

DISPATCH SYSTEM IMPLEMENTATION AGREEMENT

This Priority Dispatch System Implementation Agreement (the "Agreement") is made and entered by and between Medical Priority Consultants, Inc. dba Priority Dispatch Corp ("PDC"), a Utah corporation, and Santa Barbara County Fire Protection District ("District"). PDC and District are collectively referred to herein as the "Parties" or individually as a "Party."

BACKGROUND

- A. District desires to procure and provide an effective, efficient, and comprehensive emergency medical/fire dispatch system for its residents and transient population.
- B. The Parties desire to enter into an agreement for the licensing, training, implementation, and maintenance of PDC's products and services, altogether the Medical/Fire Priority Dispatch System ("MPDS/FPDS").
- C. PDC understands that District dispatchers are County of Santa Barbara Employees, not employees of the District.

The Parties agree as follows:

1. **Pricing & Payment Terms.** Pricing details for the Medical/Fire Priority Dispatch System are made part of this Agreement and attached hereto as Attachment A. Additional services or products may be provided by PDC upon request. The scope and price of any additional products or services will be negotiated and set forth as a change order to this Agreement. Any increase in the quantity of products and services under this Agreement may result in an increase in District's pricing, including annual support fees. However, such increases may not exceed the amount appropriated in this Agreement.
2. **Statement of Work.**

The Parties have established, in good faith, a mutually acceptable Statement of Work for the implementation of the District's MPDS/FPDS system. The Statement of Work is made part of this Agreement and attached hereto as Attachment B. The Statement of Work provides a phased approach to the implementation of the District's MPDS/FPDS system, designed to assist the District with meeting the International Academies of Emergency Dispatch ("IAED") operational and performance requirements to become an Accredited Center of Excellence ("ACE").

 - a. **Change in Statement of Work.** Should it become necessary to change the Statement of Work for any reason the Parties shall work together to agree upon the necessary changes. The District understands such changes are subject to the then available schedule of PDC resources and the necessity of establishing new expectations. The format for documenting such changes and expectations is the most current cancellation/change form as maintained by PDC.
3. **License.** The use and maintenance of the MPDS/FPDS and other PDC licensed products are set forth in the applicable End User License Agreement ("EULA") a copy of which is attached herein and made part of this Agreement as **Attachment E**.
4. **CAD Integration.** The Parties understand in the event a Computer Aided Dispatch system ("CAD") is used by District, any costs relating to the integration of the MPDS/FPDS software (ProQA[®]) and District's CAD system shall be the sole responsibility of District. The integration of District's CAD system and ProQA must be inspected, tested, and certified by PDC before taking live calls.
5. **Term & Termination.** This Agreement is effective upon signature of both parties (Effective Date) and shall remain in effect for 4 (four) additional years after commencement of live operations. Additional multiyear options are available upon request.
 - a. **Termination after Initial Term.** Either Party may terminate this Agreement by providing written notice to the other Party at least 90-days prior to any anniversary of the Effective Date during the term of this agreement. If written notice is not received by the non-terminating Party at least 90-days before an anniversary of Effective Date, this Agreement will remain in force until terminated.

may terminate this Agreement if the other Party commits any material breach of its obligations under this Agreement and fails to cure such breach within thirty (30) days of written notice of the breach.

c. **EULA.** This Agreement may be terminated for any reason set forth in the EULA.

d. **Effect of termination.** Upon termination or expiration of this Agreement, District shall return to PDC, within 10 days, all PDC's Confidential Information and intellectual property. In addition, all payments owed to PDC that have been earned prior to the termination or expiration of this Agreement shall be payable to PDC within thirty (30) days.

e. **For Non-appropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or county governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then the District will notify PDC of such occurrence and the District may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, the District shall have no obligation to make payments with regard to the remainder of the term.

f. **For Convenience.** The District may terminate this Agreement in whole or in part upon ninety (90) days written notice. During the ninety (90) day period, PDC shall, as directed by the District, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on the District from such winding down and cessation of services.

g. Upon termination, PDC shall deliver to DISTRICT all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers belonging to DISTRICT as may have been accumulated by PDC in performing this Agreement, whether completed or in process, except that PDC shall retain ownership of any work and intellectual property (whether original or derivative, subject to copyright, trademark, or patent) it produces or develops under the agreement. Notwithstanding any other payment provision of this Agreement, DISTRICT shall pay PDC for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall PDC be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. PDC shall furnish to DISTRICT such financial information as in the judgment of DISTRICT is necessary to determine the reasonable value of the services rendered by PDC. In the event of a dispute as to the reasonable value of the services rendered by PDC, the decision of DISTRICT shall be final. The foregoing is cumulative and shall not affect any right or remedy which DISTRICT may have in law or equity.

6. **Relationship of the Parties.** It is mutually understood and agreed that PDC (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to the District and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the District. Furthermore, the District shall have no right to control, supervise, or direct the manner or method by which PDC shall perform its work and function. However, the District shall retain the right to administer this Agreement so as to verify that PDC is performing its obligations in accordance with the terms and conditions hereof. PDC understands and acknowledges that it shall not be entitled to any of the benefits of a District employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. PDC shall be solely liable and responsible for providing to, or on behalf of, its employees all legally required employee benefits. In addition, PDC shall be solely responsible and save the District harmless from all matters relating to the payment of PDC's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, PDC may be providing services to others unrelated to the District or to this Agreement.

7. **Confidentiality.** During the course of this Agreement, it may become necessary for District to handle or receive PDC's Confidential Information. PDC will clearly designate to District that information which it considers Confidential Information. District agrees to keep all Confidential Information received from PDC confidential to the extent authorized by law including the Public Record Act, and District may only disclose it to employees or contractors on a need-to-know basis, provided that the employee or contractor receives the Confidential Information under a written obligation of confidentiality. Confidential Information means any information, in any form or medium, disclosed by PDC to District, including, but not

limited to, expertise, trade secrets, proprietary information and products, know-how, lists, technical specifications, processes, training materials, software programs, software documentation, price lists, marketing plans, and manuals, including all derivatives of the aforementioned. This section shall survive termination or expiration of the Agreement

8. **Intellectual Property.** Each Party acknowledges and understands that the copyrights, patents, trade secrets, trademarks, and other intellectual property, including derivatives and rights thereof, belonging to a Party are and shall remain the sole and exclusive property of that Party. This section shall survive termination or expiration of the Agreement. All of the District's property, documents, and information provided for PDC's use in connection with the contracted services shall remain the District's property, and PDC shall return any such items whenever requested by the District and whenever required according to the Term and Termination section of this Agreement. PDC may use such items only in connection with providing the contracted services. PDC shall not disseminate any District property, documents, or information without the District's prior written consent.
9. **Conflict of Interest.** During the term of this Agreement, a Party shall not accept work, enter into a contract, or accept an obligation from any third party inconsistent or incompatible with the Party's obligations under this Agreement. PDC covenants that PDC presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. PDC further covenants that in the performance of this Agreement, no person having any such interest shall be employed by PDC. PDC must promptly disclose to the District, in writing, any potential conflict of interest. The District retains the right to waive a conflict of interest disclosed by PDC if the District determines it to be immaterial, and such waiver is only effective if provided by the District to PDC in writing.
10. **Survival of Terms.** Termination or expiration of this Agreement for any reason shall not release either Party from any obligations set forth in this Agreement which (i) the Parties have expressly agreed shall survive any such termination or expiration, or (ii) by their nature would be intended to be applicable following any such termination or expiration.
11. **Compliance with Laws.** In performing services or obligations hereunder, the Parties shall comply with applicable local statutes, ordinances, and regulations.
12. **Assignment.** Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld; provided however, that in the event of a merger or acquisition of all or substantially all of one Party's assets, that Party may assign this Agreement to an entity ready, willing and able to perform its executory obligations hereunder, upon the express written assumption of the obligations hereunder by the assignee. However, District may not assign this Agreement to a direct competitor of PDC.
13. **Attachments.** All Attachments are incorporated by references as if set forth in the body of the Agreement. This Agreement may not be modified or altered except in writing signed by the Parties.
14. **Severability.** If any term, clause, sentence, paragraph, article, subsection, section, provision, condition, or covenant of this Agreement is held to be invalid or unenforceable, for any reason, it shall not affect, impair, invalidate or nullify the remainder of this Agreement, but the effect thereof shall be confined to the term, clause, sentence, paragraph, article, subsection, section, provision, condition or covenant of this Agreement so adjudged to be invalid or unenforceable.
15. **Dispute Resolution.** The Parties desire to first attempt to resolve certain disputes, controversies and claims arising out of this Agreement or any attachments hereto before a Party begins litigation. Prior to commencing litigation, at the written request of either Party, the Parties agree to meet onsite at either PDC's or the District's location as determined by the Parties and negotiate

in good faith to resolve any dispute arising under this Agreement. Each Party shall be responsible for its associated travel costs. If the above negotiations do not resolve the dispute with sixty (60) days of the initial written request, either Party may take appropriate legal action.

16. **Law.** Except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed, interpreted and enforced in accordance with the laws of the State of California without regard to its conflict of laws provisions. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest Santa Barbara County, if in federal court.
17. **Notices.** Any notice or demand required or permitted hereunder shall be sufficiently given when set forth in writing and delivered in person, email, fax or mail:

To PDC:
Priority Dispatch Corp.

To District :
Santa Barbara County Fire Protection District

110 South Regent Street, Suite 500 Salt
Lake City, Utah 84111
Attention: Legal Department
Email: legaldepartment@prioritydispatch.net

4410 Cathedral Oaks Road
Santa Barbara, CA 93110
Attention: IT Manager
Email: wlupe@countyofsb.org

18. **Insurance and Liability.** PDC agrees to the indemnification and insurance provisions as set forth in **Attachment C**, Indemnification and Insurance Requirements attached hereto and incorporated herein by reference.
19. **Order Of Precedence.** The following documents shall comprise the Agreement between the Parties concerning the subject matter of this Agreement, and in the event of any dispute arising from or related to this Agreement, shall have the following order of precedence:
1. This Agreement and all Attachments and other documents attached to or incorporated by reference herein. In the event of a conflict between this Agreement and an Attachment, this body of this Agreement shall take precedence.
 2. The applicable PDC specifications.
20. **Waiver.** The failure or delay of any Party to enforce at any time or any period of time any of the provisions of this Agreement shall not constitute a present or future waiver of such provisions nor the right of either Party to enforce each and every provision.
21. No term or provision hereof shall be deemed waived, and no breach excused unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of or excuse for any other, different, or subsequent breach.
22. **Entire Agreement.** This Agreement and its Attachments or Amendment(s) represent the entire agreement between the Parties hereto and a final expression of their agreements with respect to the subject matter of this Agreement and supersedes all prior written agreements, oral agreements, representations, understandings or negotiations with respect to the matters covered by this Agreement.

23. Designated Representative. William Lupo (IT Manager) at phone number (805) 681-5453 is the representative of District and will administer this Agreement for and on behalf of District. Iman Haddad (Contract Administrator) at phone number (385) 500-4016 is the authorized representative for PDC. Changes in designated representatives shall be made only after advanced written notice to the other party.
24. **Standard of Performance.** PDC represents that it has the skills, expertise, and licenses/ permits necessary to perform the services required under this Agreement. Accordingly, PDC shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which PDC is engaged. All products and services of whatsoever nature, which PDC delivers to the District pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in PDC 's profession. PDC shall correct or revise any errors or omissions, at the District's request without additional compensation. Permits and/or licenses shall be obtained and maintained by PDC without additional compensation.
25. **Debarment and Suspension.** PDC certifies to the District that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. PDC certifies that it shall not contract with a subcontractor that is so debarred or suspended.
26. **No Publicity or Endorsement.** PDC shall not use the District's name or logo or any variation of such name or logo in any publicity, advertising, or promotional materials. PDC shall not use the District's name or logo in any manner that would give the appearance that the District is endorsing PDC. PDC shall not in any way contract on behalf of or in the name of the District. PDC shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the District or its projects, without obtaining the prior written approval of the District.
27. **Records, Audit and Review.** PDC shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of PDC's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. District shall have the right to audit and review all such documents and records at any time during PDC's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), PDC shall be subject to the examination and audit of the California State Auditor, at the request of the District or as part of any audit of the District, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). PDC shall participate in any audits and reviews, whether by the District or the State, at no charge to the District. If federal, state or District audit exceptions are made relating to this Agreement, PDC shall reimburse all costs incurred by federal, state, and/or District governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from the District, PDC shall reimburse the amount of the audit exceptions and any other related costs directly to the District as specified by the District in the notification.

