

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC



**Participating Agreement to**

**Contract #1325 between Port of Portland, Oregon (the "Lead Agency") and Iron Mountain Information Management, LLC ("Iron Mountain") effective as of January 22, 2021 and all amendments and addenda thereto (the "Master Agreement")**

By executing this Participating Agreement (hereinafter "**PA**" or "**Agreement**"), the County of Santa Barbara, a political subdivision of the State of California ("**Customer**" or "**COUNTY**") hereby agrees that Services ordered by Customer and provided by Iron Mountain Information Management, LLC, a Delaware limited liability company whose principal address is One Federal Street, Boston, MA 02110 ("**Iron Mountain**" or "**CONTRACTOR**" and together with COUNTY, collectively, the "**Parties**" and each a "**Party**") will be subject to the terms and conditions of the Master Agreement as if the COUNTY were the "Port" thereunder.

**1. Term.** The term of this PA ("**Term**") shall commence from the date of last signature below (the "Effective Date") and shall terminate upon June 30, 2027, or the expiration or termination of the Master Agreement, whichever comes first, unless earlier terminated in accordance with the provisions of the Master Agreement.

**2. Description of Services.** Services to be provided by Iron Mountain are as described in Section 4 "Compensation" of the Master Agreement and are subject to the pricing therein. The Parties may also enter into Statements of Work ("**SOWs**") from time to time which shall be considered attached hereto if they reference this PA and are duly executed by both Parties.

**3. Pricing.** Prices for Services shall be as set forth in the Pricing Schedule attached hereto as Exhibit A-2 for services and the SOWs. The total amount payable to Iron Mountain under this contract shall not exceed an aggregate amount of \$1,200,000, or \$400,000 per each 12-month period during the Term. By signing this PA, Customer agrees to comply with the payment terms as set forth in the Master Agreement.

**4. Participating Public Agency Subordinate Terms to the Master Agreement.**

**A. DESIGNATED REPRESENTATIVE**

Sean Burns at phone number 805-568-2693 and email [seburns@countyofsb.org](mailto:seburns@countyofsb.org) is the representative of COUNTY and will administer this PA for and on behalf of COUNTY. Lisa John at phone number 407-476-3313 and email [imgcontracts.groups@ironmountain.com](mailto:imgcontracts.groups@ironmountain.com) is the authorized representative for CONTRACTOR. Changes to a Party's designated representative shall be made only after advance written notice to the other Party.

**B. NOTICES**

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

All notices, claims, waivers, consents and other communications required or permitted to be given under this Agreement (each “**Notice**”) shall be in writing and addressed to the receiving Party at its address set forth below (or to such other address that such receiving Party may designate from time to time in accordance with this Section), by personal delivery, facsimile, by registered or certified mail via the United States Postal Service (“**USPS**”), or nationally recognized overnight courier service (in each case, return receipt requested, postage prepaid):

To COUNTY: Sean Burns  
General Services, Procurement Services  
260 N. San Antonio Rd  
Santa Barbara, CA 93110

To CONTRACTOR: Iron Mountain Government Solutions  
Attn: Public Sector Contracts and Compliance  
12901 Worldgate Dr., Ste. 560  
Herndon, VA 20170

This Notices section shall not be construed as meaning that either Party agrees to service of process except as required by applicable law.

**C. STANDARD OF PERFORMANCE**

CONTRACTOR has and shall, at CONTRACTOR’s sole cost and expense, all times during the Term, maintain in effect all permits, licenses, permissions, authorizations, and consents required by applicable law or otherwise necessary to carry out CONTRACTOR’s obligations under this PA. CONTRACTOR is in compliance with and shall at all times during the Term comply with all applicable laws, regulations, and ordinances noncompliance with which may materially affect its performance of its obligations hereunder.

**D. DEBARMENT AND SUSPENSION**

CONTRACTOR certifies to COUNTY that none of it or its employees or principals are debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

### **E. TAXES**

CONTRACTOR is responsible for all CONTRACTOR personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits. In no event shall COUNTY pay or be responsible for any taxes imposed on, or with respect to, CONTRACTOR's income, revenues, gross receipts, personnel, real or personal property, or other assets. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY 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.

### **F. CONFLICT OF INTEREST**

CONTRACTOR covenants that CONTRACTOR 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 PA. CONTRACTOR further covenants that in the performance of this PA, no person having any such interest shall knowingly be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

### **G. NO PUBLICITY OR ENDORSEMENT**

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY in each instance.

### **H. RECORDS, AUDIT AND REVIEW**

CONTRACTOR shall keep such business records pursuant to this PA as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession, and shall maintain such records for at least four (4) years following the termination of this PA. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review records that substantiate invoices rendered on no less than 10 (ten) business days' written notice during Contractor's regular business hours or upon reasonable notice. In addition, as this PA exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the PA (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

**I. INSURANCE**

CONTRACTOR agrees to and shall comply with the insurance provisions as set forth in EXHIBIT C, attached hereto and incorporated herein by reference.

**J. NONDISCRIMINATION**

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this PA and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

**K. NONEXCLUSIVE AGREEMENT**

CONTRACTOR understands that this PA is not an exclusive agreement, and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

**L. SECTION HEADINGS**

The headings of the several sections herein, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

**M. SEVERABILITY**

Subject to the severability provisions in the Master Agreement, if any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable by a court of competent jurisdiction, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**N. CALIFORNIA LAW AND JURISDICTION**

This PA shall be governed by the laws of the State of California. Any litigation regarding this PA or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.



Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

**O. EXECUTION OF COUNTERPARTS**

This PA may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Parties shall preserve undestroyed, shall together constitute one and the same instrument.

**P. SURVIVAL**

Subject to the specific provisions addressing survival in the Appendices to the Master Agreement, all provisions of this PA which by their nature are intended to survive the termination or expiration of this PA shall survive such termination or expiration.

**Q. BUSINESS ASSOCIATE**

The Parties agree to, and CONTRACTOR shall abide by, the terms and conditions set forth in – the HIPAA Business Associate Agreement (“BAA”) attached hereto as Exhibit D and incorporated herein by reference.

**R. REQUIRED FEDERAL PROVISIONS**

The Parties agree to, and CONTRACTOR shall abide by, the terms and conditions set forth in Exhibit E (Required Federal Provisions), attached hereto and incorporated herein by reference, with respect to all SOWs which indicate the applicability of such Required Federal Provisions.

**[SIGNATURE PAGE TO FOLLOW]**

Services of Independent Contractor

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IN WITNESS WHEREOF, the Parties have entered into this Agreement by the signatures of their respective authorized officials, effective upon the last date of signature below.

**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

**COUNTY OF SANTA BARBARA:**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chair, Board of Supervisors

Date: \_\_\_\_\_

**RECOMMENDED FOR APPROVAL:**

General Services Department

**CONTRACTOR:**

Iron Mountain Information Management, LLC

By: <sup>DocuSigned by:</sup> \_\_\_\_\_  
*Kirk Lagerquist*  
19AEDA90054E4CE...  
Department Head

By: <sup>DocuSigned by:</sup> \_\_\_\_\_  
*Sheila Poggi*  
9EB1BE384BC14F3...  
Authorized Representative

Name: Sheila Poggi

Title: Sr. Manager, Public Sector Contracts

**APPROVED AS TO FORM:**

Rachel Van Mullem  
County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

Betsy M. Schaffer, CPA  
Auditor-Controller

By: <sup>Signed by:</sup> \_\_\_\_\_  
*Lauren Wideman*  
8F464D822C84458...  
Deputy County Counsel

By: <sup>DocuSigned by:</sup> \_\_\_\_\_  
*[Signature]*  
6BAAEA15901943F...  
Deputy

**APPROVED AS TO FORM:**

Gregory Milligan, ARM  
Risk Management

By: <sup>DocuSigned by:</sup> \_\_\_\_\_  
*Gregory Milligan*  
05F555F00269466...  
Risk Management

Approved as to Form and Legal Content:  
Iron Mountain Legal Department  
*Alan Roth*  
Alan Roth  
Client: County of Santa Barbara  
Date: October 24, 2024

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**EXHIBIT A-1**

**CONTRACT #1325 FOR DOCUMENT AND INFORMATION LIFECYCLE SERVICES WITH IRON MOUNTAIN  
INFORMATION MANAGEMENT, LLC**

**Exhibit A-1**  
**Contract #1325 for Document and Information Lifecycle Services**  
**with Iron Mountain Information Management, LLC**

**Port of Portland**

**Contract # 1325**

*for*

**Document and Information Lifecycle Services**

*with*

**Iron Mountain Information Management, LLC**

**Effective: January 22, 2021**

The following documents comprise the executed contract between the Port of Portland and Iron Mountain Information Management, LLC, effective January 22, 2021:

- I. Vendor Contract – Services Contract Number 1325
- II. Supplier's Response to the RFP, incorporated by reference

CONTRACT NUMBER 1325  
*This Number must appear  
On all Invoices*

**SERVICES CONTRACT  
TO FURNISH  
DOCUMENT AND INFORMATION LIFECYCLE SERVICES  
ON A REQUIREMENTS BASIS**

**Parties:** Port of Portland ("Port")  
P.O. Box 3529  
Portland, OR 97208

Iron Mountain Information Management, LLC ("Provider")  
One Federal Street  
Boston, MA 02110

**RECITALS**

- A.** The Port issued Request for Proposals No. 2020-9068 (the "RFP"), inviting proposals from experienced Providers for Document and Information Lifecycle (the "Services").
- B.** Provider submitted a written proposal in response to the RFP.
- C.** The Port evaluated all proposals submitted in response to the RFP and selected Provider as a provider for the Services.
- D.** The Port of Portland has partnered with OMNIA Partners, Public Sector ("OMNIA Partners") to make the Contract (also known as the "Master Agreement" in materials distributed by OMNIA Partners) available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through OMNIA Partners' cooperative purchasing program.

