

**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>	City and County of Denver
<b>Address</b>	10 West Fourteenth Avenue Parkway Denver CO 80204
<b>Client Technical Contact:</b>	Name: Jennifer Hoffman Phone: (720) 865-1111
<b>Customer No.</b>	CU5086
<b>Effective Date</b>	August 17, 2018

**1. Definitions.**

“GTCs” means the Innovative Interfaces Incorporated Subscription License Agreement General Terms and Conditions in Exhibit A.

“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 [here](https://www.dropbox.com/s/rve1a70k5a4028x/innovative%20interfaces%20inc.%20--%20online%20support%20terms%20%2801-24-17%29.doc?dl=0) (https://www.dropbox.com/s/rve1a70k5a4028x/innovative%20interfaces%20inc.%20--%20online%20support%20terms%20%2801-24-17%29.doc?dl=0).

“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 [here](https://www.dropbox.com/s/1ns6x8e9j73cvry/Innovative%20Interfaces%20Inc.%20--%20Online%20Hosting%20Terms%20%2805-01-17%29.doc?dl=0) (https://www.dropbox.com/s/1ns6x8e9j73cvry/Innovative%20Interfaces%20Inc.%20--%20Online%20Hosting%20Terms%20%2805-01-17%29.doc?dl=0).

**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. This Agreement is governed by and interpreted in accordance with the internal substantive laws of the State of Colorado, without regard to any other laws that would require the application of the laws of another jurisdiction. Application of the U.N. Convention on Contracts for the International Sale of Goods is hereby excluded.

In consideration of Innovative’s grant to Client of a subscription license to the Software as described within Exhibit A, Client acknowledges, and the parties agree, that contemporaneously with Client’s first use of the Software identified in Exhibit B in a production environment, all other existing software agreements and associated purchase orders between the parties for the software identified in Exhibit B, including but not limited to the Polaris Library System Agreement dated May 18, 2010 (“Prior Subscription Agreement(s)”), will be deemed to be immediately terminated by the parties’ mutual written agreement.

## EXHIBITS TO LICENSE AGREEMENT

A	GENERAL TERMS AND CONDITIONS
B	PRICING EXHIBIT
C	CERTIFICATE OF INSURANCE

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

<b>Innovative</b>	<b>Client</b>
<b>Innovative Interfaces Incorporated</b>	<b>City and County of Denver</b>
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

## **Exhibit A**

### **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 11 (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 4(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. 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.

4. **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. Client shall not be liable for the payment of late charges or penalties of any nature other than the compensation stated herein, except for any additional amounts which the Client may be required to pay under D.R.M.C. § 20-107 to § 20-115. 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, per D.R.M.C. § 20-107 to § 20-115.

e. Maximum Contract Liability

i. Any other provision of this Agreement notwithstanding, in no event shall the Client be liable for payment for services rendered and expenses incurred by Innovative under the terms of this Agreement for any amount in excess of the sum of ONE MILLION TWO HUNDRED THOUSAND DOLLARS. Innovative acknowledges that any work performed by Innovative beyond that specifically authorized by the Client is performed at Innovative's risk and without authorization under this Agreement.

ii. It is understood and agreed that any payment obligation of the Client hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Agreement, encumbered for the purpose of the Agreement and paid into the Treasury of the Client. Innovative acknowledges that (a) the Client does not by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years, and (b) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the Client.

## 5. **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 5(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 5, 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 5 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.

6. **LIMITATIONS ON LIABILITY.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR LOST PROFITS OR OTHER INCIDENTAL OR CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES UNDER ANY CIRCUMSTANCES WHATSOEVER, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF THEY WERE OTHERWISE FORESEEABLE. A PARTY'S TOTAL LIABILITY FOR TORT, CONTRACT AND OTHER DAMAGES WILL NOT EXCEED THE THREE TIMES TOTAL AMOUNT OF ALL FEES PAID TO INNOVATIVE BY CLIENT UNDER THIS AGREEMENT IN THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE UPON WHICH A CLAIM IS FIRST ASSERTED. INNOVATIVE WILL NOT BE LIABLE FOR ANY CLAIM OR DEMAND AGAINST CLIENT BY ANY THIRD PARTY EXCEPT FOR THE INDEMNIFICATION SET FORTH IN SECTION 7. THESE LIMITATIONS OF LIABILITY WILL APPLY TO ALL CLAIMS AGAINST THE PARTIES 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.

