH THE CUSTOMER.
  
- F. THERE ARE NO WARRANTIES (1) AGAINST INTERFERENCE WITH ENJOYMENT OF INFORMATION, (2) AGAINST INFRINGEMENT, (3) THAT INFORMATION, AINS' EFFORTS, OR SYSTEMS, AS MAY BE PROVIDED UNDER THIS AGREEMENT, WILL FULFILL ANY OF CUSTOMER'S PARTICULAR PURPOSES OR NEEDS, OR (4) WITH RESPECT TO DEFECTS IN THE INFORMATION OR SOFTWARE THAT AN EXAMINATION SHOULD HAVE REASONABLY REVEALED.

### **Section 13: Limitations and Disclaimers of Liability**

- A. **LIMITATION OF LIABILITY.** TO THE EXTENT PERMITTED BY LAW, THE AGGREGATE AND CUMULATIVE LIABILITY OF AINS AND THIRD-PARTY LICENSORS FOR DAMAGES HEREUNDER SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID BY THE CUSTOMER UNDER THE ORDER GIVING RISE TO SUCH LIABILITY, AND IF SUCH DAMAGES RELATE TO PARTICULAR SOFTWARE, SERVICE, TRAINING, MAINTENANCE, OR OTHER DELIVERABLE, SUCH LIABILITY SHALL BE LIMITED TO FEES PAID FOR THE RELEVANT ITEM GIVING RISE TO THE LIABILITY FOR THAT TERM. AINS' SOLE LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, FOR ANY AND ALL CAUSES OF ACTION ARISING FROM ANY FAILURE TO ACHIEVE ANY SERVICE LEVEL SHALL BE A SERVICE CREDIT AS DESCRIBED IN THE SERVICE LEVEL AGREEMENT ATTACHED HERETO IN ATTACHMENT A.
  
- B. **DISCLAIMER OF LIABILITY.** IN NO EVENT SHALL AINS OR THIRD-PARTY LICENSORS BE LIABLE FOR: (1) INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST OR CORRUPTED DATA, LOST PROFITS, DAMAGED HARDWARE OR EQUIPMENT, OR FOR EXEMPLARY DAMAGES, ARISING FROM, RELATING TO, OR RESULTING FROM THIS AGREEMENT, CUSTOMER'S USE OF OR INABILITY TO USE THE SOFTWARE, OR ANY SERVICES RENDERED WITH RESPECT THERETO, HOWEVER ARISING, WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; (2) DAMAGES (REGARDLESS OF THEIR NATURE) FOR ANY DELAY OR FAILURE BY AINS TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT DUE TO ANY CAUSE BEYOND AINS' LEGAL CONTROL, INCLUDING DELAYS AND FAILURES CAUSED BY CUSTOMER; AND/OR (3) CLAIMS MADE SUBJECT OF A

LEGAL PROCEEDING AGAINST AINS MORE THAN TWO YEARS AFTER ANY SUCH CAUSE OF ACTION FIRST AROSE. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