**AGREEMENT**

**1. NATURE OF CONTRACT**

This Services Contract (the "**Contract**") is for Provider's services to the Port, on an as-needed basis, of the products or services described on the attached Schedule 1 (collectively, the "**Services**"). The Port does not guarantee any specific quantity of purchase, but shall look first to Provider for the Port's needs for the Services. The Port reserves the right to order similar goods or services from other suppliers if it is in the Port's best interest to do so.

**2. TERM**

The term of this Contract shall commence from January 22, 2021, or the date that this Contract is fully executed by both parties, whichever is later, and shall expire on January 22, 2024, unless sooner terminated under the provisions of this Contract. The Port shall have two options, exercisable sequentially and unilaterally by the Port, in its sole, unrestrained discretion, to extend the term of this Contract for one additional year. The Port may exercise such an option by giving Provider written notice no later than fourteen calendar days prior to the expiration date. Expiration of the term does not excuse Provider's duty to provide the Services that were ordered before expiration. The anticipated full term of the contract is five (5) years. The Provider shall have the right to enter local "service" agreements with Participating Public Agencies ("PPA") accessing the

contract through OMNIA Partners, so long as the effective date of such agreement is prior to the expiration of the Contract. All local agreements may have a full potential term (any combination of initial and renewal periods) not to exceed five years.

### **3. PROVIDER'S OBLIGATIONS**

Provider's obligations under this Contract include, but are not limited to, the following:

**3.1** To sell, furnish, and deliver requested Services, FOB destination, within the delivery parameters set forth on Schedule 1 (with reasonable allowance for unloading time) upon Provider's receipt of an authorized order.

**3.2** To submit reports of all sales activity under this Contract, including descriptions, quantities supplied, and prices charged, in an MS Excel spreadsheet format or similar compatible format, to the Port's Manager of Contracts and Procurement upon request; and

**3.3** To provide the Port's contract administrator for this Contract, Christina Hamel, (503) 415-6278, Christina.Hamel@portofportland.com, a minimum of two (2) contact names for Provider including 24 hour-accessible phone numbers (office, home, cellular and/or pager), with full authority to make all necessary shipping arrangements for Services. The Port will identify the Port representatives which are authorized to place orders against this Contract.

### **4. COMPENSATION**

#### **4.1 Basis of Compensation**

The Port will pay for Services at the price-per-unit set forth on the attached Schedule 4.1.

#### **4.2 Total Compensation**

Total compensation shall not exceed \$50,000 per Contract Year without a written amendment signed by authorized representatives of both parties.

### **5. PAYMENT**

Payment will be made within 30 days of receipt of a properly completed invoice for Services delivered pursuant to an authorized Port order placed against this Contract. Provider shall include the Contract number on all invoices and shall submit invoices to Accounts Payable, Port of Portland, PO Box 3529, Portland, OR 97208. Invoices may also be submitted to Accounts Payable via email to [portinvoices@portofportland.com](mailto:portinvoices@portofportland.com).

### **6. RATE ADJUSTMENTS**

Provider may request a rate adjustment, which the Port will consider in its sole discretion, no more frequently than once annually for the ensuing one-year period beginning on the effective date of the Contract or on an anniversary of the effective date of the Contract ("**Contract Year**") to reflect actual increases in Provider's cost to perform under this Contract. Provider must submit a written request with backup documentation establishing the actual increases in cost. Any such request shall be submitted to the Port no less than thirty (30) calendar days prior to the end of the Contract Year, and adjustments shall be effective as of the beginning of the following Contract Year. In no event shall the rate adjustment be more than the percentage change during the preceding Contract Year in the *Consumer Price Index for All Urban Consumers (CPI-U), US City Average, not seasonally adjusted, all items*, published by the U.S. Department of Labor.

### **7. PROVIDER IS INDEPENDENT CONTRACTOR**

Provider is an independent contractor for all purposes and shall be entitled to no compensation other than the compensation expressly provided by this Contract. The Port will not withhold any

taxes from any payments made to Provider, and Provider will be solely responsible for paying all applicable taxes arising out of or resulting from the provision of the Services, including but not limited to income, social security, worker's compensation, and employment insurance taxes.

## **8. ASSIGNMENTS AND SUBCONTRACTS**

Provider may not assign or transfer any interest or obligation under this Contract without the Port's prior written consent. Provider may not subcontract any part of the work required under this Contract without the Port's prior written consent. Any assignment, transfer, or subcontract attempted in violation of this section shall be void.

## **9. RECORDS**

Provider shall retain all books, documents, papers, and records that are directly pertinent to this Contract for at least three years after the Port makes final payment on this Contract and all other pending matters are closed. Provider shall allow any authorized representatives of the Port to audit, examine, copy, take excerpts from, or transcribe any books, documents, papers, or records that are subject to the foregoing retention requirement.

## **10. DUTY TO INFORM**

Provider shall give prompt written notice to the Port if, at any time during the performance of this Contract, Provider becomes aware of actual or potential problems, faults, or defects in the Services, any nonconformance with the Contract, or with any federal, state, or local law, rule, or regulation, or has any objection to any decision or order made by the Port. Any delay or failure on the part of the Port to provide a written response to Provider shall constitute neither agreement with nor acquiescence in Provider's statement or claim, and shall not constitute a waiver of any of the Port's rights.

## **11. WARRANTY; WARRANTY DISCLAIMER**

### **11.1 Warranty**

Provider warrants to the Port that: (a) the Services will conform to the Contract Specifications and be free from material defects; and (b) Provider has good title to the , and that Provider conveys the Services to the Port free from any restriction or condition, and free from any encumbrance, including but not limited to any security interest or lien. Provider will defend title to the Services against the rightful claim of any person.

### **11.2 Warranty Disclaimer**

Except for the express warranties in this Contract, Provider expressly disclaims all warranties with respect to the Services, express and implied, including but not limited to any warranties that may have arisen from course of dealing or usage of trade.

## **12. INDEMNIFICATION**

Provider shall indemnify, defend, reimburse, and hold harmless the Port and the Port's commissioners, officers, employees, and agents for, from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including without limitation reasonable attorney fees, accountant fees, paralegal fees, expert witness fees, escrow fees, fines, environmental costs, and penalties resulting from, arising out of, or in any way connected with the acts or omissions of Provider or Provider's partners, directors, officers, employees, subcontractors, invitees, or agents under this Contract.



### **13. DAMAGE TO PORT PROPERTY**

Provider shall fully compensate the Port for harm to the Port's real or personal property caused by the acts or omissions, negligent or not, of Provider or Provider's partners, directors, officers, employees, subcontractors, invitees, or agents under this Contract.

### **14. INSURANCE**

#### **14.1 Liability Insurance**

Provider shall maintain occurrence-form commercial general liability and automobile liability insurance for the protection of Provider, and for Provider's legal liabilities to the Port, its commissioners, and its employees assumed in the contract. Coverage shall include personal injury, bodily injury, including death, and broad form property damage, including loss of use of property, occurring in the course of or in any way related to Provider's operations, in an amount of \$1,000,000 combined single limit per occurrence. Such insurance shall reference the Contract number and shall include the Port, its Commissioners, employees, and agents as additional insureds but only to the extent of Provider's liabilities under the agreement.

#### **14.2 Certificates**

##### **14.2.1 Certificates Required**

Prior to full execution of this Contract, Provider must furnish the Port with: (i) certificates referencing this Contract (by number, if known), coverage dates, amount, and type of insurance required by this Contract; and (ii) a copy of the endorsement providing additional insured status under the commercial general liability policy.

##### **14.2.2 Certificate Management; Notice Requirement**

When the period during which services will be performed exceeds the coverage period stated on a certificate, within 5 business days of the certificate expiration date Provider or its insurer must furnish updated certificates demonstrating continuous coverage. Provider shall endeavor to give the Port not less than thirty (30) days' written notice before cancellation, non-renewal, or material change of any policy. Carrier notice of cancellation shall be provided in accordance with policy provisions, (except ten (10) days for non-payment of premium).

### **15. BREACH OF CONTRACT**

#### **15.1 Cure; Remedies**

Provider must cure any breach of this Contract within the shortest reasonable time after Provider first has actual notice of the breach or the Port notifies Provider of the breach, whichever is earlier. If Provider fails to cure a breach in accordance with this subsection, the Port may exercise one or more of the following remedies:

#### **15.2 Substitute Services**

The Port may terminate that part of this Contract affected by the breach upon written notice to Provider, may obtain substitute services or Services in a reasonable manner, and may recover from Provider the amount by which the price for those substitute services or Services exceeds the price for the terminated services or Services.

#### **15.3 Suspension of Services**

Pending a decision to terminate all or part of this Contract under this Section, the Port may unilaterally order Provider to suspend all or part of the services or Services. If the Port terminates all or part of this Contract after such a suspension, Provider will be entitled to compensation only

for services rendered or Services delivered prior to the date of termination but not for any services rendered or Services delivered after the Port-ordered suspension date. If the Port suspends certain services or Material deliveries and later orders Provider to resume those services or Material deliveries, Provider will be entitled to reasonable damages actually incurred, if any, as a result of the suspension.