28. **Nondiscrimination.** District hereby notifies PDC that Santa Barbara County's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and PDC agrees to comply with said ordinance.
29. **Nonexclusive Agreement.** PDC understands that this is not an exclusive Agreement and that the District shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by PDC as the District desires.
30. **Remedies not Exclusive.** No remedy herein conferred upon or reserved to the District is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.
31. **Business Associate.** The parties agree to the terms and conditions set forth in HIPAA Business Associate Agreement (BAA), attached hereto and incorporated herein as **Attachment D**.
32. **Suspension for Convenience.** The District's designated representative may, without cause, order PDC in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part for up to fourteen (14) days, no more than once per year. The District shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.
33. **General Terms**
 1. This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties hereto, but nothing in this paragraph shall be construed as a consent to any assignment of this Agreement by either Party except as provided in the Section 12, Assignment, of this Agreement.
 2. This Agreement shall not become a binding contract until signed by an authorized officer of each Party, and it is effective as of the date signed by District.
 3. The provisions contained herein shall not be construed in favor of or against either Party because that Party or its counsel drafted this Agreement but shall be construed as if all Parties prepared this Agreement.
 4. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the use of any gender, be it masculine, feminine, or neuter, shall include all genders.
 5. A facsimile, electronic, or scanned signature copy of this Agreement, its exhibits and amendments, and notices and documents prepared under this Agreement shall be treated as an original in all respects; the Parties agree that any document in electronic format or any document reproduced from an electronic format shall not be denied legal effect, validity, or enforceability, and shall meet any requirement to provide an original or hard copy.

6. This Agreement is made for the benefit of the Parties and is not intended to benefit any third party or be enforceable by any third party. The rights of the Parties to terminate, rescind, or agree to any amendment, waiver, variation, or settlement under or relating to this Agreement are not subject to the consent of any third party. Any waiver, amendment, or other modification of any provision of this Agreement will be effective only if in writing and signed by the Parties.

7. EACH PARTY'S ACCEPTANCE HEREOF IS EXPRESSLY LIMITED TO THE TERMS OF THIS AGREEMENT AND NO DIFFERENT OR ADDITIONAL TERMS CONTAINED IN ANY PURCHASE ORDER, CONFIRMATION, BUSINESS FORM OR OTHER WRITING SHALL HAVE ANY FORCE OR EFFECT UNLESS EXPRESSLY AGREED TO IN WRITING BY THE PARTIES.

34. Taxes

PDC shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. DISTRICT shall not be responsible for paying any taxes on DISTRICT 's behalf, and should DISTRICT be required to do so by state, federal, or local taxing agencies, PDC agrees to promptly reimburse DISTRICT for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

35. County Property and Information

All of DISTRICT's property, documents, and information provided for PDC's use in connection with the services shall remain DISTRICT's property, and PDC shall return any such items whenever requested by DISTRICT and whenever required according to the Termination section of this Agreement. PDC may use such items only in connection with providing the services. PDC shall not disseminate any DISTRICT property, documents, or information without DISTRICT's prior written consent.

36. Time Is of the Essence

Time is of the essence in this Agreement and each covenant and term is a condition herein.

37. Authority

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, PDC hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which PDC is obligated, which breach would have a material effect hereon.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by DISTRICT.

SANTA BARBARA COUNTY FIRE PROTECTION DISTRICT

ATTEST:

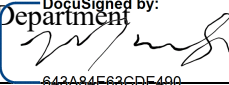
Mona Miyasato
County Executive Officer
Clerk of the Board

By: _____
Das Williams, Board
of Directors

Date: _____

By: _____
Deputy Clerk

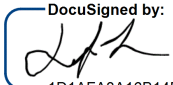
RECOMMENDED FOR APPROVAL:

Fire Department
By: 

643A84E63CDE490...
Mark A. Hartwig
Fire Chief / Fire Warden

APPROVED AS TO FORM:

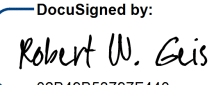
Rachel Van Mullem
County Counsel

By: 

4D1AFA8A16B14D7...
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:


Betsy M. Schaffer, CPA
Auditor-Controller

By: 

02B49B53797F440...
Deputy

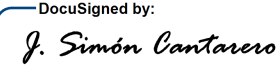
APPROVED AS TO FORM:

Gregory Milligan
Risk Manager

By: 

DC240AC1E64247D...
Risk Manager

PRIORITY DISPATCH CORP.

By: 

FB51D2640DC140B...
Authorized Representative
Name: J. Simón Cantarero
Title: General Counsel

Attachment A

SEE ATTACHED SALES QUOTE #61635

A. For PDC services to be rendered under this Agreement, PDC shall be paid a total contract amount, including cost reimbursements, not to exceed \$ \$609,183.

B. Payment for services and /or reimbursement of costs shall be made upon PDC's satisfactory performance, based upon the scope and methodology contained in EXHIBIT A and B as determined by DISTRICT.

C. Upon completion of the work for each milestone and/or delivery to DISTRICT of item(s) specified below, PDC shall submit to the DISTRICT DESIGNATED REPRESENTATIVE an invoice or certified claim on the District Treasury for the service performed in accomplishing each milestone. These invoices or certified claims must cite the assigned Board Contract Number. DISTRICT DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and/or item(s) delivered and if found to be satisfactory shall initiate payment processing. DISTRICT shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from PDC.

D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require PDC to correct such work or billings or seek any other legal remedy.

INITIAL MPDS/FPDS IMPLEMENTATION PRICING (YEAR 1)

Fees for the initial MPDS/FPDS implementation and training are **\$241,746.00** (see attached Sales Quote #Q-61635).

- Forty percent (40%) of the total amount of the fees for the initial MPDS/FPDS implementation and training shall be payable upon the completion of the Initial Assessment/Implementation and Pre-Planning phase of the SOW which will be **\$96,698.40**.
- Thirty percent (30%) of the total amount of the fees for the initial MPDS/FPDS implementation and training shall be payable upon the completion of the phase 1 and phase 3 of the SOW (Project Implementation) which will be **\$72,523.80**.
- Twenty percent (20%) of the total amount of the fees for the initial MPDS/FPDS implementation and training shall be payable upon the completion of phase 4 and phase 5 of the SOW (Live Operations) which will be **\$48,349.20**.
- Ten percent (10%) of the total amount of the fees for the initial MPDS/FPDS implementation and training shall be payable upon the completion of phase 6 of the SOW which will be **\$24,174.60**.

CONTINUING ANNUAL SERVICE AND SUPPORT FEES (YEAR 2-5)

Beginning at go-live, the fee for the annual product licensing renewal and maintenance (Extended Service Plan - ESP) of PDC's products and services is shown below.

Year	Annual Service and Support	EMD Case Review	EFD Case Review	Total Annual Payment
2	\$30,000	\$35,948	\$17,385	\$83,333
3	\$30,000	\$39,539	\$19,114	\$88,653
4	\$30,000	\$43,491	\$21,014	\$94,505
5	\$30,000	\$47,842	\$23,104	\$100,946

Payment Notes:

1. District will be billed in years 2 through 5
2. All prices in USD

3. This pricing is exclusive of any applicable tax. Any applicable taxes will be added to this amount.
4. Payment must be paid by District within 30-days of receiving an invoice from PDC.
5. If an invoice is not paid within 60-days it will be considered “overdue” and accrue interest at 1% per month, compounding.
6. If an invoice is not paid within 90-days it will be in “default” and services and products provided by Priority Dispatch may be removed, suspended, or become unavailable. If there is a dispute over an invoice the “overdue” or “default” status may be delayed if there is communication towards resolution. Lack of communication for 30-days will advance the invoice to the next status (i.e. overdue to default).



QUOTE

110 Regent Street, Suite 500

Salt Lake City, UT 84111
USA

www.prioritydispatch.net

Prepared By: Tim Martin

Phone: (800) 363-9127

Direct:

Email: tim.martin@prioritydispatch.net

Agency:

Santa Barbara County Fire Protection

District

Agency ID#:

24510

Quote #:

Q-61635

Date:

11/22/2022

Offer Valid Through:

1/31/2023

Payment Terms

Net 30

Currency:

USD

Bill To:

Santa Barbara County Fire Protection District

Ship To:

Santa Barbara County Fire Department

4410 Cathedral Oaks Road

Santa Barbara, CA 93110

Product	Qty	Amount
XLerator Client Server Suite Client server software application suite	1	USD 2,500.00
ProQA Medical Software Licenses Automated calltaking software	0	USD 0.00
ProQA Fire Software Licenses Automated calltaking software	10	USD 40,000.00
ProQA Medical/Fire Supervisor Software Licenses Monitoring and reporting software	2	USD 4,800.00
ProQA Medical/Fire Training Software Licenses Training, non-live calltaking software	5	USD 20,000.00
AQUA Case Review Software for EMD/EMD Quality Assurance (case review) software base engine and discipline module	2	USD 7,800.00
Advanced SEND Cards for MPDS - Box of 100 Individual S.E.N.D. cards	1	USD 50.00
Protocol Tablet for EMD/EMD Protocol Training Tablet	5	USD 2,950.00
Remote AQUA Software Training - MF Per person cost for eight hours of AQUA software training completed in a virtual, instructor-led environment	1	USD 2,250.00
ED-Q Training and Certification for EMD/EMD Materials, tuition and certification (3 days, 24 hours)	5	USD 5,500.00
Remote ProQA Software Training - M/F Per person cost for four hours of ProQA software training completed in a virtual, instructor-led environment	3	USD 6,750.00
Protocol Training and Certification for EMD/EMD Materials, tuition and certification	25	USD 18,250.00

"To lead the creation of meaningful change in public safety and health."



QUOTE

Product	Qty	Amount
Remote ProQA & AQUA Reports Training Per person cost for four hours of training for administrators, managers and supervisors on the configuration and customization options in ProQA and AQUA, completed in a virtual, instructor-led environment	1	USD 2,250.00
Remote System Administration Training Per person cost for training for center management detailing program configuration and customization options, completed in a virtual, instructor-led environment	1	USD 2,250.00
IAED Accreditation Application Fee EFD IAED fee for accreditation	1	USD 2,250.00
IAED Accreditation Application Fee EMD IAED fee for accreditation	1	USD 2,250.00
Implementation Support Package for EMD/EFD Implementation support and quality management program development	1	USD 45,000.00
Equip QA for EMD Initial implementation of expert case review, quality management and mentoring for telecommunicators, QA staff and management	1	USD 12,350.00
Q Plus for EMD Quality Performance Review - EMD Expert case review and reporting.	1,720	USD 32,680.00
Equip QA for EFD Initial implementation of expert case review, quality management and mentoring for telecommunicators, QA staff and management	1	USD 12,350.00
Q Plus for EFD Quality Performance Review Service - EFD Expert case review and reporting. Subscription auto-renews without written cancellation	832	USD 15,808.00
Priority Dispatch System ESP (P) M/F System License Renewal, Service & Support	10	USD 30,000.00
Dual Implementation Discount	1	USD -26,292.00
Year 1 TOTAL:		USD 241,746.00

Product	Qty	Amount
Q Plus for EMD Quality Performance Review - EMD Expert case review and reporting. Subscription auto-renews without written cancellation	1,892	USD 35,948.00
Q Plus for EFD Quality Performance Review Service - EFD Expert case review and reporting. Subscription auto-renews without written cancellation	915	USD 17,385.00
Priority Dispatch System ESP (P) M/F System License Renewal, Service & Support	10	USD 30,000.00
Year 2 TOTAL:		USD 83,333.00

"To lead the creation of meaningful change in public safety and health."



QUOTE

Product	Qty	Amount
Q Plus for EMD Quality Performance Review - EMD Expert case review and reporting. Subscription auto-renews without written cancellation	2,081	USD 39,539.00
Q Plus for EFD Quality Performance Review Service - EFD Expert case review and reporting. Subscription auto-renews without written cancellation	1,006	USD 19,114.00
Priority Dispatch System ESP (P) M/F System License Renewal, Service & Support	10	USD 30,000.00
Year 3 TOTAL:		USD 88,653.00

Product	Qty	Amount
Q Plus for EMD Quality Performance Review - EMD Expert case review and reporting. Subscription auto-renews without written cancellation	2,289	USD 43,491.00
Q Plus for EFD Quality Performance Review Service - EFD Expert case review and reporting. Subscription auto-renews without written cancellation	1,106	USD 21,014.00
Priority Dispatch System ESP (P) M/F System License Renewal, Service & Support	10	USD 30,000.00
Year 4 TOTAL:		USD 94,505.00

Product	Qty	Amount
Q Plus for EMD Quality Performance Review - EMD Expert case review and reporting. Subscription auto-renews without written cancellation	2,518	USD 47,842.00
Q Plus for EFD Quality Performance Review Service - EFD Expert case review and reporting. Subscription auto-renews without written cancellation	1,216	USD 23,104.00

"To lead the creation of meaningful change in public safety and health."