- C. **RESTRICTED RELEASES.** DESPITE ANYTHING TO THE CONTRARY IN THIS AGREEMENT, RESTRICTED RELEASES ARE FOR EVALUATION ONLY, NOT TO BE USED IN A PRODUCTION ENVIRONMENT, MAY CONTAIN PROBLEMS AND/OR ERRORS, MAY NOT BE RESOLD, AND ARE BEING PROVIDED TO CUSTOMER ON AN AS-IS BASIS WITH NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. AINS SHALL NOT BE RESPONSIBLE OR LIABLE TO THE OTHER FOR ANY LOSSES, CLAIMS, OR DAMAGES OF ANY NATURE, ARISING OUT OF OR IN CONNECTION WITH THE RESTRICTED RELEASE, INCLUDING, WITHOUT LIMITATION, THE LOSS OF CUSTOMER DATA. AINS SHALL HAVE NO OBLIGATION TO CORRECT ERRORS IN, DELIVER UPDATES TO, OR OTHERWISE SUPPORT A RESTRICTED RELEASE. CUSTOMER WILL PROMPTLY REPORT TO AINS ANY ERROR DISCOVERED IN THE RESTRICTED RELEASE AND PROVIDE AINS WITH APPROPRIATE TEST DATA FOR THE RESTRICTED RELEASE IF NECESSARY TO RESOLVE PROBLEMS IN THE RESTRICTED RELEASE ENCOUNTERED BY CUSTOMER.
- D. **Force Majeure.** In accordance with 552.212-4(f), AINS shall not be deemed to be in breach or default of this Agreement if its performance of any obligations hereunder is delayed, restricted, unfulfilled, or becomes impossible or impractical by reason of any act or cause beyond AINS' control, including, but not limited to, war, terrorism, riots, civil disorders, rebellions or revolutions, strikes, lockouts, labor disputes, fire, earthquake, strike, pandemic or epidemic, or communication delays or failures. The occurrence of any such event does not excuse, limit, or otherwise affect Customer's obligation to pay any fees payable to AINS hereunder.

#### **Section 14: Governing Law and Disputes**

- A. **Governing Law, Jurisdiction and Venue.** The Parties shall attempt in good faith to resolve through negotiations any dispute, claim, or controversy arising out of or relating to this Agreement. Disputes shall be interpreted in accordance with the Federal laws of the United States.
- B. Reserved..

#### **Section 15: Miscellaneous Terms and Conditions**

- A. **Acceptance of Terms.** If no other written agreement incorporates these terms and conditions, then Customer's possession, access, or use of AINS Software shall be deemed acceptance of the terms herein.
- B. **Non-Exclusivity.** This Agreement shall not preclude AINS from providing any products or services to any other individual or entity, or from conducting any other activity not explicitly prohibited in this Agreement.



- C. **Non-Solicitation.** During the term of this Agreement and for a period of one year thereafter, Customer shall not actively recruit or otherwise induce AINS employees who are involved in the delivery of Software or Services hereunder to accept employment with Customer or to leave the employ of AINS. This clause shall not restrict in any way the right of Customer to solicit generally in the media for personnel or restrict any individual from pursuing, on their own initiative, employment opportunities with Customer.
- D. **Third-Party Licensors.** The parties acknowledge that the Software may include software licensed by AINS from Third-Party Licensors.
- E. **Headings.** The section headings herein are provided for convenience only and have no substantive effect on the construction of this Agreement.
- F. **Entire Agreement.** This Agreement, together with all attachments and relevant Order(s), and any duly-executed, express, written, modifications to the same, constitutes the entire Agreement between the parties concerning Customer's possession, access, and use of the Software and Services described herein. Ambiguity between this Agreement and an Order shall be resolved in favor of this Agreement and otherwise in AINS' reasonable discretion. This Agreement replaces and supersedes all prior verbal understandings, written communications, warranties or representations regarding the contents of this Agreement and Customer represents and acknowledges that in entering into this Agreement it is not relying upon any representations or warranties other than those set forth herein.
- G. **Severability.** Each provision of this Agreement is severable. If any provision or any portion of any provision of this Agreement is held to be invalid or unenforceable for any reason by a court of competent jurisdiction, all other provisions shall remain in full force and effect. Any provision or any portion of any provision of this Agreement that is held to be unenforceable shall be modified only to the extent necessary so that it shall be legally enforceable to the fullest extent permitted by law, and in such a way that is consistent with the intent and economic effect of the affected provision. Despite the foregoing, this entire Agreement will be unenforceable if modifying or disregarding the unenforceable provision affects the economic and legal substance of the transactions contemplated by this Agreement in a manner materially adverse to either party, as determined by AINS in its reasonable discretion.
- H. **Conflicts.** Customer hereby covenants and warrants that it is not aware of any potential or actual conflict of interest or other legal or contractual obligation that would in any way interfere with its ability to perform and uphold its obligations under this agreement.
- I. **Waivers.** Except as otherwise expressly provided in this Agreement, no waiver of any covenant, condition, or provision of this Agreement shall be deemed to have been made unless expressed in writing and signed by the party against whom such waiver has been charged. The failure of any party to insist in any one or more cases upon the performance of any of the provisions, covenants, or conditions of this Agreement or to exercise any option set forth in this Agreement shall not be construed as a waiver or relinquishment for the future of any such provisions, covenants, or conditions. No waiver of one breach of this Agreement shall be construed as or deemed to be a waiver

with respect to any other subsequent breach.