#### **15.4 Default**

If the breach is material, the Port may declare Provider in default, and the Port may pursue any remedy available for a default.

#### **15.5 Recovery of Amounts Due for Breach**

To recover any amounts Provider owes to the Port due to Provider's material or non-material breach of this Contract, the Port may withhold such amounts from any Port payments to Provider, including but not limited to payments made under this Contract or under any other agreement between the parties. Provider's default under this Contract will be, at the Port's option, a default under any other agreement between the parties.

#### **15.6 Contractual Remedies Not Exclusive**

The Port will have all remedies available to the Port under this Contract, at law, and in equity, including reasonable attorneys' fees and costs incurred in any action to enforce the Port's rights under this Contract. All available remedies are cumulative and may be exercised singularly or concurrently.

### **16. TERMINATION FOR CONVENIENCE**

The Port may terminate all or part of this Contract at any time for its own convenience by written notice to Provider. Upon termination under this section, Provider shall be entitled to compensation for all Services delivered to and accepted by the Port prior to Provider's actual notice of the termination or the receipt of the written notice of termination, whichever is earlier, plus Provider's reasonable costs actually incurred in closing out the Contract. Provider shall not be entitled to compensation for any Services ordered but not yet delivered to or accepted by Port prior to Provider's actual notice of the termination or receipt of written notice of termination.

### **17. STATUTORILY-REQUIRED PROVISIONS**

#### **17.1 Payment for Labor or Material**

As a condition of this Contract, Provider shall make payment promptly, as due, to all persons supplying to Provider labor or material for the delivery of the Services provided for in this Contract. [Required by ORS 279B.220(1)]

#### **17.2 Overtime**

Persons employed under this Contract shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020(1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. [Required by ORS 279B.235(5)]

#### **17.3 Contributions to the Industrial Accident Fund**

As a condition of this Contract, Provider shall pay all contributions or amounts due the Industrial Accident Fund from Provider or Provider's subcontractor incurred in the performance of this Contract. [Required by ORS 279B.220(2)]

#### **17.4 Income Tax Withholding**

As a condition of this Contract, Provider shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167. [Required by ORS 279B.220(4)]

#### **17.5 Workers' Compensation**

As a condition of this Contract, all subject employers performing services under this Contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. [Required by ORS 279B.230(2)]

#### **17.6 Medical Care for Employees**

As a condition of this Contract, Provider shall promptly, as due, make payment to any person, copartnership, association or corporation, furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Provider, of all sums that Provider agrees to pay for such services and all moneys and sums that Provider collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for such services. [Required by ORS 279B.230(1)]

#### **17.7 Liens and Claims Prohibited**

As a condition of this Contract, Provider shall not permit any lien or claim to be filed or prosecuted against the Port, the state, any county, any school district, any municipality, any municipal corporation, or any subdivision thereof, on account of any labor or material furnished pursuant to this Contract. [Required by ORS 279B.220(3)]

#### **17.8 Compliance with Tax Laws**

Provider represents and warrants that Provider has complied with the tax laws of the State of Oregon or a political subdivision of the State of Oregon, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. Provider covenants that Provider will continue to comply with the tax laws of the State of Oregon or a political subdivision of the State of Oregon during the term of this Contract. Provider's failure to comply with the tax laws of the State of Oregon or a political subdivision of the State of Oregon before Provider executed this Contract or during the term of this Contract will be a default for which the Port may terminate the Contract and seek damages and other relief available under the terms of this Contract and under applicable law. [Required by ORS 279B.045]

### **18. MISCELLANEOUS PROVISIONS**

**18.1** Provider's Terms and Conditions for specific Services are attached to this Contract as Appendices A-L. In the case of any inconsistencies between the terms of this Contract, including those portions of the Appendices that pertain to the specific Services ordered, the terms of the relevant Appendix shall govern. For clarity, the parties agree that the terms of Appendices A-L apply only to the provision of Services ordered in accordance with the Table below:

Appendix	Services
Appendix A	Records Management Services
Appendix B	Data Management Services
Appendix C	Document Conversion (DMS) and Image on Demand (IOD) Services
Appendix D	Secure Shred Services
Appendix E	Secure IT Asset Disposition Services
Appendix F	Consulting Services
Appendix G	Pathology Services
Appendix H	Data Restoration Services
Appendix I	Data Center Colocation Services
Appendix J	Policy Center and Global Research Service
Appendix K	Insight Services
Appendix L	Hyland Hosted Solution Service

## 18.2 Time of Essence

Time is of the essence with respect to all dates and time periods in this Contract.

## 18.3 Contingencies

Neither party will be responsible for failure to perform the party's obligations under this Contract due to contingencies beyond the party's reasonable control, including but not limited to earthquakes, floods, tornadoes, and other acts of Nature, fires, epidemics, wars, riots, revolutions, acts of civil or military authorities, sabotage, or nuclear incidents. If any obligation of a party will be delayed by a contingency, the party will promptly notify the other party. Each party will use commercially reasonable efforts to remove the contingency as soon as practicable.

## 18.4 Law of Oregon; Venue

ORS 15.320 provides that Oregon law applies to this Contract. The parties also agree that Oregon law applies to this Contract, even if ORS 15.320 is determined to be inapplicable or invalid. Venue shall be in Multnomah County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Multnomah County, Oregon.

## 18.5 Successors and Assigns

This Contract shall bind the parties and their permitted assignees.

## 18.6 Provider Identification

Provider shall furnish to the Port Provider's employer identification number, as designated by the Internal Revenue Service.

## 18.7 No Waiver of Legal Rights

A waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach.

## 18.8 Modification

This Contract may be modified only by a writing signed by both parties. No oral modification shall be effective.

### **18.9 Attorney Fees**

The prevailing party on a claim shall be entitled to reasonable attorney fees with respect to the claim at trial and on appeal in an action brought with respect to this Contract.

### **18.10 Permissive Cooperative Procurement Allowed**

Other public contracting agencies may establish contracts or price agreements under the terms, conditions and prices of this Contract. Provider agrees to extend the terms, conditions and prices of this Contract to any purchasing Contracting agency, as that term is defined at ORS 279A.200 (1)(h). Contracts or price agreements between Provider and purchasing public contracting agencies are entirely independent of and have no effect upon this Contract.

### **18.11 Integration**

This Contract contains the entire agreement between the parties regarding the subject matter of this Contract and supersedes all prior written or oral discussions or agreements regarding the subject matter of this Contract.

### **18.12 Attachments**

Any exhibits, schedules, and other attachments referenced in this Contract are part of this Contract.

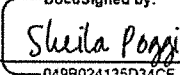
### **18.13 Authority of Signers**

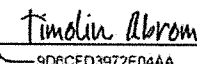
The individuals signing below warrant that they have full authority to execute this Contract on behalf of the party for which they sign.

[Signature Page Follows]

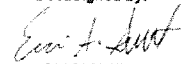
IRON MOUNTAIN INFORMATION  
MANAGEMENT, LLC

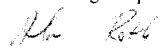
PORT OF PORTLAND

By:   
DocuSigned by:  
049B024135D34CE...  
 Name: Sheila Poggi  
 Title: Manager, Public Sector Contracts & Compliance  
 Date: 1/26/2021  
 Telephone: 703 889 6151  
 Email: Sheila.Poggi@ironmountain.com  
 Taxpayer ID No. 23-2588479

By:   
DocuSigned by:  
9D6CFD3972E04AA...  
 Name: Timolin Abrom  
 Title: Contracts and Procurement Mgr.  
 Date: 1/26/2021

Approved as to Legal  
Sufficiency for the Port:

  
DocuSigned by:  
45A2E0F9EF004C8...  
 Counsel for the Port

Approved as to Form and Legal Content  
 Iron Mountain Legal Department  
  
 Alan Roth  
 Customer Name: Port of Portland  
 Date: January 21, 2021

## SCHEDULE 1

### Services

The Services listed below and, if applicable, on the following pages shall be provided at the unit prices listed for the period of 5 years. After this initial period, price changes may be considered in accordance with Section 5 of this Contract but only in the same proportion that changes have occurred in the manufacturer's latest published price list(s), discount schedules, or other positive means of identification.

Similar items purchased but not listed below shall be available for purchase according to the attached price list.