QUOTE

Product	Qty	Amount
Priority Dispatch System ESP (P) M/F System License Renewal, Service & Support	10	USD 30,000.00
Year 5 TOTAL:		USD 100,946.00

Subtotal	USD 609,183.00
Estimated Tax	
Total	USD 609,183.00

Customer Signature:		Date:	
Customer Name:		Purchase Order ID:	
Expiration Date:			

TERMS AND CONDITIONS

This quote is valid for 120 days from date of issue. All prices quoted are exclusive of any applicable taxes, duties, or government assessments relating to this transaction, which are the sole obligation of Buyer. You can find it here: <https://prioritydispatch.net/licensing/>

"To lead the creation of meaningful change in public safety and health."

Attachment B

Statement of Work



STATEMENT OF WORK

PHASE	EXPLANATION OF PHASE
Initial Assessment	Implementation Pre-Planning – Conference Call
Phase 1	Organization Set-up and Quality Improvement Unit (QIU) Activities
Phase 2	Training
Phase 3	Software Installation and Configuration
Phase 4	System Implementation
Phase 5	Quality Assurance Phase: 30 days post on-line
Phase 6	Quality Improvement Phase: 90 days post on-line
Phase 7	Accreditation
Phase 8	Ongoing support

DELIVERY AND IMPLEMENTATION OF THE MPDS, PROQA, & AQUA

Delivery and Implementation of the MPDS

The purpose of this Implementation and Detailed Schedule is to provide an overview of the proper steps that will be taken to ensure the successful implementation of, and ongoing support of the MPDS. This plan will also assist your agency in meeting all the standards necessary for accreditation by the IAED as an Accredited Center of Excellence (ACE). To accomplish this, PDC will assist in implementing a self-sustaining quality improvement and risk management system that will ensure a continuous, safe and effective emergency dispatch operation both now and in the future.

Statement of Work: Implementation of the MPDS

INITIAL ASSESSMENT (IMPLEMENTATION PRE-PLANNING CONFERENCE CALL)

The initial step in the implementation process will be a conference call involving the communications center director and any other senior management team members deemed appropriate by the director, the involved PDC Regional Account Manager, and the PDC consultant detailed to be the Project Manager for the implementation. The purpose of the conference call will be an initial introduction of all involved parties and to set a start date for the implementation.

The next step, through the use of our Consulting Questionnaire and Consulting Evaluation processes, PDC Project Managers will obtain information about the communications center, key management officials and positions, the current emergency dispatch methodology, services provided, unit allocation and configuration, response times, management practices, quality improvement/assurance and risk management programs as they relate to the emergency dispatch function.

Other information obtained will include local and regional issues of concern, as well as demographic and statistical data. Information will be gathered primarily through the use of survey documents where possible. These documents should be completed and returned to the PDC Project Manager for review. PDC's assessment focus is directed towards training needs and quality improvement/assurance issues, the communication center dispatch policies, practices and procedures, and a comprehensive systems approach to emergency services dispatch evaluation. PDC may elect to perform an on-site visit to gather or help facilitate the gathering of information.

PHASE 1 Organization Set-up and Quality Improvement Unit (QIU) Activities

- Leadership/Implementation Course. PDC staff will conduct a Leadership/Implementation Course for the Center senior managers. This course is designed to be an orientation to the EMD process as it relates to national standards, management oversight responsibility, quality management processes, and the implementation process.
- Steering and MDRC meeting. PDC staff will assist in the development of the implementation process by supporting the managers of the agency.
- Combined Steering and Medical Dispatch Review Committee (MDRC) meeting. PDC staff will provide guidance and support in the creation and first meeting of the Steering and MDRC committee. PDC will provide generic policies and procedures for review and revision to aid in administration of the Steering Committee, MDRC and Quality Improvement Unit (QIU), as well as the appropriate use of the MPDS. During this meeting, the PDC staff will also review the strategic goals and objectives of your organization in order to assist you in meeting your targets as they pertain to the Communications Center and the organization.
- Technical Evaluation. A PDC technical specialist will meet with your IT staff to lay out a plan of action, review system requirements for PDC software, discuss software options to prepare for installation, identify and verify all dispatch and training workstations, and discuss Computer-Aided Dispatch (CAD) interface parameters. Typical participants in the Technical Evaluation include system administrators, IT staff, in-house CAD staff, and dispatch center management.

PHASE 2 Training

- Project Manager training. PDC will conduct training as set forward in Attachment A of this Agreement.
- Certification and Software training split into two categories. PDC will liaise with the agency to ensure a satisfactory timetable of training, at a suitable venue. Certification training will require a projector for the instructor and a classroom suitable for the number of designated trainees. IAED Certified instructors will provide training and certification courses to all calltakers, dispatchers and supervisors. Emergency Dispatch – Quality (ED-Q) instructors will provide certification training to all QA/QI personnel. A PDC software specialist will set-up, install and train all dispatch personnel on the use of the EMD ProQA software as well as ED-Q personnel in the use of AQUA case review software. Software training will require a projector as well as a training computer for each trainee in attendance. PDC will conduct an agreed upon number of training sessions over a suitable amount of days.





PHASE 3 Software Installation and Configuration

- ProQA, AQUA, and XLERator database management Software. PDC Software Specialist will conduct onsite installation and configuration of the software purchased under this Agreement while working with local IT personnel to train in the ongoing use and maintenance of ProQA, AQUA and XLERator Software.
- CAD Interface Testing. The CAD Interface will also be tested for proper functionality.

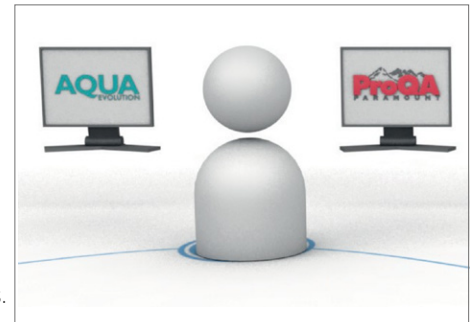


PHASE 4 System Implementation

- EMD orientation to Quality Improvement Unit (QIU), Quality Manager (QM) activities and performance monitoring. PDC staff (or an appropriately qualified (EMD-Q) instructor), will provide an EMD-Q course to the designated QIU personnel. The course will facilitate the QIU understanding of quality rationale, measurement methods, and applications. Emergency Medical Dispatch-Quality (EMD-Q) training will require a projector for the instructor and a class room suitable for all EMD-Q attendees.
- Initiate use of the MPDS On-line Training. PDC staff will provide on-site supervision and on-line training of communication staff during implementation of MPDS.

PHASE 5 Quality Assurance Phase (30 days post on-line)

- Ongoing MDRC support. PDC staff will provide ongoing support for MDRC activities through direct attendance of separate or joint MDRC and Steering Committee meetings.
- QA Review of Agency Calls. PDC personnel will audit and review the number of calls specified in Attachment A for Q Plus EMD and Q Plus EMD in this Agreement.(depending on callvolume) via VPN or ftp. Additional calls may need to be reviewed by Agency as per IAED guidelines.
- Review and calibrate QA system data. PDC personnel will review QA reports and data to determine what revisions or adjustments may need to be made.
- Developmental support of Continuing Dispatch Education (CDE) program. PDC staff will review quality assurance data to assist communications staff in identifying possible performance issues to aid in the development of CDE topics. PDC will provide examples and curriculum outlines.
- Field orientation and distribution of Field Responder Guides (FRG). PDC staff will provide a brief (30 minutes) tutorial on the principles of the MPDS and its impact on operations to field personnel. In addition, field personnel and administration will be provided with a description of supporting documentation and adjuncts (Field Responder Guide) that clarify the use of the protocol from a field and management perspective.
- SEND (Secondary Emergency Notification of Dispatch) Orientation. PDC will provide an orientation to the SEND card which will be issued to field personnel and to their dispatch staff. The cards are required by non-EMS personnel to provide a minimum amount of information to ensure an appropriate EMS response. Field personnel will be provided with a brief tutorial CD.
- Public education. PDC staff will assist the District Public Information Officer in the development of a public education program to ensure that the implementation of the program is perceived as an enhancement to the system rather than an effort to ration or deny service. PDC staff will be available for media activities.



- Ongoing master case review of the QIU case reviewers and recommendations for performance improvement. PDC staff will provide regular reviews of QIU case reviewer performance to ensure compliance scoring and reporting is consistent with IAED Accreditation requirements.

PHASE 6 Quality Improvement Phase (90 days post on-line)

- Response configuration modification support. PDC staff will assist the system Medical Director in making changes to response configurations after compliance to protocol has reached IAED Accreditation requirements.
- System impact evaluation. Once changes to response configurations and modes have been implemented for two months, PDC staff, working with management and the communication staff, will provide an interim assessment regarding the impact of these changes on system performance. Further adjustments will be made as necessary.
- Supplemental Visit (1-day increment). In the event 90% compliance has not been reached at the 90-day post on-line date, PDC will conduct a visit to troubleshoot and assist in the development of an appropriate appropriate action plan. Within 60 -90 days following this visit, a supplemental visit will occur to verify that the 90% compliance has been met and the organization is on target for accreditation.

PHASE 7 Accreditation

- Master review of case review processes prior to accreditation. PDC staff will provide ongoing "master case review" of QIU reviewed cases prior to accreditation. Your communications staff will be responsible for randomly selecting and submitting compliance data on three percent of the calls received and processed by the communications center.
- Accreditation submission support. PDC staff will review and make suggestions in the preparation and submission of the District's Accreditation application and attending documentation.

For more information, see "Accreditation of Excellence" and "20 Points of Accreditation Excellence" located in Tabs 4.5 and 4.5.

PHASE 8 Ongoing support

- IT, Consulting and or CDE onsite days. PDC will provide ongoing days onsite (approximately three (3) days) annually for any applicable protocol refresher, software, consulting, Continuing education requirements as per the client to maintain high MPDS protocol performance and compliance.



Attachment C

Insurance & Indemnification

**Indemnification and Insurance Requirements
(For Professional Service Contracts)**

INDEMNIFICATION PERTAINING TO OTHER THAN PROFESSIONAL SERVICES

For the purposes of this Addendum, DISTRICT includes the County of Santa Barbara and the DISTRICT. Medical Priority Consultants, Inc. dba Priority Dispatch Corp is referred to as "CONTRACTOR". CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by DISTRICT) and hold harmless DISTRICT and its officers, officials, employees, agents and volunteers from and against claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by DISTRICT on account of such claim except where such indemnification is prohibited by law. CONTRACTOR shall not be required to indemnify DISTRICT for any claims or actions caused to the extent of the negligence or wrongful act of DISTRICT, its employees, agents, or contractors. To clarify, CONTRACTOR shall not guarantee, indemnify, and hold the County harmless for County's misuse of the protocols and instructions contained in the software.

INDEMNIFICATION PERTAINING TO PROFESSIONAL SERVICES

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by DISTRICT) and hold harmless DISTRICT and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, costs, expenses (including but not limited to attorneys' fees), judgments and/or liabilities arising out of the negligent performance or attempted performance of the provisions hereof, including any negligent act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law. . To clarify, CONTRACTOR shall not guarantee, indemnify, and hold the County harmless for County's misuse of the protocols and instructions contained in the software.

LIMITATION OF LIABILITY

THE TOTAL LIABILITY OF CONTRACTOR FOR ANY CLAIM OR DAMAGE ARISING FROM OR OTHERWISE RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, BY WAY OF INDEMNIFICATION OR UNDER STATUTE SHALL BE LIMITED TO DIRECT DAMAGES WHICH SHALL NOT EXCEED (I) THE ANNUAL SUBSCRIPTION FEES OR (II) IN THE CASE OF BODILY INJURY, PERSONAL INJURY OR PROPERTY DAMAGE FOR WHICH DEFENSE AND INDEMNITY COVERAGE IS PROVIDED BY CONTRACTOR'S INSURANCE CARRIER, THE LESSER OF THE COVERAGE LIMITS OF SUCH INSURANCE OR THE AMOUNT ACTUALLY PAID TO CONTRACTOR OR DISTRICT BY THE APPLICABLE INSURANCE CARRIER FOR SUCH DAMAGE. THE FOREGOING LIMITATION UPON THE TYPES OF DAMAGES AND AMOUNTS OF LIABILITY SHALL NOT APPLY TO CONTRACTOR'S INDEMNITY OR ANY INDEMNITY OBLIGATIONS STATED IN THIS CONTRACT.