- J. **Amendments.** Amendments to this Agreement (including any Order) must be made in writing and duly acknowledged by both parties.
- K. **Assignments.** This Agreement and all of the terms, provisions, and conditions hereof shall be binding upon each party and each party's permitted successors and assignees. Customer shall not assign, delegate, or otherwise transfer this Agreement or any of its rights, remedies, or obligations under this Agreement (including by forward [or reverse] merger, consolidation, dissolution, or operation of law, and whether voluntarily or by any Government's action or order) any of its rights or obligations under this Agreement without the prior written consent of AINS, which shall not be unreasonably withheld. Any purported assignment, delegation, or other transfer in contravention of this Section is void. Customer acknowledges that its assignment, delegation, or other transfer of this Agreement will not relieve Customer of its obligations under this Agreement. In the event that Customer should merge with, acquire, or be acquired by another entity, the resulting combined entity may only use AINS Software or Services within the scope of the Customer's operations at the time prior to such merger, acquisition, or other combining event.
- L. **Notices.** To be effective, all notices, requests, claims, and other communications between the parties described in or otherwise regarding this Agreement must be in writing and be given or made (and will be effective on receipt) by delivery in person, by nationally recognized overnight courier service (with signature required and all fees prepaid), [by facsimile (with confirmation of transmission),] by e-mail [(with telephone or written confirmation of receipt or confirmation by another method set forth in this Section)], or by registered or certified mail (postage prepaid, return receipt requested) to a party at its address identified in an Order or at any other address of which that party has notified the other party in accordance with this Section.

## **Section 16: Definitions**

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1. **"Agreement"** shall mean this Agreement, and any duly executed Orders, attachments, addenda and/or modifications hereto or referenced herein.
2. **"AINS Services" (or "Services")** includes those professional and/or administrative services offered commercially by AINS, including, but not limited to, maintenance services, support services, training, design, and development.
3. **"AINS Software" (or "Software")** refers to the software, application, solution, platform, add-on, connector, portal, or other computer program or operating information provided by AINS, including any products, developments, processes, techniques, or other protectable item, designed, developed, sold, or licensed by AINS, or using AINS Software or proprietary information, including all third-party software under license embedded therein, and including all versions, updates, upgrades, bug fixes, patches, derivatives, and maintenance thereto. For the purposes of this Agreement, AINS Software shall also include: (1) all Documentation and other deliverables provided to Customers in connection with AINS Software; and (2) all Infrastructure-as-a-Service and network hardware storage, servers,

CPUs, and software used by AINS or provided to Customer in connection with AINS Software-as-a-Service, Platform-as-a-Service, and Infrastructure-as-a-Service.