#### **Document Management Program**

Provider and Participating Public Agencies will establish a schedule for receiving boxes/containers with Participating Public Agencies' files, documents and media.

a. Receipt and Tracking Workflow

Provider will:

- i. Have quality assurance measures in place to ensure proper workflow process.
- ii. Provide labels for each container listing all contents.
- iii. Provide multiple scans of labels to maintain security of documents throughout the receipt process. Process completed prior to departure of customer premises.
- iv. Ensure detailed workflow for chain-of-custody of all customer containers
- v. Ensure detailed customer report of contents received, label and unique ID(s) provided for each container
- vi. Provide replacement of boxes/containers, and their labels, that are damaged at the time of receipt or during transit.
- vii. Ensure barcode labels are adhered to every box/container to reduce data entry errors and validate accuracy of contents.
- viii. Utilize hand-held scanners for every transaction, with corresponding date and time stamps for audit purposes and customer notifications during each step of the entire document management process.

b. Retrieval Workflow

Provider will:

- i. Provide carton banding to protect contents during transit
- ii. Provide validation of vehicle to ensure all boxes/containers are accounted for prior to leaving Provider's record center with similar process for return(s) of retrieved boxes/containers to Provider's record center.
- iii. Provide multiple scans of labels to maintain security of documents throughout the retrieval process with similar process for return(s) of retrieved boxes/containers to Provider's record center.

c. RESERVED

- d. Document storage facilities must be maintained at a temperature between 65 and 75 degrees Fahrenheit at all times. Additionally, relative humidity of the storage facility shall always be maintained at a level between 40% and 60% .
- e. Provider facilities will maintain a fire suppression system based on requirements, adherence to local fire code and meet the National Fire Protection Agency (NFPA) specifications. The fire suppression system and/or fire alarm will be connected to a central monitoring station with notification to the local fire department in the event of an alarm.
- f. Realtime status updates will be provided to customer via email, customer facing application or customer portal, for all boxes/containers throughout the entire document management process.
- g. Provider will establish the following features and capabilities via a customer portal:
  - a. Query, search and locate:
    - i. Individual records, set of records, or entire box/container
    - ii. Electronic retrievals
    - iii. Report generation
    - iv. Inventory control
      - 1. Custom data entry fields
      - 2. Custom required fields to capture critical information
      - 3. Retention Management
        - a. Add detailed retention schedules, policies and procedures

### **Document Conversion Process**

- a. Quality Control
  - i. Provider will ensure that the following processes for quality review:
    - i. Document separation – random sampling within each prepped box/container focusing on document separation and tracking
    - ii. Page capture – review of images during the scanning process
    - iii. Image clarity – random sampling of scanned images within each box/container, focusing on document separation, image clarify and page capture.
    - iv. Indexing integrity – customizable based on the product design of index fields and how the data fields are populated with a focus on indexing integrity and image clarity.
  - ii. Automation capabilities such as barcode recognition, machine printing recognition (Optical Character Recognition - OCR), handwriting/hand-printing recognition (ICR), mark recognition (OMR), forms recognition, and data match and merge where possible to reduce human workloads and costs to customer.
  - iii. Provider will ensure that the scanned images meet customer’s indexing requirements and that the data files are not corrupted and are in a format requested by customer.
- b. Destruction of Documents
  - i. Throughout the term of the Contract, Provider will maintain certification with the National Association of Information Destruction (NAID) and adhere to established



industry standards.

- ii. Customer will establish retention schedules, policies and procedures for each Customer component.

### **Information Management Program**

- a. Provider will establish the following features and capabilities via a customer portal:
  - a. Query, search and locate:
    - i. Individual records, set of records, or entire box/container
    - ii. Electronic data storage and retrieval
    - iii. Report generation
    - iv. Inventory control
      1. Custom data entry fields
      2. Custom required fields to capture critical information
      3. Retention Management
  - b. Add detailed retention schedules, policies and procedures
  - c. RESERVED
  - d. Provider shall provide, operate and house a secure website connected to its tracking and inventory system for records in storage as well as records and files that have been delivered in response to a retrieval request.
  - e. Provider shall provide electronic data storage and backup of systems via an encrypted connection to storage in secure, mirrored data centers. Provider must support encryption in transit and at rest. All data that is backed up and stored must be housed physically within the United States.

Iron Mountain – Port of Portland (OMNIA) - Service Specific Pricing\_November 2020

**Schedule 4.1**

**IRON MOUNTAIN SERVICE SPECIFIC PRICING**

**to**

**SERVICES CONTRACT TO FURNISH**

**DOCUMENT AND INFORMATION LIFECYCLE**

**MANAGEMENT ON A REQUIREMENTS BASIS (the “Services Contract”)**

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_February 2021

**IRON MOUNTAIN SERVICE SPECIFIC TERMS AND CONDITIONS**

**APPENDICES A-L**

**to**

**SERVICES CONTRACT TO FURNISH**

**DOCUMENT AND INFORMATION LIFECYCLE**

**MANAGEMENT ON A REQUIREMENTS BASIS (the “Services Contract”)**

In the case of any inconsistencies between the terms of this Contract, including those portions of the Appendices that pertain to the specific Services ordered, the terms of the relevant Appendix shall govern.

<b>Table of Contents</b>		
<b>Appendix</b>	<b>Services</b>	<b>Page Number</b>
Appendix A	Records Management Services	2
Appendix B	Data Management Services	5
Appendix C	Document Conversion (DMS) and Image on Demand (IOD) Services	8
Appendix D	Secure Shred Services	11
Appendix E	Secure IT Asset Disposition Services	14
Appendix F	Consulting Services	17
Appendix G	Pathology Services	21
Appendix H	Data Restoration Services	25
Appendix I	Data Center Colocation Services	29
Appendix J	Policy Center and Global Research Service	50
Appendix K	Insight Services	60
Appendix L	Hyland Hosted Solution Service	83

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

## **Appendix A to Services Contract 1325**

### **Iron Mountain Terms and Conditions for Records Management Services**

Iron Mountain Information Management, LLC (“Iron Mountain” or “IM”) will perform the services described on schedules or purchase orders annexed to this Contract, either physically or by reference (each a “Schedule”), and Customer will pay IM for such services according to the rates and provisions in the Schedules. All services will be provided subject to the Contract, this Appendix, together with any other Appendices for services (as applicable), the Schedule(s) and the Glossary of terms that can be found at <http://cic.ironmountain.com> (collectively, the “Agreement”).

1. VALUE OF DEPOSITS. Customer declares, for the purposes of this Agreement, that (a) with respect to hard-copy (paper) records, microfilm and microfiche stored pursuant to this Agreement, the value of such stored items is \$1.00 per carton, linear foot of open-shelf files, container or other storage unit, and (b) with respect to round reel tape, audio tape, video tape, film, data tape, cartridges or cassettes or other non-paper media stored pursuant to this Agreement, the value of such stored items is equal to the cost of replacing the physical media. Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged.

2. LIMITATION OF LIABILITY. Iron Mountain’s liability, if any, for loss or destruction of, or damage to, materials stored with Iron Mountain (“Deposits” or “Items”) is limited to the value of each Deposit as described above, or as otherwise set forth herein. Iron Mountain’s maximum liability with respect to services not related to storage is the amount paid by Customer for a discrete project or, if the loss is related to service of an ongoing and continuing nature, six months of fees paid by Customer for such service.

3. Customer Instructions. Customer warrants that it is the owner or legal custodian of the Deposits and has full authority to store the Deposits and direct their disposition in accordance with this Agreement. IM will perform services pursuant to the direction of Customer’s agent(s) identified pursuant to IM’s standards. Authority granted to any persons on standard authorization forms shall constitute Customer’s representation that the identified persons have full authority to order any service, including disposal or removal of Deposits. Such orders may be given in person, by telephone or in writing (fax, email or hard-copy). Customer releases IM from all liability by reason of the destruction of materials pursuant to Customer’s authorization.

4. Operational Procedures. Customer shall comply with IM’s reasonable operational requirements, as modified from time to time, regarding cartons, carton integrity, delivery/pickup/account closing volumes, preparation for pickup, security, secure shredding protocols, access and similar matters. Extraordinary volume requests (defined as 125% of the average volume over the immediately preceding three month period) may involve additional charges, such as overtime, which Customer will pay at IM’s overtime rates, provided Customer consents to such charges in advance.

5. Force Majeure. Neither party shall be liable for delay or inability to perform caused by acts of God, governmental actions, labor unrest, acts of terrorism, riots, unusual traffic delays or other causes beyond its reasonable control.

6. Governmental Orders. IM is authorized to comply with any subpoena or similar order related to the Deposits, provided that IM notifies Customer promptly upon receipt thereof, unless such notice is

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

prohibited by law. IM will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

7. Confidentiality. "Confidential Information" means any information (i) contained in the Deposits, (ii) concerning or relating to the property, business and affairs of the party disclosing such information that is furnished to the receiving party, and (iii) regarding this Agreement, its Schedules and IM's processes and procedures; except for information that was previously known to the receiving party free of any obligation to keep it confidential, is subsequently made public by the disclosing party or is disclosed by a third party having a legal right to make such disclosure. Confidential Information shall be used only in the manner contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing party's written consent. IM shall not obtain any rights of any sort in or to the Confidential Information of Customer contained in Deposits. IM shall implement and maintain reasonable safeguards designed to protect Customer's Confidential Information.

8. Additional Limitation of Liability.

a. Liability for Loss or Damage to Deposits. IM shall not be liable for any loss or destruction of, or damage to, Deposits, including costs resulting from a loss of a Deposit constituting a breach of data security or confidentiality, unless such loss or damage resulted from IM's negligence. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions. Deposits are not insured by IM against loss or damage, however caused. Customer may insure Deposits through third-party insurers for any amount. Customer shall cause its insurers of Deposits to waive any right of subrogation against IM. If Deposits are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Deposits while in the custody of the carrier.

b. Liability for Non-Storage Services. With respect to services not related to the storage of Deposits, IM shall not be liable for any loss or default unless such loss or default is due to the negligence of IM. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions.

c. No Consequential Damages. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss of data, or the cost of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other theory of liability.