WAIVER OF CONSEQUENTIAL DAMAGES

IN NO EVENT SHALL EITHER PARTY OR ITS SUBCONTRACTORS OR SUPPLIERS BE LIABLE WHETHER IN CONTRACT OR IN TORT FOR LOST PROFITS, LOST SAVINGS, LOST DATA, LOST OR DAMAGED SOFTWARE, OR ANY OTHER CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF, OR OTHERWISE RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER A PARTY HAS NOTICE OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. THE FOREGOING LIMITATION UPON THE TYPES OF DAMAGES AND AMOUNTS OF LIABILITY SHALL NOT APPLY TO CONTRACTOR'S INDEMNITY OR ANY INDEMNITY OBLIGATIONS STATED IN THIS CONTRACT.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify DISTRICT immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 or its equivalent covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 or its equivalent covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
5. **Technology E&O/Cyber Liability:** Insurance appropriate to the CONTRACTOR'S profession, \$1,000,000 each claim.

If the CONTRACTOR maintains higher limits than the minimums shown above, the DISTRICT requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the DISTRICT.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – DISTRICT, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance.
2. **Primary Coverage** – Except for Professional/Cyber Liability and Workers' Compensation, any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the DISTRICT, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the DISTRICT, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – CONTRACTOR will provide at least fifteen (15) days notice prior to any cancellation.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to DISTRICT a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the DISTRICT by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the DISTRICT has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the DISTRICT. The DISTRICT may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide

proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention

6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the DISTRICT with proof of insurance, in the form of a Certificate of Insurance before work commences.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, DISTRICT has the right but not the obligation or duty to terminate the Agreement.
9. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of three (3) years after completion of contract work.
10. **Special Risks or Circumstances** – DISTRICT reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of DISTRICT to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of DISTRICT.

Attachment D

Business Associate Agreement

HIPAA BUSINESS ASSOCIATE AGREEMENT (BAA)

This Business Associate Agreement (“BAA”) supplements and is made a part of the Agreement between the Covered Entity, the Santa Barbara County Fire Protection District (referred to herein as “District”) and the Business Associate, Medical Priority Consultants, Inc. dba Priority Dispatch Corp (referred to herein as “PDC”)

RECITALS

District may disclose certain information to PDC pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).

District and PDC intend to protect the privacy and provide for the security of PHI disclosed to PDC pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“HITECH Act”), and 45 CFR Parts 160 and 164, Subpart C (the “Security Rule”), Subpart D (the “Data Breach Notification Rule”) and Subpart E (the “Privacy Rule”) (collectively, the “HIPAA Regulations”).

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require District to enter into a contract containing specific requirements with PDC prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (C.F.R.) and contained in this BAA.

In consideration of the mutual promises below and the exchange of information pursuant to this BAA, the parties agree as follows:

1. Definitions

- a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
- b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
- g. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by District to PDC or created or received by PDC on District's behalf.
- l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

2. Obligations of PDC

- a. **Permitted Uses.** PDC shall not use Protected Information except for the purpose of performing PDC obligations under the Implementation Agreement and as permitted under the Implementation Agreement and this BAA. Further, PDC shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by District. However, PDC may use Protected Information (i) for the proper management and administration of PDC, (ii) to carry out the legal responsibilities of PDC, or (iii) for Data Aggregation purposes ,if applicable to the services rendered under the Agreement, for the Health Care Operations of District [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** PDC shall not disclose Protected Information except for the purpose of performing PDC's obligations under the Agreement and as permitted under the Agreement and this BAA. PDC shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by District. However, PDC may disclose Protected Information (i) for the proper management and administration of PDC; (ii) to carry out the legal responsibilities of PDC; (iii) as required by law; or (iv) for Data Aggregation purposes, if applicable to the services rendered under the Agreement, for the Health Care Operations of District. If PDC discloses Protected Information to a third party, PDC must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party, including District, that such Protected Information will be held confidential as provided pursuant to this BAA and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify PDC of any breaches of confidentiality of the Protected Information, to the extent the third party has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections

164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)]. Whenever feasible, any and all information shared, Used, or Disclosed by District to Business Associate in performance of the Agreement shall be anonymized.

- c. **Prohibited Uses and Disclosures.** PDC shall not use or disclose Protected Information for fundraising or marketing purposes. PDC shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. PDC shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of District and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by District to PDC for services provided pursuant to the Agreement. PDC shall mitigate, to the extent practicable, any harmful effect that is known to PDC of a use or disclosure of PHI by PDC in violation of this Agreement, the BAA, or the HIPAA Regulations.
- d. **Appropriate Safeguards.** PDC shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Agreement or this BAA, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. PDC shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316 [42 U.S.C. Section 17931].
- e. **Reporting of Improper Access, Use or Disclosure.** PDC shall report to District in writing of any access, use or disclosure of Protected Information not permitted by the Agreement and this BAA, and any Breach of Unsecured PHI, as required by the Data Breach Notification Rule, of which it becomes aware without unreasonable delay and in no case later than five (5) business days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
- f. **PDC's Subcontractors and Agents.** PDC shall ensure that any agents and subcontractors to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to PDC with respect to such PHI and implement the safeguards required by paragraph (c) above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. PDC shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- g. **Access to Protected Information.** To the extent that the District keeps a designated record set then PDC shall make Protected Information maintained by PDC or its agents or subcontractors in Designated Record Sets available to District for inspection and copying within five (5) days of a request by District to enable District to fulfill its obligations under state law [Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If PDC maintains an Electronic Health Record, PDC shall provide such information in electronic

format to enable District to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).

- h. **Amendment of PHI for PDC who is Required to Maintain a Record Set.** If PDC is required to maintain a designated record set on behalf of the District the PDC shall within ten (10) days of receipt of a request from District for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, PDC or its agents or subcontractors shall make such Protected Information available to District for amendment and incorporate any such amendment to enable District to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from PDC or its agents or subcontractors, PDC must notify District in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by PDC or its agents or subcontractors shall be the responsibility of District [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- i. **Accounting Rights.** Within ten (10) days of notice by District of a request for an accounting of disclosures of Protected Information, PDC and its agents or subcontractors shall make available to District the information required to provide an accounting of disclosures to enable District to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by District. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that PDC maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to PDC or its agents or subcontractors, PDC shall within five (5) days of a request forward it to District in writing. It shall be District's responsibility to prepare and deliver any such accounting requested. PDC shall not disclose any Protected Information except as set forth in Sections 2.b. of this BAA [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph shall survive the termination of this Agreement.
- j. **Governmental Access to Records.** PDC shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to District and to the Secretary of the U.S. Department of Health and Human Services (Secretary) for purposes of determining PDC's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. PDC shall provide to District a copy of any Protected Information that PDC provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- k. **Minimum Necessary.** PDC (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure [42 U.S.C. Section 17935(b); 45 C.F.R. Section

164.514(d)(3)]. PDC understands and agrees that the definition of “minimum necessary” is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes “minimum necessary.”

- l. **Data Ownership.** PDC acknowledges that PDC has no ownership rights with respect to the Protected Information.
- m. **Notification of Possible Breach.** During the term of the Agreement, PDC shall notify District within twenty-four (24) hours of any suspected or actual breach of security, or any access, use or disclosure of Protected Information not permitted by the Agreement or this BAA or unauthorized use or disclosure of PHI of which PDC becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. PDC shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)]
- n. **Breach Pattern or Practice by District.** Pursuant to 42 U.S.C. Section 17934(b), if PDC knows of a pattern of activity or practice of the District that constitutes a material breach or violation of the District’s obligations under the Agreement or this BAA or other arrangement, PDC must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, PDC must terminate the Agreement or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary. PDC shall provide written notice to District of any pattern of activity or practice of the District that PDC believes constitutes a material breach or violation of the District’s obligations under the Agreement or this BAA or other arrangement within five (5) days of discovery and shall meet with District to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- o. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by District, PDC and its agents or subcontractors shall allow District to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this BAA for the purpose of determining whether PDC has complied with this BAA; provided, however, that (i) PDC and District shall mutually agree in advance upon the scope, timing and location of such an inspection, (ii) District shall protect the confidentiality of all confidential and proprietary information of PDC to which District has access during the course of such inspection; and (iii) District shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by PDC, (iv) District shall be responsible for any and all expenses incurred by District to perform such audit. The fact that District inspects, or fails to inspect, or has the right to inspect, PDC’s facilities, systems, books, records, agreements, policies and procedures does not relieve PDC of its responsibility to comply with this BAA, nor does District’s (i) failure to detect or (ii) detection, but failure to notify PDC or require PDC’s remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of District’s enforcement rights under the Agreement or this BAA, PDC shall notify District within ten (10) days of learning that PDC has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

- p. **Compliance with HIPAA Workforce Training.** As set forth in section 164.530 of 45 CFR PDC is expected to adhere to the Health Insurance Portability and Accountability Act (HIPAA) regulations to the extent necessary to comply with District's legal obligations and to develop and maintain comprehensive consumer confidentiality policies and procedures, provide annual training of all affected staff regarding those policies and procedures including Security and Privacy safeguards, and demonstrate reasonable effort to secure written and/or electronic data to document the provision of such training and agrees to make available to the District upon request. The parties should anticipate that this agreement will be modified as necessary for full compliance with HIPAA.

3. Termination: District may terminate this BAA following written notice no less than thirty (3) days in advance of its effective date

- a. **Material Breach.** A material breach of this BAA by PDC, as d [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Judicial or Administrative Proceedings.** District may terminate the Agreement, , if (i) PDC is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the PDC has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- c. **Effect of Termination.** Upon termination of the Agreement for any reason, PDC shall, at the option of District, return or destroy all Protected Information that PDC or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, PDC shall continue to extend the protections of Section 2 of this BAA to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2)(I)]. If District elects destruction of the PHI, PDC shall certify in writing to District that such PHI has been destroyed.

4. Indemnification

PDC shall indemnify, defend, save, and hold District harmless from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising from a wrongful or negligent act, error or omission of PDC, its employees, agents, contractors, or any subcontractor as a result of PDC's or any subcontractor's performance pursuant to this BAA; however, PDC shall not be required to indemnify District for any claims or actions caused to the extent of the negligence or wrongful act of District, its employees, agents, or contractors.

5. Disclaimer

District makes no warranty or representation that compliance by PDC with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for PDC's own purposes. PDC is solely responsible for all decisions made by PDC regarding the safeguarding of PHI.

6. Certification

To the extent that District determines that such examination is necessary to comply with District's legal obligations pursuant to HIPAA relating to certification of its security practices, District or its

authorized agents or contractors, may, at District's expense, examine PDC's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to District the extent to which PDC's security safeguards comply with HIPAA, the HITECH Act, the HIPAA Regulations or this BAA.

7. Amendment to Comply with Law

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement or this BAA may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that District must receive satisfactory written assurance from PDC that PDC will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this BAA embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. District may terminate the Agreement upon thirty (30) days written notice in the event (i) PDC does not promptly enter into negotiations to amend the Agreement or this BAA when requested by District pursuant to this Section or (ii) PDC does not enter into an amendment to the Agreement or this BAA providing assurances regarding the safeguarding of PHI that District, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

8. Assistance in Litigation of Administrative Proceedings

PDC shall make itself, and any subcontractors, employees or agents assisting PDC in the performance of its obligations under the Agreement or this BAA, available to District, at no cost to District, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against District, its directors, officers or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where PDC or its subcontractor, employee or agent is named adverse party.

9. No Third-Party Beneficiaries

Nothing express or implied in the Agreement or this BAA is intended to confer, nor shall anything herein confer, upon any person other than District, PDC and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

10. Effect on Agreement

Except as specifically required to implement the purposes of this BAA, or to the extent inconsistent with this BAA, all other terms of the Agreement shall remain in force and effect.

11. Entire Agreement of the Parties

This BAA supersedes any and all prior and contemporaneous PDC agreements between the parties and constitutes the final and entire agreement between the parties hereto with respect to the subject matter hereof. District and PDC acknowledge that no representations, inducements, promises, or agreements, oral or otherwise, with respect to the subject matter hereof, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein. No other

agreement, statement or promise, with respect to the subject matter hereof, not contained in this BAA shall be valid or binding.