4. **“Confidential Information”** includes any and all information that AINS considers to be confidential, proprietary, non-public business information or a trade secret, in any form whatsoever, including, but not limited to, discoveries, concepts and ideas, regarding: (1) Product or service information, including designs and specifications, development plans, patent applications, and strategy; (2) Marketing information, including lists of potential or existing customers or suppliers, marketing plans, and surveys; (3) Computer software, including codes, flowcharts, algorithms, architectures, menu layouts, routines, report formats, data compilers, and assemblers; (4) Financial information, including sales, and revenue information; (5) Personally Identifiable, government classified, and/or sensitive information; and (5) Any other information identified as Confidential by either Party. “Confidential Information” does not include any information that: (a) Is in the public domain at the time of disclosure without any breach of this agreement by the receiving Party; (b) Is already known to the receiving Party without a duty of confidentiality at the time of disclosure; or (c) Becomes available to the receiving Party on a non-confidential basis from a source other than the disclosing Party which the receiving Party has no reasonable basis to believe is prohibited from disclosing such information to the receiving Party.
5. **“Customer”** shall mean Ordering Activity under GSA Schedule contracts identified in the Purchase Order, Statement of Work, or similar document purchasing and/or using the Software or Services described herein, or on whose behalf the Software or Services are being purchased and/or used.
6. **“Customer Data”** shall mean all data or information processed, generated, or displayed by, stored in, input to, or output from, AINS Software by Customer, including, without limitation, sensitive and/confidential data belonging or related to Customer or a third-party (such as personally identifiable information), but excluding Services Data. Customer Data shall also include all data or information provided by Customer in connection with AINS Services, except for items such as enhancement requests, modification suggestions, or other information constituting AINS Intellectual Property.
7. **“Documentation”** shall mean the user manuals, policies, and guidelines relating to the use of the Software delivered by AINS to Customer in printed or electronic form.
8. **“Maximum Usage”** shall mean the maximum Term, number of Seats, Users, Servers, CPUs, data or storage volume, or other limitation specified in an Order. Maximum Usage shall also refer to the scope of work, costs, period of performance, and additional conditions included in an agreed-upon Statement of Work or Order.
9. **“Restricted Release”** shall mean any version of the Software marked alpha, beta, or which is otherwise designated as a Restricted Release including “sandbox” environments. Restricted Release software is offered only for development, testing, training, evaluation, demonstration, or other limited purpose(s), as agreed-upon between Customer and AINS.

10. “Third-Party Licensors” shall mean third parties from whom AINS has licensed or sublicensed any software, products, or services used in connection with development of AINS Software or otherwise provided to Customer.
  
11. “User” shall mean an individual authorized by AINS and Customer to access the Software or Services.

### **Attachment A – SaaS/Hosting Service Level Agreement**

Software-as-a-Service, Platform-as-a-Service, and Infrastructure-as-a-Service hosted by AINS are subject to the following Service Level Agreement:

**Service Level Goals.** AINS shall use commercially reasonable efforts to make the SaaS and IaaS (as applicable) available at least 99.9% during each month (“Service Level”). The Service Level is determined by subtracting from 100% the percentage of minutes during the month in which the SaaS or IaaS was unavailable or inaccessible to Licensee. Service Levels below 99.5% will trigger a response to Customer and the beginning of an investigation within 1 hour. As deemed appropriate in AINS’ sole discretion, AINS will provide Customer with a corrective action plan to restore Service Levels to at least 99.9%.

**Service Level Exclusions.** AINS is not liable for any Hosted Software unavailability or inaccessibility caused in whole or in part by any of the following:

- Scheduled Downtime for Preventative Maintenance;
- Customer’s: (i) use of any hardware, software, or services not provided by AINS as part of the SaaS or IaaS; (ii) use of SaaS or IaaS in a manner inconsistent with this Agreement or with AINS’ further directions, instructions, or guidance; (iii) faulty input, instructions, or arguments (such as requests to files that do not exist); (iv) actual or threatened breach of any agreement(s) between AINS and Customer, including Customer’s excessive and unauthorized use and/or failure to pay associated fees and costs; or (v) failure, negligent or otherwise, to follow appropriate security practices;
- A Warranty Exception;
- Any person gaining access to AINS’ hosting environment and/or SaaS or IaaS by means of the Customer’s Access Methods, equipment, or other means of access without AINS’ express written approval; or
- Factors outside AINS’ reasonable control, including, but not limited to: (a) any fault, failure, or fluctuation of Customer’s information technology systems, electrical supplies or systems, or access to the Internet, or any other network or device failure external to AINS’ data center or between AINS’ data center and the Customer’s site; or (b) bugs, defects, or changes in infrastructure and software used in connection with the service and not provided by AINS (such as operating system software, database software, and content management software).