9. ITAR/EAR Compliance. Customer represents that none of the Deposits stored by Iron Mountain pursuant to this Agreement require protection from access by foreign persons because they contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer's Deposits do contain any such information, Customer shall notify Iron Mountain of the specific Deposits that contain such information and acknowledges that special storage and service rates shall apply thereto.

10. Non-Custodial Status. Unless Iron Mountain shall have explicitly agreed in writing, Iron Mountain's performance of services shall not cause Iron Mountain to be deemed a "custodian" of the records or "designee" of Customer under state or federal law with respect to such records.

11. Notice of Loss. When Deposits have been lost, damaged or destroyed, Iron Mountain shall, upon confirmation of the event, report the matter in writing to Customer.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

12. Safe Materials and Premises. Customer shall not store with IM any material that is highly flammable, may attract vermin or insects, or is otherwise dangerous or unsafe to store or handle, or any material that is regulated by federal or state law or regulation relating to the environment or hazardous materials. Customer shall not store negotiable instruments, jewelry, check stock or other items that have intrinsic value.

13. Termination. Either party may terminate this Agreement upon written notice to the other party in the event that the other party shall have breached any of its material obligations hereunder and shall not have cured such default within forty-five (45) days after written notice of such default, subject to the fees set forth in the applicable Schedule(s). Notwithstanding the foregoing or any other provision hereof, no termination shall be effective prior to the permanent withdrawal of all material stored with Supplier (not to exceed 180 days) and the payment in full for such storage and related services.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**Appendix B to Services Contract 1325**  
**Iron Mountain Terms and Conditions for**  
**Data Management Services**

Iron Mountain Information Management, LLC (“Iron Mountain” or “IM”) will perform the services described on schedules or purchase orders annexed to this Contract, either physically or by reference (each a “Schedule”), and Customer will pay IM for such services according to the rates and provisions in the Schedules. All services will be provided subject to the Contract, this Appendix, together with any other Appendices for services (as applicable), the Schedule(s) and the Glossary of terms that can be found at <http://cic.ironmountain.com> (collectively, the “Agreement”).

1. VALUE OF DEPOSITS. Customer declares, for the purposes of this Agreement, that (a) with respect to hard-copy (paper) records, microfilm and microfiche stored pursuant to this Agreement, the value of such stored items is \$1.00 per carton, linear foot of open-shelf files, container or other storage unit, and (b) with respect to round reel tape, audio tape, video tape, film, data tape, cartridges or cassettes or other non-paper media stored pursuant to this Agreement, the value of such stored items is equal to the cost of replacing the physical media. Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged.
2. LIMITATION OF LIABILITY. Iron Mountain’s liability, if any, for loss or destruction of, or damage to, materials stored with Iron Mountain (“Deposits” or “Items”) is limited to the value of each Deposit as described above, or as otherwise set forth herein. Iron Mountain’s maximum liability with respect to services not related to storage is the amount paid by Customer for a discrete project or, if the loss is related to service of an ongoing and continuing nature, six months of fees paid by Customer for such service.
3. Customer Instructions. Customer warrants that: (i) it is the owner or legal custodian of the Deposits; (ii) it has full authority to direct the disposition of the Deposits in accordance with this Agreement; and (iii) Iron Mountain’s imaging or otherwise processing the Deposits shall not violate the rights of any third party. IM will perform services pursuant to the direction of Customer’s agent(s) identified pursuant to IM’s standards. Authority granted to any persons on standard authorization forms shall constitute Customer’s representation that the identified persons have full authority to order any service, including disposal or removal of Deposits. Such orders may be given in person, by telephone or in writing (fax, email or hard-copy). Customer releases IM from all liability by reason of the destruction of materials pursuant to Customer’s authorization.
4. Operational Procedures. Customer shall comply with IM’s reasonable operational requirements, as modified from time to time, regarding cartons, carton integrity, delivery/pickup/account closing volumes, preparation for pickup, security, secure shredding protocols, access and similar matters. Extraordinary volume requests (defined as 125% of the average volume over the immediately preceding three month period) may involve additional charges, such as overtime, which Customer will pay at IM’s overtime rates, provided Customer consents to such charges in advance.
5. Force Majeure. Neither party shall be liable for delay or inability to perform caused by acts of God, governmental actions, labor unrest, acts of terrorism, riots, unusual traffic delays or other causes beyond its reasonable control.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

6. Governmental Orders. IM is authorized to comply with any subpoena or similar order related to the Deposits, provided that IM notifies Customer promptly upon receipt thereof, unless such notice is prohibited by law. IM will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

7. Confidentiality. "Confidential Information" means any information (i) contained in the Deposits, (ii) concerning or relating to the property, business and affairs of the party disclosing such information that is furnished to the receiving party, and (iii) regarding this Agreement, its Schedules and IM's processes and procedures; except for information that was previously known to the receiving party free of any obligation to keep it confidential, is subsequently made public by the disclosing party or is disclosed by a third party having a legal right to make such disclosure. Confidential Information shall be used only in the manner contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing party's written consent. IM shall not obtain any rights of any sort in or to the Confidential Information of Customer contained in Deposits. IM shall implement and maintain reasonable safeguards designed to protect Customer's Confidential Information.

8. Additional Limitation of Liability.

a. Liability for Loss or Damage to Deposits. IM shall not be liable for any loss or destruction of, or damage to, Deposits, including costs resulting from a loss of a Deposit constituting a breach of data security or confidentiality, unless such loss or damage resulted from IM's negligence. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions. Deposits are not insured by IM against loss or damage, however caused. Customer may insure Deposits through third-party insurers for any amount. Customer shall cause its insurers of Deposits to waive any right of subrogation against IM. If Deposits are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Deposits while in the custody of the carrier.

b. Liability for Non-Storage Services. With respect to services not related to the storage of Deposits, IM shall not be liable for any loss or default unless such loss or default is due to the negligence of IM. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions.

c. No Consequential Damages. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss of data, or the cost of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other theory of liability.

9. ITAR/EAR Compliance. Customer represents that none of the Deposits stored by Iron Mountain pursuant to this Agreement require protection from access by foreign persons because they contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer's Deposits do contain any such information, Customer shall notify Iron Mountain of the specific Deposits that contain such information and acknowledges that special storage and service rates shall apply thereto.

10. Non-Custodial Status. Unless Iron Mountain shall have explicitly agreed in writing, Iron Mountain's performance of services shall not cause Iron Mountain to be deemed a "custodian" of the records or "designee" of Customer under state or federal law with respect to such records.



Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

11. Notice of Loss. When Deposits have been lost, damaged or destroyed, Iron Mountain shall, upon confirmation of the event, report the matter in writing to Customer.

12. Safe Materials and Premises. Customer shall not store with IM any material that is highly flammable, may attract vermin or insects, or is otherwise dangerous or unsafe to store or handle, or any material that is regulated by federal or state law or regulation relating to the environment or hazardous materials. Customer shall not store negotiable instruments, jewelry, check stock or other items that have intrinsic value.

13. Termination. Either party may terminate this Agreement upon written notice to the other party in the event that the other party shall have breached any of its material obligations hereunder and shall not have cured such default within forty-five (45) days after written notice of such default, subject to the fees set forth in the applicable Schedule(s). Notwithstanding the foregoing or any other provision hereof, no termination shall be effective prior to the permanent withdrawal of all material stored with Supplier (not to exceed 180 days) and the payment in full for such storage and related services.

14. No Product Warranty. Iron Mountain hereby assigns to Customer any manufacturers' warranties applicable to any products sold by Iron Mountain pursuant to this Agreement. Iron Mountain provides no warranties related to products sold. WITH RESPECT TO PRODUCTS SOLD BY IRON MOUNTAIN TO CUSTOMER, IRON MOUNTAIN MAKES NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

## **Appendix C to Services Contract 1325**

### **Iron Mountain Terms and Conditions for**

#### **Document Conversion (DMS) and Image on Demand (IOD) Services**

Iron Mountain Information Management, LLC (“Iron Mountain” or “IM”) will perform the services described on schedules or purchase orders annexed to this Contract, either physically or by reference (each a “Schedule”), and Customer will pay IM for such services according to the rates and provisions in the Schedules. All services will be provided subject to the Contract, this Appendix, together with any other Appendices for services (as applicable), the Schedule(s) and the Glossary of terms that can be found at <http://cic.ironmountain.com> (collectively, the “Agreement”).

1. VALUE OF DEPOSITS. Customer declares, for the purposes of this Agreement, that (a) with respect to hard-copy (paper) records, microfilm and microfiche stored pursuant to this Agreement, the value of such stored items is \$1.00 per carton, linear foot of open-shelf files, container or other storage unit, and (b) with respect to round reel tape, audio tape, video tape, film, data tape, cartridges or cassettes or other non-paper media stored pursuant to this Agreement, the value of such stored items is equal to the cost of replacing the physical media. Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged.

#### 2. LIMITATION OF LIABILITY.

a. Iron Mountain’s liability, if any, for loss or destruction of, or damage to, materials stored with Iron Mountain (“Deposits” or “Items”) is limited to the value of each Deposit as described above, or as otherwise set forth herein. Iron Mountain’s maximum liability with respect to services not related to storage is the amount paid by Customer for a discrete project or, if the loss is related to service of an ongoing and continuing nature, six months of fees paid by Customer for such service.

b. Limitations and Exclusions of Liability. Iron Mountain shall not be liable under this Agreement unless Iron Mountain fails to exercise such care as a reasonably careful person would exercise under like circumstances. If liable, the amount of Iron Mountain’s liability is limited to the amount paid by Customer for a discrete project or, if the service is of an ongoing and continuing nature, six (6) months of fees paid by Customer for such service.