12. Interpretation

The provisions of this BAA shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provision in this BAA. This BAA and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

Attachment E

End-User License Agreement

PRIORITY DISPATCH SYSTEM (“PDS”)

End-User License Agreement (EULA)

Electronic-Acceptance Software License & Service Agreement

**PLEASE READ CAREFULLY THE ACCOMPANYING TERMS AND
CONDITIONS OF THIS LICENSE & SERVICE AGREEMENT
BEFORE PROCEEDING TO INSTALL THE SOFTWARE
OR USE THE SERVICES PROVIDED WITH AND SUBJECT TO THIS AGREEMENT.**

***INSTALLING OR USING ANY OF THE SOFTWARE OR SERVICES
CONSTITUTES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS.***

**IF YOU DO NOT AGREE TO ACCEPT THEM, YOU MAY
RETURN THE SOFTWARE AND ACCOMPANYING DOCUMENTATION OR
CEASE USING THE SERVICES WITHIN 10 DAYS AFTER YOUR RECEIPT THEREOF,
FOR A REFUND OF ANY NEW FEES YOU HAVE PAID FOR
THIS PARTICULAR UPDATE, UPGRADE AND/OR NEW LICENSE**

ELECTRONIC-ACCEPTANCE:

The person accepting this Agreement for the Client represents

- (1) that they are duly authorized to do so for and on behalf of the Client; and***
(2) that the Client understands and agrees to be bound by the terms and conditions of this Agreement.

1. *Software* means the Priority Dispatch System (“PDS”) software, content, and manual flip cards that you receive from PDC in connection with this Agreement and as further identified in Customer’s invoice or quote from PDC, regardless of the medium on which it is stored. Documentation means any and all manuals, instructions and other documents and materials that PDC provides or makes available to Customer in any form or medium in relation to the Software. Whenever the context reasonably permits, any reference in this Agreement to “Software” shall also apply to the PDS and to the Documentation, which together comprise the Licensed Product. Except as provided below, in the section entitled “Limited Software Warranty,” any Updates to the Software received by you from PDC shall be included in this definition of Software and covered by this Agreement. User rights to the Software are obtained only from PDC, by license agreement with PDC.

2. *A PDC Product.* The Software (including its content) and any and all copies thereof and derivatives therefrom are owned by PDC or its Licensor(s) (altogether “PDC”). You acknowledge that PDC owns the copyrights, patent rights, trade secrets, trademarks and other intellectual property rights in and to the Software. License fees purchase only the limited License provided in this Agreement. You agree not to infringe upon any of these exclusive intellectual property rights of PDC and that you will not attempt to record or register any of them for any party. Copies of the Software are loaned to you by PDC for the duration of the License only, and only for the purpose of enabling you to exercise your License rights (see also, section entitled “Termination”).

3. *Stations, Licensed Stations, Number of Licensed Stations.* “Stations” are computers, terminals, nodes, computer aided dispatch stations, or workstations in your possession and/or control. “Licensed Stations” are your Stations that have access to the Software and for which you have paid the applicable License Fee to PDC for this License to use the Software. The “Number of Licensed Stations” is specified in your License Fee invoice or quote from PDC. You may not use the Software in connection with any Stations (or any other computers, terminals, nodes or workstations) other than the Licensed Stations, and the number of Stations using or having access to the Software shall at no time exceed the Number of Licensed Stations. “Training Stations” are Stations that have access to the Software but are dedicated to the purpose of training personnel on the use of computerized functions in the call-center and may not be used to take real or live calls. “Backup Stations” are Stations that have access to the Software but have been designated as backup stations for emergency contingency use only. Backup Stations are separate and independent from the Licensed Stations and shall not run concurrent functions with the Licensed Stations. Backup Stations are only licensed to be used in circumstances when the Licensed Stations are rendered inoperable.

4. *License of Software.* PDC grants to Customer a nonexclusive, non-transferable limited license (the “License”) to use the Software on the Number of Licensed Stations. This License also authorizes you to use the Documentation, but only in connection with your licensed

use of the Software. The Term of the License begins on the date you receive the Software and accept this Agreement. Rights not expressly granted to you under this Agreement are reserved by PDC.

5. License Fee. You shall pay PDC the License Fee specified in your invoice from PDC when the License is purchased, and the ESP fee annually thereafter. Any increase in the Number of Licensed Stations will require the payment of additional license fees to PDC at its then-current rate for incremental Licensed Stations for the Software.

6. Copies & Use. You may only copy Software for reasonable archival or back-up purposes. All trademark, copyright and proprietary rights notices must be reproduced by you and included on all copies. U.S. law, international law and treaties, and this Agreement all prohibit you from making any other copies; or from making any derivatives of the Software, system protocols, or anything in the PDS; or from making any use of the Software in any manner not licensed by this Agreement.

7. Use and Protection of the Licensed Product(s) and PDS. You are not entitled to receive any source code for the Software. Without PDC's express, prior written permission, you shall not: (a) *decompile, disassemble, reverse engineer, or otherwise attempt to discover the source code or trade secrets of the Software, or alter the Software or create any derivative work or product based upon, or derived from the PDS, Software or Documentation; or (b) transfer, disclose, rent, lease, loan, publicly display, adapt, timeshare, sublicense, duplicate, distribute, translate, modify, or alter the Software or any copy thereof, including, without limitation, any deletion from or addition to the Software, or allow third party access to or use of the Software or any copy thereof in any manner; or (c) use the Software in any way not specifically provided under this license.* Modification of the Software by implementing Updates provided by PDC under this Agreement, and by the addition of local response configurations to PDS dispatch codes (as provided for elsewhere in this Agreement) are not in breach of this section. You acknowledge that your material breach of this Agreement would provide PDC the option to terminate this License and/or withhold Service and Support and would also cause irreparable harm to PDC that could not be adequately compensated by damages alone. Consequently, PDC may seek and obtain, without posting any bond or providing any other security, immediate preliminary and permanent injunctions against your breach or threatened breach of the Agreement, in addition to any and all other legal and equitable remedies available, and you hereby consent to the obtaining of such injunctive relief. In addition to other remedies that may be available to PDC, PDC shall be entitled to recover any profits made by you as a result of the breach of this Agreement or the infringement of its intellectual property. Any derivative product, whether created knowingly or unknowingly, shall be the property of PDC.

8. Cloud Services.

a. **Cloud Services.** PDC may make the Software or certain other products, or services purchased by Customer from PDC (collectively, "**Cloud Services**") and made available to Customer online or through another hosted environment pursuant to a purchase order or other agreement between PDC and Customer.

b. **Access and Use.**

(i) **Provision of Access.** Subject to the terms and conditions of this EULA, PDC hereby grants Customer a revocable, non-exclusive, non-transferable, non-sublicensable, limited right to access and use the Cloud Services during the term (the "**Term**") set out in the applicable agreement between Customer and PDC (the "**Customer Agreement**") solely for Customer's internal business operations by Authorized Users in accordance with the terms and conditions herein. PDC shall provide you the necessary passwords and access credentials to allow you to access the Cloud Services. "**Authorized User**" means Customer and Customer's employees, consultants, contractors, or agents who are authorized by Customer to access and use the Cloud Services under the rights granted to Customer pursuant to this EULA and any underlying agreement between Customer and PDC.

(ii) **Documentation License.** Subject to the terms and conditions contained in this Agreement, PDC hereby grants Customer a non-exclusive, non-sublicensable, non-transferable license for Authorized Users to use PDC's user manuals, handbooks, guides relating to the Cloud Services provided by PDC to Customer either electronically or in hard copy form, and end-user documentation relating to the Cloud Services during the Term solely for Customer's internal business purposes in connection with use of the Cloud Services.

(iii) **Use Restrictions.** Customer shall not, and shall not permit any Authorized Users to, use the Cloud Services, any software component of the Cloud Services, or Documentation for any purposes beyond the scope of the access granted in this EULA or the applicable Customer Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Cloud Services, any software component of the Cloud Services, or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Cloud Services or Documentation except as expressly permitted under this Agreement; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Cloud Services, in whole or in part; (iv) remove any proprietary notices from the Cloud Services or Documentation; or (v) use the Cloud Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law, regulation, or rule.

(iv) **Aggregated Statistics.** Notwithstanding anything to the contrary in this Agreement, PDC may monitor Customer's use of the Cloud Services and collect, compile, use, and analyze data and information related to Customer's use of the Cloud Services to be used by PDC in an aggregated and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Cloud Services ("**Aggregated Statistics**"). As between PDC and Customer, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by PDC. You acknowledge that PDC may compile Aggregated Statistics based on Customer Data input into the Cloud Services. You agree that PDC may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law; provided that such Aggregated Statistics do not identify Customer or Customer's Confidential Information.

(v) **Reservation of Rights.** PDC reserves all rights not expressly granted to Customer in this EULA or the applicable Customer Agreement. Except for the limited rights and licenses expressly granted under this Agreement or the applicable Customer

Agreement nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Cloud Services, the Documentation, and all intellectual property provided to Customer or any other Authorized User in connection with the foregoing (the “PDC IP”). For the avoidance of doubt, PDC IP includes Aggregated Statistics and any information, data, or other content derived from PDC's monitoring of Customer's access to or use of the Cloud Services but does not include Customer Data. “Customer Data” means, other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer or any other Authorized User through the Cloud Services.

(vi) *Suspension*. Notwithstanding anything to the contrary in this Agreement, PDC may temporarily suspend Customer's and any other Authorized User's access to any portion or all of the Cloud Services if: (i) PDC reasonably determines that (A) there is a threat or attack on any of the PDC IP; (B) Customer's or any other Authorized User's use of the PDC IP disrupts or poses a security risk to the PDC IP or to any other customer or vendor of PDC; (C) Customer or any other Authorized User is using the PDC IP for fraudulent or illegal activities; (D) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) PDC's provision of the Cloud Services to Customer or any other Authorized User is prohibited by applicable law; (ii) any vendor of PDC has suspended or terminated PDC's access to or use of any third-party services or products required to enable Customer to access the Cloud Services; or (iii) in accordance with Section 5 (any such suspension described in subclause (i), (ii), or (iii), a “Service Suspension”). PDC shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Cloud Services following any Service Suspension. PDC shall use commercially reasonable efforts to resume providing access to the Cloud Services as soon as reasonably possible after the event giving rise to the Cloud Services Suspension is cured. PDC will have no liability for any damage, liabilities, losses (including any loss of or profits), or any other consequences that Customer or any other Authorized User may incur as a result of a Service Suspension.

c. Customer Responsibilities.

(i) *Account Use*. Customer is responsible and liable for all uses of the Cloud Services and Documentation resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Cloud Services and shall cause Authorized Users to comply with such provisions.

(ii) *Customer Data*. Customer hereby grants to PDC a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for PDC to provide the Cloud Services to Customer, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer Data incorporated within the Aggregated Statistics. Customer will ensure that Customer Data and any Authorized User's use of Customer Data will not violate any policy or terms referenced in or incorporated into this Agreement or any applicable law. Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Data.

(iii) *Passwords and Access Credentials*. Customer is responsible for keeping your passwords and access credentials associated with the Cloud Services confidential. Customer will not sell or transfer them to any other person or entity. Customer will promptly notify us about any unauthorized access to your passwords or access credentials.

(iv) *Third-Party Products*. The Cloud Services may permit access to Third-Party Products. For purposes of this Agreement, such Third-Party Products are subject to their own terms and conditions presented to Customer for acceptance within the Cloud Services by website link or otherwise. If Customer does not agree to abide by the applicable terms for any such Third-Party Products, then Customer should not install, access, or use such Third-Party Products.

d. Intellectual Property Ownership; Feedback. As between the Parties, (a) PDC owns all right, title, and interest, including all intellectual property rights, in and to the Cloud Services and (b) Customer owns all right, title, and interest, including all intellectual property rights, in and to Customer Data. If Customer or any of its employees, contractors, or agents sends or transmits any communications or materials to PDC by mail, email, telephone, or otherwise, suggesting or recommending changes to the Cloud Services, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (“Feedback”), PDC is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. All Feedback is and will be treated as non-confidential. Customer hereby assigns to PDC on its behalf, and shall cause Customer's employees, contractors, and agents to assign, all right, title, and interest in, and PDC is free to use, without any attribution or compensation to Customer or any third party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although PDC is not required to use any Feedback.

(i) Limited Warranty and Warranty Disclaimer. PDC warrants that it provides Cloud Services using a commercially reasonable level of care and skill. THE FOREGOING WARRANTY DOES NOT APPLY TO, AND PDC STRICTLY DISCLAIMS, ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS.