7. **Indemnification.**

a. Innovative hereby agrees to defend, indemnify, and hold harmless Client, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless, until and to the extent such Claims have been specifically determined by the trier of fact to be due to the negligence or willful misconduct of the Client. To the extent the trier of fact has determined any such culpability on the part of the Client, Innovative's duty to indemnify will be proportionately adjusted to account for such culpability.

b. Innovative's duty to defend and indemnify Client shall arise at the time written notice of the Claim is first provided to Client regardless of whether claimant has filed suit on the Claim. Innovative's duty to defend and indemnify Client shall arise even if Client is the only party sued by claimant and/or claimant alleges that Client's negligence or willful misconduct was the sole cause of claimant's damages.

c. Innovative will defend any and all Claims which may be brought or threatened against Client and will pay on behalf of Client any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of Client shall be in addition to any other legal remedies available to Client and shall not be considered Client's exclusive remedy.

d. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Innovative under the terms of this indemnification obligation. Innovative shall obtain, at its own expense, any additional insurance that it deems necessary for the Client's protection.

e. 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.

f. As the exclusive remedy of Client under the limited indemnity set forth in Section 7.g, 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.

g. This defense and indemnification obligation shall survive the expiration or termination of this Agreement and is subject to the limitations on liability in Section 6.

## **8. 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 8; or (ii) if such disclosure is in response to a valid order of any statute, court 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. To the extent applicable in this Agreement, Client understands and agrees that the Innovative's software and documentation including, but not limited to, source code, object code, the interface requirements document(s), acceptance test procedures, the Statement of Work, the Software design, structure and organization, Software screens, the user interface and the engineering know-how implemented in the Software (collectively "Innovative Confidential Information") may constitute the valuable properties and trade secrets of Innovative, embodying substantial creative efforts which are secret, confidential, and not generally known by the public, and which secure to Innovative a competitive advantage. Client agrees during the term of this Agreement and any license granted hereunder, and thereafter, to hold the Innovative Confidential Information including any copies thereof and any documentation related thereto, in strict confidence and to not permit any person or entity to obtain access to it except as required for the Client's exercise of the license rights granted hereunder. The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, et seq., C.R.S. In the event of a request to the Client for disclosure of such information, Client shall advise Innovative of such request in order to give Innovative the opportunity to object to the disclosure of any of its Innovative Confidential Information and take necessary legal recourse. In the event of the filing of a lawsuit to compel such disclosure, Client will tender all such material to the court for judicial determination of the issue of disclosure and Innovative agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same.

**9. Term; Termination.**

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

b. The Client has the right to terminate this Agreement for convenience on ninety (90) days written notice. If the Client terminates this Agreement for convenience, the Client shall be responsible for paying the difference between the year to year annual Fees and the five-year term Fees for the number of years that the Client received the benefit of the five-year term Fees, according to the table below.

YEAR	Y-T-Y	5 YR	DIFFERENCE	TERMINATION FEE
1	\$244,733	\$203,944	\$40,789	\$40,789
2	\$264,311	\$210,062	\$54,249	\$95,038
3	\$285,456	\$216,364	\$69,092	\$164,130
4	\$308,293	\$222,855	\$85,438	\$249,568
5	\$332,956	\$229,541	\$103,416	\$352,983

c. 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.

d. 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.



e. Except for a termination by Client pursuant to Section 9.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 4 (Fees; Expenses; Payment Terms), Section 6 (Limitations on Liability), Section 7 (Indemnification), Section 8 (Confidentiality), Sections 9.d. and 9.e. (Termination), Section 11 (Client Configurations) and Section 13 (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.

f. Following termination of this Agreement, Innovative has no duty whatsoever to deliver to Client any parts of its programming, data model, or any other information regarding which Innovative claims a proprietary or Intellectual Property Right. To the extent that Innovative is requested to perform any services for Client in connection with the termination of this Agreement (including without limitation providing Client with a copy of Client Data in a commercially-standard format to be agreed upon by the Parties), such service will be performed pursuant to a written statement of work under a separate professional services agreement and paid for by Client, applying Innovative's then-current rates for daily/hourly work, as the case may be.