3. Customer Instructions and Ownership Warranty. Customer warrants that: (i) it is the owner or legal custodian of the Deposits; (ii) it has full authority to direct the disposition of the Deposits in accordance with this Agreement; and (iii) Iron Mountain’s imaging or otherwise processing the Deposits shall not violate the rights of any third party. IM will perform services pursuant to the direction of Customer’s agent(s) identified pursuant to IM’s standards. Authority granted to any persons on standard authorization forms shall constitute Customer’s representation that the identified persons have full authority to order any service, including disposal or removal of Deposits. Such orders may be given in person, by telephone or in writing (fax, email or hard-copy). Customer releases IM from all liability by reason of the destruction of materials pursuant to Customer’s authorization.

4. Operational Procedures. Customer shall comply with IM’s reasonable operational requirements, as modified from time to time, regarding cartons, carton integrity, delivery/pickup/account closing volumes, preparation for pickup, security, secure shredding protocols, access and similar matters.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

Extraordinary volume requests (defined as 125% of the average volume over the immediately preceding three month period) may involve additional charges, such as overtime, which Customer will pay at IM's overtime rates, provided Customer consents to such charges in advance.

5. Force Majeure. Neither party shall be liable for delay or inability to perform caused by acts of God, governmental actions, labor unrest, acts of terrorism, riots, unusual traffic delays or other causes beyond its reasonable control.

6. Governmental Orders. IM is authorized to comply with any subpoena or similar order related to the Deposits, provided that IM notifies Customer promptly upon receipt thereof, unless such notice is prohibited by law. IM will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

7. Confidentiality. "Confidential Information" means any information (i) contained in the Deposits, (ii) concerning or relating to the property, business and affairs of the party disclosing such information that is furnished to the receiving party, and (iii) regarding this Agreement, its Schedules and IM's processes and procedures; except for information that was previously known to the receiving party free of any obligation to keep it confidential, is subsequently made public by the disclosing party or is disclosed by a third party having a legal right to make such disclosure. Confidential Information shall be used only in the manner contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing party's written consent. IM shall not obtain any rights of any sort in or to the Confidential Information of Customer contained in Deposits. IM shall implement and maintain reasonable safeguards designed to protect Customer's Confidential Information.

8. Additional Limitation of Liability.

a. Liability for Loss or Damage to Deposits. IM shall not be liable for any loss or destruction of, or damage to, Deposits, including costs resulting from a loss of a Deposit constituting a breach of data security or confidentiality, unless such loss or damage resulted from IM's negligence. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions. Deposits are not insured by IM against loss or damage, however caused. Customer may insure Deposits through third-party insurers for any amount. Customer shall cause its insurers of Deposits to waive any right of subrogation against IM. If Deposits are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Deposits while in the custody of the carrier.

b. Liability for Non-Storage Services. With respect to services not related to the storage of Deposits, IM shall not be liable for any loss or default unless such loss or default is due to the negligence of IM. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions.

c. No Consequential Damages. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss of data, or the cost of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other theory of liability.

9. ITAR/EAR Compliance. Customer represents that none of the Deposits stored by Iron Mountain pursuant to this Agreement require protection from access by foreign persons because they contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer's Deposits do contain any such

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

information, Customer shall notify Iron Mountain of the specific Deposits that contain such information and acknowledges that special storage and service rates shall apply thereto.

10. Non-Custodial Status. Unless Iron Mountain shall have explicitly agreed in writing, Iron Mountain's performance of services shall not cause Iron Mountain to be deemed a "custodian" of the records or "designee" of Customer under state or federal law with respect to such records.

11. Notice of Loss. When Deposits have been lost, damaged or destroyed, Iron Mountain shall, upon confirmation of the event, report the matter in writing to Customer.

12. Safe Materials and Premises. Customer shall not store with IM any material that is highly flammable, may attract vermin or insects, or is otherwise dangerous or unsafe to store or handle, or any material that is regulated by federal or state law or regulation relating to the environment or hazardous materials. Customer shall not store negotiable instruments, jewelry, check stock or other items that have intrinsic value.

13. Termination. Either party may terminate this Agreement upon written notice to the other party in the event that the other party shall have breached any of its material obligations hereunder and shall not have cured such default within forty-five (45) days after written notice of such default, subject to the fees set forth in the applicable Schedule(s). Notwithstanding the foregoing or any other provision hereof, no termination shall be effective prior to the permanent withdrawal of all material stored with Supplier (not to exceed 180 days) and the payment in full for such storage and related services.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**Appendix D to Services Contract 1325**  
**Iron Mountain Terms and Conditions for**  
**Secure Shred Services**

Iron Mountain Information Management, LLC (“Iron Mountain” or “IM”) will perform the services described on schedules or purchase orders annexed to this Contract, either physically or by reference (each a “Schedule”), and Customer will pay IM for such services according to the rates and provisions in the Schedules. All services will be provided subject to the Contract, this Appendix, together with any other Appendices for services (as applicable), the Schedule(s) and the Glossary of terms that can be found at <http://cic.ironmountain.com> (collectively, the “Agreement”).

1. VALUE OF DEPOSITS. Customer declares, for the purposes of this Agreement, that (a) with respect to hard-copy (paper) records, microfilm and microfiche stored pursuant to this Agreement, the value of such stored items is \$1.00 per carton, linear foot of open-shelf files, container or other storage unit, and (b) with respect to round reel tape, audio tape, video tape, film, data tape, cartridges or cassettes or other non-paper media stored pursuant to this Agreement, the value of such stored items is equal to the cost of replacing the physical media. Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged.

2. LIMITATION OF LIABILITY.

a. Iron Mountain’s liability, if any, for loss or destruction of, or damage to, materials stored with Iron Mountain (“Deposits” or “Items”) is limited to the value of each Deposit as described above, or as otherwise set forth herein. Iron Mountain’s maximum liability with respect to services not related to storage is the amount paid by Customer for a discrete project or, if the loss is related to service of an ongoing and continuing nature, six months of fees paid by Customer for such service.

b. Limitations and Exclusions of Liability. IM shall not be responsible or liable for the release, disclosure, or loss of any materials deposited in secure containers or otherwise delivered to it for secure shredding unless the release, loss, or disclosure is due to IM’s negligence. IM’s maximum liability for all claims arising with respect to the Services provided under this Agreement shall not exceed the aggregate amounts paid by Customer with respect to the Services being provided during the six (6) months preceding the event which gives rise to a claim. IN NO EVENT AND UNDER NO LEGAL THEORY, INCLUDING TORT, CONTRACT OR OTHERWISE, SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

3. Customer Instructions and Ownership Warranty. Customer warrants that it is the owner or legal custodian of, or otherwise has the right to deliver for secure shredding, any and all materials provided to IM hereunder. IM will perform services pursuant to the direction of Customer’s agent(s) identified pursuant to IM’s standards. Authority granted to any persons on standard authorization forms shall constitute Customer’s representation that the identified persons have full authority to order any service, including disposal or removal of Deposits. Such orders may be given in person, by telephone or in writing (fax, email or hard-copy). Customer agrees to reimburse IM for any expenses reasonably incurred (including reasonable legal fees) by IM as a result of IM’s compliance with Customer

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

instructions regarding the disposition of such materials. Customer releases IM from all liability by reason of the destruction of materials pursuant to Customer's authorization.

4. Operational Procedures. Customer shall comply with IM's reasonable operational requirements, as modified from time to time, regarding cartons, carton integrity, delivery/pickup/account closing volumes, preparation for pickup, security, secure shredding protocols, access and similar matters. Extraordinary volume requests (defined as 125% of the average volume over the immediately preceding three month period) may involve additional charges, such as overtime, which Customer will pay at IM's overtime rates, provided Customer consents to such charges in advance.

5. Force Majeure. Neither party shall be liable for delay or inability to perform caused by acts of God, governmental actions, labor unrest, acts of terrorism, riots, unusual traffic delays or other causes beyond its reasonable control.

6. Governmental Orders. IM is authorized to comply with any subpoena or similar order related to the Deposits, provided that IM notifies Customer promptly upon receipt thereof, unless such notice is prohibited by law. IM will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

7. Confidentiality. "Confidential Information" means any information (i) contained in the Deposits, (ii) concerning or relating to the property, business and affairs of the party disclosing such information that is furnished to the receiving party, and (iii) regarding this Agreement, its Schedules and IM's processes and procedures; except for information that was previously known to the receiving party free of any obligation to keep it confidential, is subsequently made public by the disclosing party or is disclosed by a third party having a legal right to make such disclosure. Confidential Information shall be used only in the manner contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing party's written consent. IM shall not obtain any rights of any sort in or to the Confidential Information of Customer contained in Deposits. IM shall implement and maintain reasonable safeguards designed to protect Customer's Confidential Information.