(ii) Customer Warranty. Customer warrants that it owns all right, title, and interest, including all intellectual property rights, in and to Customer Data.

(iii) EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SUBPART (i) ABOVE THE CLOUD SERVICES ARE PROVIDED “AS IS” AND PDC SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. PDC SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. PDC MAKES NO WARRANTY OF ANY KIND THAT THE CLOUD

SERVICES, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET YOUR OR ANY OTHER PERSON'S OR ENTITY'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OF YOUR OR ANY THIRD PARTY'S SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

9. Extended Service Plan. This Agreement includes and incorporates the accompanying Extended Service Plan (ESP) agreement as set forth below.

10. Taxes. Any sales, use, withholding and other taxes, duties or government assessments relating to this Agreement or the License, or to the payments or transactions hereunder, shall be paid by you, in addition to all other specific payments required to be made by you under this Agreement. If any taxes or amounts are withheld or deducted by any government or authority from any license fees or payments to PDC, you shall be obligated to pay the taxes or amounts withheld or deducted so that the license fees and payments received by PDC are the full amounts contemplated by this Agreement before such withholding or deduction. If necessary, the license fees and amounts shall be increased ("grossed up") so that the license fees and payments actually received by PDC after such withholding and deductions are the full amounts. This section does not apply to U.S. federal or state taxes that may be imposed upon PDC based on net corporate income.

11. Use of Software; Updates. You may only use the Software in compliance with this Agreement and the Documentation. PDC may issue Updates or revisions to the Software and bulletins or advisories concerning use of the Software (see also, "Updates" in the ESP). Your failure to implement such PDC-provided Updates or revisions within 90-days of PDC providing same to you will constitute a material breach of this Agreement, giving PDC the right to terminate the License for cause and/or to withhold further Service and Support, and you hereby agree to indemnify and hold PDC and the IAED harmless from and against any damages and liabilities that may arise from failure on your part to implement such Updates (see also, ESP Section titled "Unsafe Practices"). Updates to the Software received by you from PDC shall be covered as "Software" under this Agreement, as provided above, in the section of this Agreement entitled "Software." An exception to this general rule is provided immediately below with respect to refunds, in the section entitled "Limited Software Warranty."

12. Limited Software Warranty. PDC warrants that if the Software does not materially conform with its descriptions in the Documentation and PDC's published specifications, and if you report in writing to PDC within 30 days after delivery of the Software to you any material failure of the Software to so conform with the Documentation or specifications, then PDC will, at its sole option, and at no cost to you, either: (a) *remedy the failure or provide a reasonable work-around solution; or (b) offer to refund License Fees and any pre-paid fees for ESP that have been received by PDC for the non-conforming Software.* The refund offer does not apply to free Software Updates provided by PDC under this Agreement. If a refund is offered, you will have 20 days from the date of the offer to either accept the refund or accept the Software "as-is." If you elect to accept the Software as-is, then PDC's warranties will be deemed satisfied, and this Agreement will not terminate. If you accept the refund offer, you must return the Software to PDC within 20 days of the date of the offer; the License will terminate; and you must certify in writing to PDC that you have not retained in your possession or control, any copies of the Software and that you have not transferred or disclosed any Software to any third party. Then PDC will refund the License Fee and any prepaid ESP Fees received by PDC from you hereunder. THIS SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY AND PDC'S SOLE AND EXCLUSIVE LIABILITY WITH RESPECT TO ANY BREACH OF THIS WARRANTY.

13. Inspection. PDC may, from time to time and at its own expense and option, inspect your facilities and records to audit your compliance with this Agreement. Although not obligated to do so, PDC may inform you of any improper, unauthorized or unsafe usage of the Software. If you are informed of any such misuse of the Software and fail to correct it to PDC's reasonable satisfaction within 30 days of written notice from PDC, then PDC may terminate the License. In addition, if you develop, market, or otherwise use a competing or alternative dispatch product, you expressly authorize PDC to enter your facilities to inspect and evaluate the competing or alternative product to determine if any of PDC's intellectual property or intellectual property rights are being violated.

14. DISCLAIMER OF OTHER PDC WARRANTIES. PDC MAKES NO WARRANTY, REPRESENTATION OR PROMISE NOT EXPRESSLY SET FORTH IN THIS AGREEMENT. EXCEPT FOR THE LIMITED WARRANTY, SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. PDC DISCLAIMS AND EXCLUDES ANY AND ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE. PDC DOES NOT WARRANT THAT THE SOFTWARE OR DOCUMENTATION WILL SATISFY YOUR REQUIREMENTS OR THAT THEY ARE WITHOUT ERROR, OMISSION, DEFECT OR DEFICIENCY, OR THAT THE OPERATION OF SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

15. LIMITATION ON PDC LIABILITY. THE AGGREGATE LIABILITY OF PDC ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SOFTWARE, REGARDLESS OF THE FORM OF ACTION OR CLAIM, WHETHER CONTRACT, WARRANTY, TORT, STRICT LIABILITY, MALPRACTICE, INDEMNITY, AND/OR OTHERWISE, AND WHETHER OR NOT ARISING IN WHOLE OR IN PART FROM PDC'S FAULT, NEGLIGENCE, STRICT LIABILITY, OR PRODUCT LIABILITY, SHALL NOT EXCEED THE AMOUNT OF THE SOFTWARE LICENSE FEE PAID BY YOU TO PDC DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING SUCH CLAIM. PDC SHALL NOT IN ANY CASE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES, EVEN IF PDC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. PDC SHALL NOT BE LIABLE TO ANY THIRD PARTY FOR ANY CLAIM, LIABILITY OR DAMAGES RESULTING FROM OR RELATING TO YOUR USE OF THE SOFTWARE OR ANY RELIANCE THEREON. PDC IS NOT RESPONSIBLE FOR LOST PROFITS OR REVENUE, LOSS OF USE OF THE SOFTWARE OR OTHER

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COMPUTER PROGRAMS, FAILURE OF THE SOFTWARE TO OPERATE WITHOUT INTERRUPTION, LOSS OF DATA, COSTS OF RE-CREATING LOST DATA, OR THE COST OF ANY SUBSTITUTE EQUIPMENT OR PROGRAM. THE OFFICERS, DIRECTORS, EMPLOYEES AND REPRESENTATIVES OF PDC ARE NOT PARTIES TO THIS AGREEMENT AND SHALL HAVE NO LIABILITY RELATING TO THIS AGREEMENT OR ITS SUBJECT MATTER. EXCEPT FOR THE LIMITED WARRANTY, PDC MAKES NO WARRANTY CONCERNING THE SOFTWARE, AND PDC SHALL NOT OTHERWISE BE LIABLE FOR ANY NONCONFORMITY IN THE SOFTWARE OR IN THE PDS. FOR THE SAKE OF CLARIFICATION, IT IS UNDERSTOOD BY YOU THAT PDC DOES NOT GUARANTEE, NOR INDEMNIFY, NOR SHALL PDC HOLD ANY PARTY HARMLESS TO ANY USE OF OR RELIANCE UPON THE DISPATCH PROTOCOLS CONTAINED IN THE SOFTWARE.

16. RESPONSIBILITY. IT IS YOUR RESPONSIBILITY TO EXAMINE AND TEST THE SOFTWARE AFTER IT IS DELIVERED TO YOU TO DETERMINE IF IT IS ACCEPTABLE TO YOU AND ADEQUATE AND SAFE FOR YOUR NEEDS AND USES. YOU ARE SOLELY RESPONSIBLE AND LIABLE FOR YOUR USE OF AND RELIANCE ON THE SOFTWARE. YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE ESP, AND THAT THE LICENSE IS CONDITIONED ON YOUR REPRESENTATION TO PDC THAT YOU HAVE ACCEPTED AND AGREE TO BE BOUND BY THIS AGREEMENT AND THESE PROVISIONS AND DISCLAIMERS.

17. ALLOCATION OF RISK. THIS AGREEMENT DEFINES A MUTUALLY AGREED-UPON ALLOCATION OF RISK, AND THE FEES PAYABLE HEREUNDER REFLECT SUCH ALLOCATION OF RISK.

18. Termination. Either party may terminate this Agreement as set forth elsewhere herein or based upon a breach of this Agreement by the other Party which is not cured within 30 days of written notice thereof. This Section 17 shall not limit the relief, remedies, and damages to which the non-breaching party may be entitled. You may also terminate the Agreement by returning the Software to PDC at any time, subject to the decommission process below. No later than 15 days from any termination of the Agreement, you must cease using the Software and return it to PDC, together with any Software-related products provided to you by PDC hereunder and any copies created by you, and a written certificate that you have not retained or destroyed, and no longer control access to, any copies of any of the Software, and that you have not transferred or disclosed any of the same to any third party.

(a) Decommission Process. Decommissioning of the PDS can be very extensive. Customer must contact PDC at least 90 days before Customer plans to use an alternative dispatch product. At that point, PDC shall provide Customer with more detailed information regarding the decommission process. Part of the Decommission process will involve collecting all PDC intellectual Property and exporting PDS data in a format that will give Customer access to historical records. In order to successfully decommission the PDS, Customer understands that PDC will come on site at their location and Customer must provide a dedicated person (generally an I.T. person) to PDC to allow for the successful decommissioning of the PDS. After the decommission process, any PDC products, intellectual property, or materials found shall be immediately forwarded to PDC.

19. Disputes.

(a) United States. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without regard to the conflict of law's provisions thereof. This Agreement will not be governed by the United Nations Convention of Contracts for the International Sale of Goods, the application of which is hereby expressly excluded. Venue for all disputes arising out of or relating to this Agreement shall lie exclusively with the state and federal courts sitting in Salt Lake County, Utah, and Customer hereby consents and waives any objection to the jurisdiction of such courts for such disputes and waives personal service of any summons, complaint or other process and agrees that the service thereof may be made by certified or registered mail directed to it at the address listed in the Quote. The Party that prevails in any claim or any dispute arising out of or relating to this Agreement will be entitled to receive all reasonable costs and expenses associated with the prevailing claim, litigation or dispute, including, without limitation, attorneys' fees.

(b) Outside of United States. If Customer is located outside the United States of America (including territories), this Agreement shall be construed in accordance with the laws of the State of Utah, United States of America. Any dispute or difference of any kind whatsoever arising out of or in connection with this Agreement, including any questions in connection with the existence, construction, interpretation, validity, termination, or implementation of this Agreement, shall be referred to and finally settled in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce then in effect. The arbitration shall occur in the United States of America. The arbitration tribunal shall be composed of three (3) arbitrators. The Parties each hereto shall be entitled to appoint one (1) arbitrator and the third arbitrator shall be selected by the other two arbitrators. The place of arbitration shall be in the United States of America, and the arbitrators shall apply the law of the State of Utah, United States of America to all issues in the dispute. The language to be used in any arbitration proceedings shall be English. Any award made by the arbitration tribunal shall be final and binding on the Parties and shall be enforceable in any country which is a signatory to the 1958 New York Convention. No arbitration of any dispute or difference shall commence unless the Parties have attempted in good faith to settle the same amicably within sixty (60) days after the date of a written notice of arbitration by one Party hereto to the other Party, which notice shall describe generally the nature of the dispute. The costs of arbitration shall be borne by the losing Party. The prevailing Party in any dispute arising out of or relating to this Agreement will be entitled to receive all reasonable expenses of litigation or dispute, including, without limitation, attorney fees. When any dispute occurs and when any dispute is under arbitration except for the matters under dispute, the Parties shall continue to fulfill their respective obligations (and shall be entitled to exercise their rights) under this Agreement.

20. Export Controls. You warrant and certify the Software will not be exported, re-exported, or otherwise made available by you to any country, entity, or individual in violation of any U.S. laws or regulations.

21. Assignment. You may not assign or in any way transfer the License, this Agreement, or your rights hereunder without the prior, written consent of PDC. PDC may assign or transfer this Agreement to any third party who acquires substantially all of its intellectual property in the Software.

22. Severability. In the event that any provision in the Agreement is invalid, unenforceable, or in conflict with applicable law, then such provision shall be construed, limited, and narrowed to the extent necessary to make the provision valid, enforceable, and in compliance with applicable law. This may include the incorporation of exceptions into the provision, if necessary. Other provisions of this Agreement shall not be affected thereby.