10. **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.

11. **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.

12. **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.

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 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 below. 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.

Notice to Client:

City Librarian  
Denver Public Library  
10 W 14<sup>th</sup> Avenue Parkway  
Denver, Colorado 80204

Notice to Innovative:

General Counsel  
1900 Powell St Suite 400  
Emeryville, CA 94608

With a copy of any such notice to:

Denver City Attorney's Office  
1437 Bannock St., Room 353  
Denver, Colorado 80202

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.

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. Governing Law; Venue. This Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District. Innovative shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

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.

l. No Discrimination in Employment. In connection with the performance of work under this contract, Innovative may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. Innovative shall insert the foregoing provision in all subcontracts.

m. Examination of Records. Any authorized agent of Client, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of the Innovative, involving transactions related to the Agreement until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations.

n. Insurance:

- i. General Conditions: Innovative agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Innovative shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado. Cancellation notice will be provided based on the notice procedure in place with Innovative's broker and insurance providers. Innovative shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Innovative. The Innovative shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.
- ii. Proof of Insurance: Innovative shall provide a copy of this Agreement to its insurance agent or broker. Innovative may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Innovative certifies that the certificate of insurance attached as Exhibit C, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The Client requests that the Client's contract number be referenced on the Certificate. The Client's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Innovative's breach of this Agreement or of any of the Client's rights or remedies under this Agreement.

- iii. **Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), Innovative insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
- iv. **Waiver of Subrogation:** For all coverages required under this Agreement, Innovative's insurer shall waive subrogation rights against the Client.
- v. **Workers' Compensation/Employer's Liability Insurance:** Innovative shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Innovative expressly represents to the Client, as a material representation upon which the Client is relying in entering into this Agreement, that none of the Innovative's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Innovative executes this Agreement.
- vi. **Commercial General Liability:** Innovative shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.
- vii. **Business Automobile Liability:** Innovative shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all hired and non-owned vehicles used in performing services under this Agreement.
- viii. **Technology Errors & Omissions including Cyber Liability:** Innovative shall maintain Technology Errors and Omissions insurance including cyber liability, network security, privacy liability and product failure coverage with limits of \$1,000,000 per claim and \$1,000,000 policy aggregate.
- ix. **Additional Provisions:**
  - 1. For Commercial General Liability, the policy must provide the following:
    - a. That this Agreement is an Insured Contract under the policy;
    - b. A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
    - c. A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the Client.
  - 2. For claims-made coverage: The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the Client, whichever is earlier

Innovative shall advise the Client in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Innovative will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

## **Exhibit B**

### **Pricing Exhibit**

- 1. **Fees.** The Fees for the Software for the Term of this Agreement shall not exceed \$1,200,000.00. Innovative must submit an invoice which shall include the Client contract number, clear identification of the deliverable that has been completed, and other information reasonably requested by the Client. Payment of all uncontested amounts shall be made in accordance with the Client's Prompt Payment Ordinance..
- 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 renewed for additional one (1) year terms (each, a "Renewal Term" and, together with the Initial Term, the

“Term”), and may not be terminated 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 a maximum percentage equivalent to the greater of 3% or the percentage increase in the Consumer Price Index (CPI-U) over the previous year.