**Routine System Monitoring.** AINS utilizes monitoring tools to monitor software (applications, operating system, databases, etc.) and hardware (routers, switches, servers, etc.) performance and integrity. These tools are configured to send prioritized alerts to AINS’ designated engineers in case of any downtime or failure of any infrastructure or application. The AINS System Administrator and/or Technical Manager also regularly monitor the AINS data center for Preventative Maintenance issues, such as the availability of updates, patches, and/or other changes to the operating system of the Hosted Software. AINS’ monitoring tools provide AINS and Customer with monthly reports of Customer’s system usage including Service Levels, response times, and, with respect to IaaS, CPU, memory, disk, and bandwidth utilizations.

**Security, Redundancy, Backups, and Disaster Recovery.** The following describes AINS’s security, redundancy, backup, and disaster recovery mechanisms, in each case, as of the Effective Date, and which AINS may modify from time to time in its sole discretion.

- **Security.** The AINS main data center is a Top Secret cleared facility, and FedRAMP, FISMA, and FIPS compliant.

- **Power Redundancy.** AINS utilizes battery backups and a natural gas powered generator to provide a continuous power supply to AINS' data center in case of power outages. AINS' electronic building entry system is also powered by a backup generator for continuous security.
- **Redundant Cloud Infrastructure.** AINS utilizes multiple Internet Service Providers ("ISP"), switches, and servers to provide for automatic fall over with minimum downtime in case of any interruptions to AINS' SaaS, IaaS, or PaaS.
- **Backup and Recovery.** AINS utilizes mirrored databases to avoid any catastrophic data loss caused by hardware failures. AINS performs, and stores locally, daily incremental and weekly full backups of all databases. AINS also maintains a redundant disaster recovery site in a separate location and replicates all databases to that remote site every two (2) hours. Restoration of data will first be attempted from local backups to minimize downtime. AINS conducts a simulated restoration from both local and remote backups every six (6) months to test the backup procedures and quality of backup data.
- **Preventative Maintenance.** "Preventative Maintenance" includes installation of patches, bug fixes, upgrades to the operating system, hardware, and/or firmware upgrades, and any other measures that AINS deems necessary to ensure the proper functioning and security of its data center and SaaS, IaaS, and PaaS, in its sole discretion. Updates and patches to the operating system and SaaS, IaaS, and PaaS will be tested for performance and stability issues in a secure environment before they are implemented on behalf of Customer. Virtualized test instances are made available to Customer for patching, upgrades, and troubleshooting on an as-needed basis in AINS' sole discretion. AINS will maintain a log that identifies: (i) the date and time of Preventative Maintenance; (ii) the individual performing the Preventative Maintenance; (iii) the individual who provided access to the data center and services if other than the individual performing the Preventative Maintenance; (iv) Preventative Maintenance performed; and (v) any equipment removed or replaced during Preventative Maintenance. Customer acknowledges that AINS shall have the exclusive right to schedule and implement Preventative Maintenance measures, including those resulting in system and application downtime, rendering the SaaS, IaaS, and PaaS temporarily inaccessible ("Scheduled Downtime"). AINS will make every commercially reasonable effort to perform Preventative Maintenance and Scheduled Downtime so as to minimize any Licensee impact.

**Service Credits/Remedies.** In the event of a failure to achieve the Service Level, AINS provides the following service credit program:

<u>Monthly Availability</u>	<u>Service Credits</u>
100% to 99.9%	Customer credits AINS one (1) day service cost
99.9% to 99.5%	No service credits
Below 99.5%	AINS credits Customer for: (# of downtime hours – 3.6) * one (1) day service cost

Service credit shall be limited to a maximum of one (1) month of cloud service costs in a monthly reporting period. Customers are required to submit a service credit request to AINS within ten (10) days from the date the Customer receives the Monthly Report. Service credits are accrued for Customer and AINS through the life of the contract. Unused service credits are forfeited upon termination of Customer's Software license or subscription term.