23. Government End Users. A “U.S. Government End User” shall mean any agency or entity of the government of the United States. The following shall apply if Licensee is a U.S. Government End User. The Software is a “commercial item,” as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of “commercial computer software” and “commercial computer software documentation,” as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Software with only those rights set forth herein. The Software (including related documentation) is provided to U.S. Government End Users: *(a) only as a commercial end item; and (b) only pursuant to this Agreement.* With respect to end-users that are of any other government, similar conditions are likewise agreed upon between the parties, to the effect that Licensee hereby acknowledges that the Software constitutes a pre-existing commercial product developed at private expense and provided to Licensee only in accordance with the terms and conditions of this Agreement and that Customer has no rights not explicitly granted by PDC under this Agreement.

24. Force Majeure. Except for obligations to make payment, neither Party shall be liable to the other for any failure to perform its obligations due to any cause beyond its reasonable control.

25. Entire Agreement No one is authorized to modify this Agreement or make any warranty or representation or promise which is different than, or in addition to, the provisions, limited warranties, representations and promises specified in this Agreement. Any terms or conditions of any purchase order or other document submitted by you in connection with the Software or Documentation which are in addition to, different from or inconsistent with the terms and conditions of this Agreement are not binding on PDC and are ineffective and non-binding.

26. Construction. This Agreement represents the wording selected by the Parties to define their agreement and no rule of strict construction shall apply against either Party. Whenever the context reasonably permits, the singular shall include the plural, the plural shall include the singular, and the whole shall include any part thereof.

27. Confidentiality. A party during the course of this Agreement may have access to or receive information regarding personnel, materials, data, systems, proprietary information/products, software programs, trade secrets, concepts, know-how, and other information which may not be accessible or generally known to the public. Any confidential or proprietary information/products received by one party from the other party shall be kept confidential and shall not be used, published, divulged, and distributed by the receiving party to any other person or entity without the prior written approval of the disclosing party.

Extended Service Plan (“ESP”)

1. Extended Service Plans.

- a. **Silver ESP:** Includes 24x7x365 technical support and Updates to the Software within the current version.
- b. **Gold ESP:** Includes everything in the Silver package plus Upgrades to the Software and an annual subscription to the Continuing Dispatch Education Series/Advancement Series.
- c. **Platinum ESP:** Includes everything in the Gold package plus updated QAGs (Quality Assurance Guides), updated FRGs (Field Responder Guides), Card sets, and a number of annual site visits. Site visits can be IT, CDE, software training, QA support, ACE application support, or implementation help (the number of site visits is based on the number of Licensed Stations).
- d. **NEMA or EMA** (National Enterprise Maintenance Agreement or Enterprise Maintenance Agreement). NEMA or EMA is available for countries, provinces, states, or organizations with multiple call-taking and dispatch centers. Please speak to your PDC representative for more information.
- e. **ESP Miscellaneous.**
 - i. Client must register as described in Section 2 below.
 - ii. The annual ESP fees must be fully paid in advance. The ESP period is for one year and is renewed annually upon continued use of the Licensed Products.
 - iii. All Licensed Products must have the same ESP.
 - iv. PDC may modify and replace this ESP from time to time and any prior ESP is superseded. The new ESP then becomes the current ESP and is part of this EULA.
 - v. PDC reserves the right to terminate this Agreement if You are not current on your financial obligations to PDC.
- f. **Customer Obligations:**
 - i. Customer’s hardware and operating systems must meet the minimum system requirements provided by PDC.
 - ii. Customer is solely responsible for any required adjustments or updates to its hardware or operating system software required to accommodate Updates or Upgrades of the Software.

- iii. Customer shall ensure availability of its own technical support personnel so PDC can fulfill its service obligations.
- iv. When reporting a problem to PDC's technical support, Customer shall provide a complete problem description, along with all necessary documents and information that is available to the Customer and required by PDC to diagnose and resolve the problem. Customer agrees to grant all necessary access to all applicable systems so that PDC can provide appropriate support.
- v. Customer shall carry out any instructions on troubleshooting or circumvention as provided by PDC.
- vi. Customer is solely responsible for ensuring the compatibility of non-PDC products with PDC products.
- vii. Customer is solely responsible for ensuring its systems, software, and data are adequately backed up. PDC shall not be liable for any lost data.
- viii. Customer shall provide for any other requirements reasonably specified by PDC that relate to the rendition of the services to be met.
- ix. As necessary, Customer will permit PDC with remote access to its systems to provide any required or necessary support.
- x. If Customer fails to fulfill its obligations outlined in this Section, PDC is entitled to bill its time and effort made necessary by Customer's failure(s) at PDC's hourly rate of USD \$ 1500/Day (8 hours) plus expenses.
- xi. Computer-Aided Dispatch ("CAD") Integration. Any costs relating to the integration of PDC's Licensed Products and the Customer's CAD system or CRM, or the like, software shall be the responsibility of the Customer. The integration of PDC's Licensed Products and Customer's CAD system must be inspected, tested, and certified by PDC before taking live calls.

2. Updates & New Versions. An important part of PDC's on-going research and development to optimize the effectiveness of the Software is its regular evaluation of the experience, findings, and recommendations of licensed Software users in the field; the College of Fellows of the International Academies of Emergency Dispatch ("IAED"); Quality Assurance programs; and of its own, internal research and studies. Consequent to these and other research and development activities, PDC may, from time to time, prepare and release Updates and/or New Versions of the Software. Notifications for Updates and/or New Versions of the Software are sent electronically (via email). In order to ensure receipt of the Software notifications, Client must register at https://support.prioritydispatch.net/int_notification.php. You acknowledge that failure to register may result in You not receiving urgent and vital communications about the Licensed Products. As part of its registration obligation, Client agrees to keep all its registration information current and up-to-date and understands it is solely responsible for ensuring it receives Software notifications.

- a. **Updates** When PDC determines that particular improvements, modifications, or enhancements may be useful as an Update to the current Version, PDC may issue an Update to licensees who have maintained their online Software notification registration and ESP current as provided herein. Client shall, within 90 days of an Update release from PDC, implement such Update. Client's failure to register for Software notifications and implement Updates, as provided here, would constitute a Breach of the EULA, giving cause for PDC to terminate this Agreement or withhold further Service and Support. Such Updates may be accompanied by instructions for updating the Software. Installation of an Update in accordance with such instructions is not a modification prohibited by the section of the Agreement titled "Use and Protection of the Licensed Product(s) and PDS."
- b. **New Versions** When PDC determines that substantial revisions to the Software (among other factors) may justify it, PDC may issue a new Version of the Software ("New Version"). PDC may thereafter cease issuing Updates for versions and editions preceding the New Version. Said New Version then becomes the current version and edition of the Software, but is not licensed to you, unless it is part of your ESP plan. In the event New Versions are part of your ESP plan, the New Version shall be governed by PDC's then-current license Agreement. If New Version are not part of your ESP plan, then the New Version constitutes a new product that can only be obtained through the purchase of a new license from PDC that is licensed under a new agreement with PDC. During an introductory period, licensees who are current in their registration and service plan with the preceding version may be offered, for a reduced fee, a license to use the New Version. The New Version will be governed by PDC's then-current license agreement.

Extended Service will not be available indefinitely after a New Version of the Software is released to replace a prior version. Customers that continue to use prior versions after a New Version has been released are solely responsible for their continued use, and for the results obtained from such continued use, of any prior version. You hereby agree to indemnify and hold PDC and the IAED harmless from and against any damages and liabilities that may arise from your election not to implement any New Version after it has been released.

3. Responsibility. Client assumes full responsibility for ascertaining the suitability of, and for its selection of, the Software, as well as for its installation, implementation, and use, and for the results obtained from it. You are responsible for decisions made and actions taken based on the Software. The Software is designed and intended for use by emergency dispatch professionals trained and experienced in the uses and limitations of computer software in general, and more specifically, of the emergency dispatch system(s) the Software is designed for as a quality management tool.

4. Research Data Sharing. In the interests of advancing the state-of-the-art in emergency dispatching through effective use of and improvements to the Software, Client shall, in timely response to PDC's reasonable written requests, provide PDC with copies, on disk or tape, of the data associated with the functioning of the Software. PDC shall use such data in compliance with applicable government regulations and restrictions (including, without limitation, HIPAA in the U.S.), and may use such data for research and development purposes. It will not make any external, public use or release of such research data without the prior written consent of Client. Furthermore, PDC will not request data in a manner that includes any names or personal identifying information or that indicates Client

as the source of the data. Additionally, by sharing data with PDC, you allow PDC to share the data with the IAED for the purpose of improving and advancing dispatching.

5. Expert System Disclosure. This expert system is designed for use by Emergency Dispatchers or call-takers (EDs) who have been trained and certified in the use of the PDS and who function in a prescribed PDS quality assurance environment. It is not a novice system. The system design envisions occasions when even the trained ED will have to make a subjective decision regarding a caller's response and make the most correct selection from the list of choices presented. The design of this system incorporates current professional and logic accuracy. Of necessity, however, it also reflects some subjective opinions of professional experts and programmers with which others may reasonably disagree. The system and its necessary maintenance components must be considered and approved by local control entities and ED agency administration, prior to implementation and on-line use by trained EDs. The system also envisions that, when appropriate, trained EDs will have the option of "overriding" a system-recommended choice for enhanced patient safety and that they will choose the "most appropriate" telephone treatment options from available menus. New information may change the complexion of the emergency during the call as EDs validate caller responses or treatment. This system allows the trained ED to "reconfigure" response levels based on new information. With the foregoing in mind, this system cannot reasonably be expected to predict exact outcomes or unerring ED performance in all cases. The designers recommend that quality assurance mechanisms be put in place that include review of each of these "special choice" situations for ED correctness and consistency. This system cannot, under this license, ever be used by non-IAED-certified individuals. Failure to maintain an adequate number of certified personnel will void this license and all materials covered hereunder must be immediately returned.

6. Modification of Software, Cards, or PDS. Other than as specifically provided in this ESP, you shall not modify, change, or alter the PDS Protocols or anything on the Software, Cards, or PDS without the prior, express, written consent of PDC. This ESP outlines the scientific process of protocol modification, which is performed by the College of Fellows of the IAED (see sections titled "Changing the PDS" and "Accepted Process for PDS Modification" in this ESP). Implementation of Updates, as provided in the section of this ESP titled "Updates & New Versions," qualifies as a modification, change, or alteration with PDC's express, written, prior consent. Any unauthorized change made, and/or implemented in the Software, Cards, or PDS by the Client is a material Breach of this EULA, giving cause for PDC to terminate this Agreement or withhold further Service and Support.

7. Derivative Products. In the event any PDS client creates, knowingly or unknowingly, any derivative product of the PDS, such derivative product shall be owned by PDC and its use must be discontinued and the derivative (including all copies or drafts of such work) sent to PDC within 10 days of PDC's written request to do so.

8. Customization of Responses. Authorized customization of the PDS consists of matching Priority Dispatch Determinant levels (A, B, C, D) with locally determined response capabilities of equipment and professional personnel. This is limited to additions to the blank "Response" section (bottom right) of all protocols. The responses to be inserted in said "Response" section are determined solely by the licensed client. Local ED authorities are authorized and within their license rights to so add responses to the specified bottom right section of the relevant cards, without any requirements to either notify PDC or to coordinate these particulars with PDC (unless required to do so by separate consulting agreement), and PDC bears no responsibility or liability for actual local responses selected or used. Additionally, the IAED allows the designated local law enforcement administrator, or their designee, to edit current Critical EPD Information (CEI) text to better address locally defined performance expectations. Adding CEI text shall preserve the intent of the original CEI and vary only by providing more specific instructions for actions EPD's should take. CEI text shall meet or exceed the standard of practice in law enforcement and neither PDC nor the IAED bears any responsibility or liability for CEI text used and relied upon.

a. Documentation. The approval and customizations above are generally finalized and documented through Dispatch Review Committee and Dispatch Steering meetings. It is your responsibility to ensure sign off signatures and authorizations are obtained on record in writing, and that all ED personnel are training in their proper use.