[APPROVED SOFTWARE LICENSE QUOTE FOLLOWS THIS PAGE]



# Pricing Exhibit

Page 1 of 3

Innovative Interfaces, Inc.  
5850 Shellmound Way  
Emeryville CA 94608

Date 12/14/2017  
Quote # EST-INC6260  
Payment Terms Net 30  
Overall Contract Term (Months) 60  
Contract Start Date  
Contract End Date  
Sales Rep Lauri Vance  
Site Code DENV1620  
Expires 3/14/2018

**Bill To**  
Accounts Payable  
Denver Public Library  
10 West Fourteenth Avenue Parkway  
Denver CO 80204  
United States

**Ship To**  
Accounts Payable  
Denver Public Library  
10 West Fourteenth Avenue Parkway  
Denver CO 80204  
United States

**Currency**  
US Dollar

Item	Item Category	Qty	Description	Options	Unit Price	Amount
Polaris Core Bundle - Public	License - Term	1	Polaris Public Core Bundle  Polaris is an integrated library system solution to manage physical and electronic resources and library patron accounts. Combines library operational workflows with open architecture. Software Only solution with web interface. Supports staff tasks and patron access services. Public Core Bundle capabilities include: Cataloging, Circulation, Acquisitions, Serials, ILL, Export Express, & Responsive WebPAC with Feature It; Simply Reports and SQL Access for Custom Reporting; SIP2, Self-Check, Patron-Facing eCommerce.		87,750.00	87,750.00
Staff User Licenses	License - Term	382	Current Staff User Licenses - Polaris		99.9999996	38,200.00
Staff User Licenses	License - Term	68	Additional Staff User Licenses - Polaris (to 450)		100.00	6,800.00
Polaris Syndetics Subscription	License - Term	1	Polaris Syndetics Subscription		49,113.3200...	49,113.32
RFID Integration	License - Term	1	Provides integration between Polaris and RFID. Includes capability to update Item Status on Polaris using SIP2 from Self-Check and ability to update RFID bit from transactions performed on Polaris (including from Leap Web Application). Annual Subscription		1,687.17999...	1,687.18
Polaris Client Deployment Subscription	License - Term	1	Polaris Client Deployment Subscription		600.00	600.00
Polaris EDI Ordering & Invoicing	License - Term	1	Provides electronic data interchange to enable ordering & invoicing from Polaris for as many vendors as required. Additional one-time service fee applies for each vendor added.	Polaris EDI Options: Baker & Taylor	238.986	238.99
Polaris EDI Ordering & Invoicing	License - Term	1	Provides electronic data interchange to enable ordering & invoicing from Polaris for as many vendors as required. Additional one-time service fee applies for each vendor added.	Polaris EDI Options: Brodart	238.986	238.99

Innovative Interfaces, Inc.  
5850 Shellmound Way  
Emeryville CA 94608

Item	Item Category	Qty	Description	Options	Unit Price	Amount
Polaris EDI Ordering & Invoicing	License - Term	1	Provides electronic data interchange to enable ordering & invoicing from Polaris for as many vendors as required. Additional one-time service fee applies for each vendor added.	Polaris EDI Options: Ingram	238.986	238.99
Polaris EDI Ordering & Invoicing	License - Term	1	Provides electronic data interchange to enable ordering & invoicing from Polaris for as many vendors as required. Additional one-time service fee applies for each vendor added.	Polaris EDI Options: Midwest Tape	238.986	238.99
Polaris EDI Ordering & Invoicing	License - Term	1	Provides electronic data interchange to enable ordering & invoicing from Polaris for as many vendors as required. Additional one-time service fee applies for each vendor added.	Polaris EDI Options: Quality Books	238.97000004	238.97
Polaris Leap Web Application	License - Term	1	Polaris Web Application (Leap)  Polaris Web Application is a responsive web app for staff access to the full suite of Polaris patron services capabilities in a browser. Enables libraries to transform public services workflows, reduce IT overhead, and deliver completely mobile patron services. Key capabilities include: check-in, check-out, and renew materials, register new patrons, update patron account, manage holds, mobile picklist, support for portable barcode scanner and receipt printer.		6,025.65	6,025.65
Polaris ZMARC	License - Term	1	Subscription to Polaris ZMARC includes regular update files of MARC bibliographic records, including for Audio-Visual materials.		4,143.86000...	4,143.86
Polaris API (PAPI)	License - Term	1	Polaris API (PAPI) Subscription		2,538.11000...	2,538.11
Polaris Telephone Services	License - Term	1	Polaris Telephone Services Subscription		2,208.24	2,208.24
Additional Patron Languages	License - Term	1	Additional Patron Languages	Polaris Language s: Spanish	803.00000004	803.00
Resource Sharing – Returnables (INN-Reach)	License - Term	1	Innovative Resource Sharing  Innovative Resource Sharing expands the library's available collection for a fraction of the cost of traditional interlibrary loan. Integrated with Sierra, Millennium, & Polaris. Unmediated request model saves staff time and serves patrons faster. Key capabilities include: sharing of physical materials or digital resources; union catalog with real-time availability; same patron experience and staff workflow as local circulation; reports for shared print management.		2,880.00	2,880.00