8. Additional Limitation of Liability.

a. Liability for Loss or Damage to Deposits. IM shall not be liable for any loss or destruction of, or damage to, Deposits, including costs resulting from a loss of a Deposit constituting a breach of data security or confidentiality, unless such loss or damage resulted from IM's negligence. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions. Deposits are not insured by IM against loss or damage, however caused. Customer may insure Deposits through third-party insurers for any amount. Customer shall cause its insurers of Deposits to waive any right of subrogation against IM. If Deposits are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Deposits while in the custody of the carrier.

b. Liability for Non-Storage Services. With respect to services not related to the storage of Deposits, IM shall not be liable for any loss or default unless such loss or default is due to the negligence of IM. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions.

c. No Consequential Damages. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss of data, or the cost of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other theory of liability.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

9. ITAR/EAR Compliance. Customer represents that none of the Deposits stored by Iron Mountain pursuant to this Agreement require protection from access by foreign persons because they contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer's Deposits do contain any such information, Customer shall notify Iron Mountain of the specific Deposits that contain such information and acknowledges that special storage and service rates shall apply thereto.

10. Non-Custodial Status. Unless Iron Mountain shall have explicitly agreed in writing, Iron Mountain's performance of services shall not cause Iron Mountain to be deemed a "custodian" of the records or "designee" of Customer under state or federal law with respect to such records.

11. Notice of Loss. When Deposits have been lost, damaged or destroyed, Iron Mountain shall, upon confirmation of the event, report the matter in writing to Customer.

12. Safe Materials and Premises.

a. Customer shall not store with IM any material that is highly flammable, may attract vermin or insects, or is otherwise dangerous or unsafe to store or handle, or any material that is regulated by federal or state law or regulation relating to the environment or hazardous materials. Customer shall not store negotiable instruments, jewelry, check stock or other items that have intrinsic value.

b. Hazardous Materials. Customer shall not deposit into secure containers nor deliver to IM any material considered toxic or dangerous or which is regulated under any federal or state law or regulation relating to hazardous materials. Customer's premises where IM employees perform services or make deliveries hereunder shall be free of hazardous substances and hazardous or dangerous conditions. Customer warrants that it shall only place paper-based materials in the Secure Consoles or 65-gallon bins together, (the "Shredding Bins"). For the avoidance of doubt, if any small paperclips, staples, or binder clips are attached to such paper based materials, they may also be deposited in the Shredding Bins. Customer shall reimburse IM for damage to equipment or injury to personnel resulting from Customer's breach of this provision.

13. Termination. Either party may terminate this Agreement upon written notice to the other party in the event that the other party shall have breached any of its material obligations hereunder and shall not have cured such default within forty-five (45) days after written notice of such default, subject to the fees set forth in the applicable Schedule(s). Notwithstanding the foregoing or any other provision hereof, no termination shall be effective prior to the permanent withdrawal of all material stored with Supplier (not to exceed 180 days) and the payment in full for such storage and related services.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**Appendix E to Services Contract 1325**  
**Iron Mountain Terms and Conditions for**  
**Secure IT Asset Disposition Services**

Iron Mountain Information Management, LLC (“Iron Mountain” or “IM”) will perform the services described on schedules or purchase orders annexed to this Contract, either physically or by reference (each a “Schedule”), and Customer will pay IM for such services according to the rates and provisions in the Schedules. All services will be provided subject to the Contract, this Appendix together with any other Appendices for services (as applicable), the Schedule(s) and the Glossary of terms that can be found at <http://cic.ironmountain.com> (collectively, the “Agreement”).

Secure IT Asset Disposition Services. “IT Assets” shall mean the Customer’s computer hardware and electronic equipment processed by IM in connection with this Agreement including, without limitation, personal computers, monitors, laptops, hard drives, printers, facsimile machines, and other computer equipment and computer related peripherals.

1. VALUE OF DEPOSITS. Customer declares, for the purposes of this Agreement, that (a) with respect to hard-copy (paper) records, microfilm and microfiche stored pursuant to this Agreement, the value of such stored items is \$1.00 per carton, linear foot of open-shelf files, container or other storage unit, and (b) with respect to round reel tape, audio tape, video tape, film, data tape, cartridges or cassettes or other non-paper media stored pursuant to this Agreement, the value of such stored items is equal to the cost of replacing the physical media. Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged.

2. LIMITATION OF LIABILITY. Iron Mountain’s liability, if any, for loss or destruction of, or damage to, materials stored with Iron Mountain (“Deposits” or “Items”) is limited to the value of each Deposit as described above, or as otherwise set forth herein. Iron Mountain’s maximum liability with respect to services not related to storage is the amount paid by Customer for a discrete project or, if the loss is related to service of an ongoing and continuing nature, six months of fees paid by Customer for such service.

3. Representations and Warranties. Customer represents and warrants to IM that Customer is the owner, legal custodian, or otherwise has the right to deliver for confidential destruction the IT Assets and any materials or data Customer provides to IM in connection with the IT Assets. Customer shall only deliver to IM those IT Assets listed as accepted in a schedule or statement of work, and shall not deliver to IM any material considered toxic, dangerous, or regulated under any federal or state law. Customer represents and warrants that: 1) the IT Assets are “Universal Waste” and do not constitute a “Hazardous Waste” as such terms are defined by the EPA, 2) the IT Assets shall be packaged in a manner to prevent releases into the environment, and 3) that their removal by IM does not constitute a violation of any federal, state, or local environmental laws or regulations.

IM will perform services pursuant to the direction of Customer’s agent(s) identified pursuant to IM’s standards. Authority granted to any persons on standard authorization forms shall constitute Customer’s representation that the identified persons have full authority to order any service, including disposal or removal of Deposits. Such orders may be given in person, by telephone or in writing (fax, email or hard-copy). Customer releases IM from all liability by reason of the destruction of materials pursuant to Customer’s authorization.



Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

4. Operational Procedures. Customer shall comply with IM's reasonable operational requirements, as modified from time to time, regarding cartons, carton integrity, delivery/pickup/account closing volumes, preparation for pickup, security, secure shredding protocols, access and similar matters. Extraordinary volume requests (defined as 125% of the average volume over the immediately preceding three month period) may involve additional charges, such as overtime, which Customer will pay at IM's overtime rates, provided Customer consents to such charges in advance.

5. Force Majeure. Neither party shall be liable for delay or inability to perform caused by acts of God, governmental actions, labor unrest, acts of terrorism, riots, unusual traffic delays or other causes beyond its reasonable control.

6. Governmental Orders. IM is authorized to comply with any subpoena or similar order related to the Deposits, provided that IM notifies Customer promptly upon receipt thereof, unless such notice is prohibited by law. IM will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

7. Confidentiality. "Confidential Information" means any information (i) contained in the Deposits, (ii) concerning or relating to the property, business and affairs of the party disclosing such information that is furnished to the receiving party, and (iii) regarding this Agreement, its Schedules and IM's processes and procedures; except for information that was previously known to the receiving party free of any obligation to keep it confidential, is subsequently made public by the disclosing party or is disclosed by a third party having a legal right to make such disclosure. Confidential Information shall be used only in the manner contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing party's written consent. IM shall not obtain any rights of any sort in or to the Confidential Information of Customer contained in Deposits. IM shall implement and maintain reasonable safeguards designed to protect Customer's Confidential Information.

8. Additional Limitation of Liability.

a. Liability for Loss or Damage to Deposits. IM shall not be liable for any loss or destruction of, or damage to, Deposits, including costs resulting from a loss of a Deposit constituting a breach of data security or confidentiality, unless such loss or damage resulted from IM's negligence. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions. Deposits are not insured by IM against loss or damage, however caused. Customer may insure Deposits through third-party insurers for any amount. Customer shall cause its insurers of Deposits to waive any right of subrogation against IM. If Deposits are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Deposits while in the custody of the carrier.

b. Liability for Non-Storage Services. With respect to services not related to the storage of Deposits, IM shall not be liable for any loss or default unless such loss or default is due to the negligence of IM. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions.

c. No Consequential Damages. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss of data, or the cost of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other theory of liability.

9. ITAR/EAR Compliance. Customer represents that none of the Deposits stored by Iron Mountain pursuant to this Agreement require protection from access by foreign persons because they contain

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer's Deposits do contain any such information, Customer shall notify Iron Mountain of the specific Deposits that contain such information and acknowledges that special storage and service rates shall apply thereto.

10. Non-Custodial Status. Unless Iron Mountain shall have explicitly agreed in writing, Iron Mountain's performance of services shall not cause Iron Mountain to be deemed a "custodian" of the records or "designee" of Customer under state or federal law with respect to such records.

11. Notice of Loss. When Deposits have been lost, damaged or destroyed, Iron Mountain shall, upon confirmation of the event, report the matter in writing to Customer.

12. Safe Materials and Premises. Customer shall not store with IM any material that is highly flammable, may attract vermin or insects, or is otherwise dangerous or unsafe to store or handle, or any material that is regulated by federal or state law or regulation relating to the environment or hazardous materials. Customer shall not store negotiable instruments, jewelry, check stock or other items that have intrinsic value.

13. Termination. Either party may terminate this Agreement upon written notice to the other party in the event that the other party shall have breached any of its material obligations hereunder and shall not have cured such default within forty-five (45) days after written notice of such default, subject to the fees set forth in the applicable Schedule(s). Notwithstanding the foregoing or any other provision hereof, no termination shall be effective prior to the permanent withdrawal of all material stored with Supplier (not to exceed 180 days) and the payment in full for such storage and related services.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**Appendix F to Services Contract 1325**  
**Iron Mountain Terms and Conditions for**  
**Consulting Services**

Iron Mountain Information Management, LLC (“Iron Mountain” or “IM”) will perform the services described on schedules or purchase orders annexed to this Contract, either physically or by reference (each a “Schedule”), and Customer will pay IM for such services according to the rates and provisions in the Schedules. All services will be provided subject to the Contract, this Appendix, together with any other Appendices for services (as applicable), the Schedule(s) and the Glossary of terms that can be found at <http://cic.ironmountain.com> (collectively, the “Agreement”).