9. Changing the PDS. All written text and printed materials in the PDS, including, without limitation, Interrogation Questions, Dispatch Determinants, Pre-Arrival Instructions, Post-Dispatch Instructions and Additional Information are integral to the PDS. Licensed clients are NOT AUTHORIZED TO MAKE CHANGES TO THE PDS. Changes are made only by the Accepted Process specified in the section of this ESP titled "Accepted Process for PDS Modification." This is based on the following:

a. Implementation and Familiarity with the PDS. The PDS has been in continuous field use since 1978, during which time it has been regularly enhanced through more than 13 major revisions for New Versions. It is not prudent for any client to consider recommending system changes prior to gaining the practical experience and perspective of implementing the PDS and running it "as is" at a demonstrated rate of high dispatcher compliance.

b. Total Quality Management. A Quality Improvement and Management Program is required. Key elements shall include:

- i. As with other aspects of a sound emergency dispatch program, a qualified emergency service professional must be engaged as ED Director. Depending upon the requirements and resources of the professional emergency service system, this may be a part-time or a full-time position. In either case, the ED Director must be empowered with control over professional policies, procedures and decisions in the system. The ED Director must be regularly involved at all levels, particularly at the "front line" level where the EDs handle the calls for ED help. This helps even an experienced ED professional to become functionally "dispatch literate." The ED Director should also attend activities of the Quality Assurance committees and personnel, and evaluate and guide their performance. It is highly recommended that any ED Director who has not already participated in an IAED Executive Certification Course, do so before the end of the 6-month implementation period. This is required for eventual IAED Dispatch Center accreditation.
- ii. **PRIORITY DISPATCH SYSTEM STEERING and REVIEW COMMITTEE(S):** One or more committees shall be established to set policy and review performance of ED operations with the PDS. The ED Director must participate in all material decisions by these

committees and must be included as a signatory on any policy or procedural determinations made by such committees. A PDS Steering and Review Committee must be established and meet at least quarterly to review, evaluate, and approve the application of policies or procedures affecting PDS operations.

- iii. **CERTIFICATION:** It is required that all EDs utilizing the PDS be certified by the IAED and strongly recommended that all system administrators, managers, and supervisors be certified in the IAED 1-day National Executive Certification Course. The PDS shall not under any circumstances be used by untrained or uncertified individuals. The PDS is not intended to be quality assured or supervised by untrained or uncertified individuals.
- iv. **CONTINUING DISPATCH EDUCATION (“CDE”):** All EDs utilizing the PDS must participate in a structured CDE program that provides necessary relearning, familiarization, and updating with the evolving science of the PDS. At a minimum 12 hours per year must be devoted to CDE to ensure proper recertification by IAED.
- v. **DISPATCHER PERFORMANCE EVALUATION AND PROTOCOL COMPLIANCE:** It is required that EDs closely comply with the PDS interrogation, prioritization coding, and scripts. To this purpose, the Quality Improvement and Management Program must include continuous case review and evaluation according to the IAED’s Center of Excellence minimum performance requirements, which are available on its website. EDs not complying must be officially notified of the findings, retrained, and, if necessary eventually disciplined. Non-compliance to the PDS has been demonstrated to significantly decrease its effectiveness and safety and shall not be tolerated by managers and employers. In the interest of public safety, the protocol must be followed.
- vi. **ACCREDITATION:** It is strongly recommended that all dispatch agencies utilizing the PDS achieve the operating performance standards required for Accreditation by the IAED.

10. Accepted Process for PDS Modification. In 1988, the IAED was formed as a scientific professional organization for Emergency Dispatching. Within the Academy’s structure exists the College of Fellows — a select group of professional dispatch, public safety and emergency experts that has adopted the following mission statement: “To conduct an on-going review of the current standards of care and practice in Emergency Dispatch and evaluate the tools and mechanisms used to meet or exceed those standards.”

THROUGH A DEFINED PROCESS, THE FELLOWS REVIEW RECOMMENDED REVISIONS AND IMPROVEMENTS TO THE PDS IN A TIMELY, ORGANIZED WAY. THE ONLY AUTHORIZED METHOD OF PDS PROTOCOL CHANGE IS BY THIS ESTABLISHED SCIENTIFIC METHOD OF THE COLLEGE OF FELLOWS.

Individual licensed clients are not allowed to change or modify any pre-printed text or color-coded portion of Cards or Software unless authorized to do so by PDC, as agent of the IAED College of Fellows. All licensed clients are encouraged to share their significant recommendations, discoveries, and data with the College in writing (see section titled “Research Data Sharing” in this BSP). By this scientific method, knowledge of the PDS can be unified and new improvements shared by all licensed clients.

11. Unsafe Practices. Unlike the authorized modifications specified above, no other modification or customization of the Software, Cards or PDS is authorized or allowed under this License. Any modification or misuse of the Licensed Product(s) – i.e., a use not specifically authorized in this written Agreement – must be considered unsafe unless and until it has been formally approved through the Academy’s scientific process referred to above. Unauthorized modifications to or changes of or misuse of the Licensed Product(s) would constitute material breaches of this Agreement and give cause for PDC to terminate it and to discontinue support hereunder. Because unauthorized modification, change and/or misuse of the Licensed Product(s) are expressly not allowed, you are solely responsible for any and all results of any such unauthorized modification, change or misuse, and you hereby agree to indemnify and hold PDC and the IAED harmless from and against any damages and/or liabilities that may arise from any such breach of this Agreement by you. An example of an unsafe practice would include (but not be limited to) the following: The modification or responses to incorporate a “no-send” or “referral” option is not authorized by this License. Such practices may only be authorized under a special “Omega” Software License from the IAED. Any implementation of any such modifications without such an Omega License is an unsafe practice and must not be undertaken. Interested Licensees should contact the IAED to pursue any contemplated modification. In addition, the use of the software, protocols, and training materials by non-IAED-certified individuals is considered to be an Unsafe Practice and is not allowed under this license agreement.

a. CLIENT NOTIFICATION OF ANY UNSAFE PRACTICE(S) AND ITS REMEDIES. The Licensor may at any time for any activity it deems as an Unsafe Practice, notify the Client to cease and desist such practices(s), and may, at the Licensor’s sole discretion, grant a timeframe for such remedies to occur. Reasonable consideration of sincere proposed processes or attempts by a client so notified to effect remedies will not be unreasonably withheld. It is the sole right of the Licensor to invoke an immediate revocation of this license and the return of all licensed products if the Unsafe Practice is egregious enough to pose a risk to the public safety. Additionally, this EULA authorizes PDC or the IAED to contact applicable city, county, state, or national leaders or officials to inform them of any performance issues, threats to the safety of the public, or the like.

12. International Dispatch Coding System. The Determinant (and sub-determinant) codes represent the only widely accepted dispatch coding system in the world. A unified coding system provides for uniform training, use, data collection, data sharing, and comparative scientific study. This coding system may not be modified in any way not authorized in this EULA. As provided above, in the section of this ESP titled “Customization of Responses,” however, it is the licensed client that selects the type of response, whatever it may be, to be generated by any particular code (e.g., 10-D-1). In this way, the coding system remains intact while allowing the client full discretion in establishing the local responses “attached” in parallel to these codes.

13. Standard of Care and Practice. Since 1978, PDC and its originators, have been the principal contributors to the establishment of safe professional standards for Emergency Medical Dispatch (and subsequently, Police and Fire Dispatch) care and training. PDC’s Priority Dispatch Systems, as well as its ED training and certification programs, meet or exceed every applicable standard known to PDC. Through substantial commitments of expertise and other valuable resources to basic and applied research, development, quality

improvement, dispatch liability, and risk management, PDC is dedicated and determined to continue setting the standard in ED. In the opinion of some medical-legal experts, when the current Version of the PDS is properly used by IAED-Certified ED professionals, the current standard for emergency dispatch has been met, and the most reasonable actions for both callers and responders have been taken by the ED center.

14. Dedicated Legal and Consultative Support. Priority Dispatch Corp. is available for ED system evaluations, ED case reviews, and expert opinion and witness services to currently registered licensed clients of the PDS who have are using the Newest Version, and to their professional staff of EDs and ED instructors who have been trained, then certified through the IAED and maintained their IAED certifications current. PDC's professional staff will vigorously defend proper use of the PDS by professionally trained EDs against charges of dispatch negligence that may arise. All such services are available at PDC's then-current fee schedule for such licensed client services.

15. National Q Services. National Q is a quality assurance service provided by PDC. In the event Customer utilizes National Q, the following shall apply:

a. **Pre-National Q:** Customer understands that they and PDC shall have the following meetings before starting the QA services:

- i. Stakeholders Meeting – overview of the system and process for directors, chiefs, and upper administration.
- ii. QA/QI Meeting – Analysis of current system with current Customer QA staff
- iii. Protocol Refresher Meeting – overview of Protocol and QA for dispatch staff

b. **National Q Technical Process:**

- i. Customer will allow PDC to have remote server access using SecureLink® software to a dedicated physical or virtual workstation configured with AQUA®, ProQA® Admin Utility, XLERATOR®, and the Customer's audio logger/recorder.
- ii. CAD (Computer Aided Dispatch), RMS (Record Management System), JMS (Jail Management System), and NCIC (National Crime Information Center) should not be accessible on this dedicated physical or virtual workstation.
- iii. PDC will audit calls remotely using SecureLink. An additional AQUA® software License per discipline will be provided by PDC for the National Q Reviewer's access for the term of contract, along with an accompanying voice logger integration license.
- iv. Customer understands that they must always update to the latest version of AQUA.
- v. If there is a customer related issue (technical or otherwise) that prevents the National Q Reviewer from reviewing cases, including providing the associated reporting, PDC will only be responsible for two weeks of case review volume from the date the issue is resolved looking backward, and case review going forward.

c. **Quality Assurance Process:**

- i. QA shall be done according to the IAED standards for Accreditation (http://www.emergencydispatch.org/standards_for_accreditation).
- ii. Customer will receive weekly completed QA cases in AQUA based on the National Q timeline established by the parties. This will allow Customer to give appropriate and timely feedback.
- iii. Customer must identify an individual to provide case review feedback to dispatchers as provided to them by the National Q reviewer. This individual must be certified by the IAED as an ED-Q. Customer's contact person (ED-Q) will work directly with the National Q representative. The Customer's ED-Q will provide any quality improvement feedback and training to Customer's dispatchers/call takers based on the feedback they receive from the National Q Reviewer. In other words, the customer ED-Q will work with Customer's dispatchers/call takers to help them understand structured protocol utilization, address protocol compliance and performance improvement requirements to become a more effective dispatcher/call taker.
- iv. In order to ensure the integrity of the QA Service, any feedback provided by the Customer's ED-Q to its dispatchers/call takers shall not be contrary or inconsistent with the National Q Reviewer's audit and comments. If the ED-Q does not understand or agree with the National Q review of the call or believes a mistake or miscommunication has occurred the ED-Q should inform the dispatcher/call taker that they will research the issue and contact the National Q representative, so a resolution can be made through the appeals process. Once it has gone through the appeals process the decision is final.

16. Definitions. This section contains more detailed definitions of certain terms used in this EULA

"Cards"

The manual version of a PDS in the form of printed reference cards or in the form of electronic tablets provided by PDC to Client under this EULA.

"Client," "Customer", "Agency," "Licensee", "You", "you" or "your"

The end user licensed to use the licensed Software under the Agreement. This is the end user who enters into the Agreement with PDC.

"certification" and "recertification"

When used in this agreement, certification and recertification mean specifically by the IAED.

"ED", Emergency Dispatch and/or Emergency Dispatcher.

These terms are basic to expanded definitions of Police, Fire and Medical Dispatch and/or Dispatcher, by adding the letters “P”, “F” and/or “M”, respectively; as in “EPD”, “EFD” and/or “EMD”, respectively.

“PDS”, Priority Dispatch System.

These terms are basic to expanded definitions of Police, Fire and Medical Priority Dispatch Systems, by adding the letters “P”, “F” and/or “M”, respectively; as in “PPDS”, “FPDS” and/or “MPDS”, respectively. For purposes of this EULA, a reference to PDS also includes a reference to MPDS, FPDS, and/or PPDS.

“Update”

An Update represents a collection of improvements, modifications, or enhancements to the Cards, Software or PDS within a Version (as this latter term is defined below). Generally, Updates are provided to all currently licensed and registered licensees under a n Extended Service Plan with PDC. An Update is designated by the number to the right of the decimal point in the release number of a Software release (e.g., Release 12.2 would an Update from Release 212.1). A Version may include a plurality of Updates (e.g., 11.1, 11.2 and 11.3 would be separate Updates within Version 11).

“Version”

A version of the Software constitutes the combination of the Software and/or Cards for a particular PDS. A Version is designated by the version number assigned by PDC to the left of the decimal point in the release number of a Software release (e.g., Version 11 of the Software is designated by 11.x; and the next new Version would be designated with 12.x). A New Version means, for example, going from 12.2 to 13.0 or in other words increasing the number to the left of the decimal point.

17. Additional PDC Products. Beyond the products and services discussed in this EULA, PDC also provides additional products/services to the Customer including, but not limited to, Field Responder Guides, Quality Assurance Guides, and Send Cards. As applicable, terms of this EULA also apply to the additional products and services provided by PDC to the Customer.