# Pricing Exhibit

Page 3 of 3

Date  
Quote #

12/14/2017  
EST-INC6260

Innovative Interfaces, Inc.  
5850 Shellmound Way  
Emeryville CA 94608

Item	Item Category	Qty	Description	Options	Unit Price	Amount

**Total Fees** US\$203,944.29





**CERTIFICATE OF LIABILITY INSURANCE**

10/1/2019

DATE (MM/DD/YYYY)  
9/28/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Lockton Insurance Brokers, LLC CA License #OF15767 Three Embarcadero Center, Suite 600 San Francisco CA 94111 (415) 568-4000	<b>CONTACT NAME:</b> PHONE (A/C, No., Ext): E-MAIL ADDRESS:	FAX (A/C, No):													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : National Fire Insurance Co of Hartford</td> <td>20478</td> </tr> <tr> <td>INSURER B : The Continental Insurance Company</td> <td>35289</td> </tr> <tr> <td>INSURER C : Indian Harbor Insurance Company</td> <td>36940</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : National Fire Insurance Co of Hartford	20478	INSURER B : The Continental Insurance Company	35289	INSURER C : Indian Harbor Insurance Company	36940	INSURER D :		INSURER E :		INSURER F :
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INSURER D :															
INSURER E :															
INSURER F :															
<b>INSURED</b> 1382401 Innovative Interfaces, Inc. 1900 Powell Street Suite 400 Emeryville CA 94608															

**COVERAGES** 1084520      **CERTIFICATE NUMBER:** 15632265      **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y	N	6049714571	10/1/2018	10/1/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> Comp \$100 Ded <input type="checkbox"/> Coll \$1,000 Ded	Y	N	6049714568	10/1/2018	10/1/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$ XXXXXXXX
B B	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	6049714585 (AOS) 6049714599 (CA)	10/1/2018 10/1/2018	10/1/2019 10/1/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional E&O -Technology/Cyber (Claims Made)	N	N	MTP903077404	10/1/2018	10/1/2019	\$5,000,000 per Occ/Agg \$50,000 Deductible

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 The City and County of Denver, its Elected and Appointed Officials. Employees and Volunteers are Additional Insured with respect to liability arising out of the operations of the insured and to the extent provided by the policy language or endorsement issued or approved by the insurance carrier.

<b>CERTIFICATE HOLDER</b> 15632265 City and County of Denver 201 West Colfax Avenue Denver CO 80202	<b>CANCELLATION</b> See Attachments  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**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. To meet clients’ global hosting needs, Innovative offers hosting options in datacenters located in the United States, Ireland, Australia and the Asia-Pacific region, however, Innovative reserves the right to increase, decrease and/or relocate its datacenters at anytime.

<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. 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  
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 must designate a representative as the contact 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.

**Contract Control Number:**

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Contract Control Number:** BOOKS-201841390-00

**Contractor Name:** INNOVATIVE INTERFACES INC

By: DocuSigned by:  
*Akin Adekeye*  
A3BD8AF8AFFC452... \_\_\_\_\_

Name: Akin Adekeye  
(please print)

Title: VP & General Counsel  
(please print)

**ATTEST: [if required]**

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