## **Attachment B – Help Desk Policy**

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**Contact Information:** Email: [support@ains.com](mailto:support@ains.com)  
Telephone: (301) 670-2333

**Availability:** The AINS Help Desk is available from Monday through Friday 8:30 a.m. to 5:30 p.m. ET., excluding U.S. federal holidays.  
(Extended Help Desk and services hours are available for an additional fee.)

**Help Desk Escalation Procedure.** The AINS Help Desk will manage service requests through the following escalation procedures and staffing:

**Level 1 – Help Desk Staff (First Line of Support)** – Help Desk Staff receives request via telephone, email, or web (“call”) and produces a ticket for each request. If Help Desk Staff cannot resolve the problem immediately it will be escalated to Level 2 informing the user of the need to escalate the problem.

**Level 2 – Subject Matter Expert (“SME”) (Requests on Functionality)** – SME will work with the user to resolve the problem. If the problem cannot be resolved by Level 2 support within a reasonable period of time (as determined by AINS in its sole discretion), it will be escalated to Level 3 technology specialist support. The user submitting the request will be informed of the need to escalate the problem.

**Level 3 – Technology Specialist (Requests of a Technical Nature)** – Technology Specialist will attempt to duplicate the problem on AINS’ test system so that a solution may be identified. If the problem persists and a solution cannot be identified within one working day after it has been escalated to Level 3, it will be escalated to the product development team for further review and resolution.

AINS will conduct ongoing evaluation at each Level to determine whether the problem is a system issue that may need to be resolved by a patch, bug fix, new release, or other Maintenance Services.

### **Response Times**

AINS will provide an appropriate response according to the Help Desk procedures for most inquiries received during normal business hours within four (4) hours of receipt. AINS will provide an appropriate response according to the Help Desk Procedures for Time Critical inquiries as early as practicable, but at least within two (2) hours after receipt during normal business hours. A request for support is “Time Critical” when it impacts Customer’s ability to use the Software in accordance with the documentation. Time Critical inquiries will be escalated immediately to the appropriate level, with AINS management being informed of the problem. Customer management will be kept informed on the assessment/nature of the problem, time estimated to fix the problem, and progress in identifying a solution should it go beyond the estimated time. All issues deemed by the Customer to be “Time Critical” must be called into the Help Desk. Any ticket created via web or email will have a default severity of “normal”.

### **Exclusions**

Help Desk Services are not available for issues related to:

- Malfunctions of Customer or Customer-provided computer systems or communications networks;
- Use of the Software contrary to the terms of then current Documentation or any specific AINS directives;
- Modifications, enhancements, or customizations of the Software;
- Any use of the Software in disregard of any known adverse consequences, including, without limitation, Customer's failure to make appropriate backups or to follow warning messages and other written instructions;
- Any Warranty Exception; and
- Any other cause not attributable to AINS, regardless of whether such issue was known to AINS.

AINS retains sole discretion to determine the applicability of these exclusions.

#### **Additional Terms and Conditions**

AINS retains the right to modify this Help Desk policy as it deems appropriate in its sole discretion.

Each Help Desk "call" is good for up to one hour of service. Multiple calls must be used for calls taking over one hour to resolve. Calls are required up to the point at which issues are escalated to Level 3 Support, for which calls are not charged (except for time & materials contracts or as otherwise agreed-upon).

AINS shall provide Help Desk support for only the current version and immediately preceding release of the Software. Help Desk for SaaS Customers shall be limited to the Software version made available to the Customer's Users ("In Production"). Customer must test and implement all fixes, patches, changes, suggestions, corrections, work-arounds, or other solutions offered by AINS within a reasonable time of receipt, or AINS will have no further obligation to rectify the issue.

Customer is responsible for providing AINS with sufficient detail to make its own determination about the severity of an issue, and to assist AINS with discovery and remediation of such errors. AINS shall not be held responsible for failure to respond in a timely fashion to tickets that are not reasonably specific or for Customer's failure to respond to AINS' inquiries and requests.