1. VALUE OF DEPOSITS. Customer declares, for the purposes of this Agreement, that (a) with respect to hard-copy (paper) records, microfilm and microfiche stored pursuant to this Agreement, the value of such stored items is \$1.00 per carton, linear foot of open-shelf files, container or other storage unit, and (b) with respect to round reel tape, audio tape, video tape, film, data tape, cartridges or cassettes or other non-paper media stored pursuant to this Agreement, the value of such stored items is equal to the cost of replacing the physical media. Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged.

2. LIMITATION OF LIABILITY.

a. Iron Mountain’s liability, if any, for loss or destruction of, or damage to, materials stored with Iron Mountain (“Deposits” or “Items”) is limited to the value of each Deposit as described above, or as otherwise set forth herein. Iron Mountain’s maximum liability with respect to services not related to storage is the amount paid by Customer for a discrete project or, if the loss is related to service of an ongoing and continuing nature, six months of fees paid by Customer for such service.

b. Iron Mountain’s maximum aggregate liability arising out of or in connection with this Agreement regardless of the cause of action and whether arising in contract, tort (including negligence), indemnity, warranty or any other legal theory is limited to the amount paid by Customer pursuant to the applicable SOW. In no event will either Party be liable for any indirect, incidental, consequential, special, punitive, exemplary or similar such losses or damages arising out of or in connection with this Amendment including any loss of profits, interruption of business, loss of data, or cost of recreating any data, however caused, under any theory of liability, regardless of whether any remedy set forth herein fails of its essential purpose, and even if a Party knew of or should have known of the possibility of such loss or damage. This section is not intended to and will not be construed as excluding or limiting any liability contrary to applicable law or public policy, including but not limited to, liability for death or bodily injury. If applicable law or public policy renders any portion of this section unenforceable or invalid, the remainder of the section will remain in full force and effect. This section survives the expiration or termination of this Amendment.

3. Customer Instructions and Ownership Warranty. Customer warrants that it is the owner or legal custodian of the Deposits and has full authority to store the Deposits and direct their disposition in accordance with this Agreement. IM will perform services pursuant to the direction of Customer’s agent(s) identified pursuant to IM’s standards. Authority granted to any persons on standard authorization forms shall constitute Customer’s representation that the identified persons have full authority to order any service, including disposal or removal of Deposits. Such orders may be given in

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

person, by telephone or in writing (fax, email or hard-copy). Customer releases IM from all liability by reason of the destruction of materials pursuant to Customer's authorization.

4. Operational Procedures. Customer shall comply with IM's reasonable operational requirements, as modified from time to time, regarding cartons, carton integrity, delivery/pickup/account closing volumes, preparation for pickup, security, secure shredding protocols, access and similar matters. Extraordinary volume requests (defined as 125% of the average volume over the immediately preceding three month period) may involve additional charges, such as overtime, which Customer will pay at IM's overtime rates, provided Customer consents to such charges in advance.

5. Force Majeure. Neither party shall be liable for delay or inability to perform caused by acts of God, governmental actions, labor unrest, acts of terrorism, riots, unusual traffic delays or other causes beyond its reasonable control.

6. Governmental Orders. IM is authorized to comply with any subpoena or similar order related to the Deposits, provided that IM notifies Customer promptly upon receipt thereof, unless such notice is prohibited by law. IM will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

7. Confidentiality. "Confidential Information" means any information (i) contained in the Deposits, (ii) concerning or relating to the property, business and affairs of the party disclosing such information that is furnished to the receiving party, and (iii) regarding this Agreement, its Schedules and IM's processes and procedures; except for information that was previously known to the receiving party free of any obligation to keep it confidential, is subsequently made public by the disclosing party or is disclosed by a third party having a legal right to make such disclosure. Confidential Information shall be used only in the manner contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing party's written consent. IM shall not obtain any rights of any sort in or to the Confidential Information of Customer contained in Deposits. IM shall implement and maintain reasonable safeguards designed to protect Customer's Confidential Information.

8. Additional Limitation of Liability.

a. Liability for Loss or Damage to Deposits. IM shall not be liable for any loss or destruction of, or damage to, Deposits, including costs resulting from a loss of a Deposit constituting a breach of data security or confidentiality, unless such loss or damage resulted from IM's negligence. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions. Deposits are not insured by IM against loss or damage, however caused. Customer may insure Deposits through third-party insurers for any amount. Customer shall cause its insurers of Deposits to waive any right of subrogation against IM. If Deposits are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Deposits while in the custody of the carrier.

b. Liability for Non-Storage Services. With respect to services not related to the storage of Deposits, IM shall not be liable for any loss or default unless such loss or default is due to the negligence of IM. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions.

c. No Consequential Damages. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss of data, or the cost of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other theory of liability.

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

9. ITAR/EAR Compliance. Customer represents that none of the Deposits stored by Iron Mountain pursuant to this Agreement require protection from access by foreign persons because they contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer's Deposits do contain any such information, Customer shall notify Iron Mountain of the specific Deposits that contain such information and acknowledges that special storage and service rates shall apply thereto.

10. Non-Custodial Status. Unless Iron Mountain shall have explicitly agreed in writing, Iron Mountain's performance of services shall not cause Iron Mountain to be deemed a "custodian" of the records or "designee" of Customer under state or federal law with respect to such records.

11. Notice of Loss. When Deposits have been lost, damaged or destroyed, Iron Mountain shall, upon confirmation of the event, report the matter in writing to Customer.

12. Safe Materials and Premises. Customer shall not store with IM any material that is highly flammable, may attract vermin or insects, or is otherwise dangerous or unsafe to store or handle, or any material that is regulated by federal or state law or regulation relating to the environment or hazardous materials. Customer shall not store negotiable instruments, jewelry, check stock or other items that have intrinsic value.

13. Termination. Either party may terminate this Agreement upon written notice to the other party in the event that the other party shall have breached any of its material obligations hereunder and shall not have cured such default within forty-five (45) days after written notice of such default, subject to the fees set forth in the applicable Schedule(s). Notwithstanding the foregoing or any other provision hereof, no termination shall be effective prior to the permanent withdrawal of all material stored with Supplier (not to exceed 180 days) and the payment in full for such storage and related services.

14. Infringement Indemnification. Iron Mountain shall defend, indemnify and hold harmless Customer and its officers, directors and employees from and against any third-party claim or demand alleging that the Services or Deliverables infringe any United States patent or copyright of any third party or misappropriate any third party's trade secrets, provided that Customer provides Iron Mountain with prompt written notice of any such claim, suit or demand and consents and authorizes Iron Mountain's sole control of the defense of any resulting litigation or settlement thereof. With respect to the foregoing indemnification, Iron Mountain's sole obligation and Customer's exclusive remedy will be for Iron Mountain to defend any such claim or demand and pay any resulting judgment or settlement made, notwithstanding the limitations of liability in Section 7. Iron Mountain will have no liability or obligation to Customer with respect to any claim of infringement or misappropriation in the event and to the extent based upon (i) use of or access to the Services or Deliverables in or from an application or environment or on a platform or with devices not authorized in the applicable Iron Mountain published documentation or other requirements specified in the SOW or this Amendment; (ii) modifications, alterations, combinations or enhancements of the Services or Deliverables not created by Iron Mountain; or (iii) any patent, copyright, or trade secret in which Customer or any affiliate of Customer has an interest. The foregoing indemnification obligations shall not apply in the event that the claim or demand arises as a result of Customer's negligence, intentional misconduct, or breach of this Amendment. If any Services or Deliverables are held, or in Iron Mountain's reasonable opinion could be held, to constitute an infringement or misappropriation of any third party's copyright or trade secret, Iron Mountain may at its option (a) procure the right for Customer to continue using or accessing the Services or Deliverables, (b) replace the Services or Deliverables with non-infringing equivalent service or deliverables; or (c) modify the Services or Deliverables to make them non-infringing. This section

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

states Iron Mountain's sole liability to Customer and Customer's exclusive remedy with respect to any claims of infringement or misappropriation arising out of or in connection with this Amendment.

**Appendix G to Services Contract 1325**  
**Iron Mountain Terms and Conditions for**  
**Pathology Services**

Iron Mountain Information Management, LLC (“Iron Mountain” or “IM”) will perform the services described on schedules or purchase orders annexed to this Contract, either physically or by reference (each a “Schedule”), and Customer will pay IM for such services according to the rates and provisions in the Schedules. All services will be provided subject to the Contract, this Appendix, together with any other Appendices for services (as applicable), the Schedule(s) and the Glossary of terms that can be found at <http://cic.ironmountain.com> (collectively, the “Agreement”).

1. VALUE OF DEPOSITS. Customer declares, for the purposes of this Agreement, that (a) with respect to hard-copy (paper) records, microfilm and microfiche stored pursuant to this Agreement, the value of such stored items is \$1.00 per carton, linear foot of open-shelf files, container or other storage unit, and (b) with respect to round reel tape, audio tape, video tape, film, data tape, cartridges or cassettes or other non-paper media stored pursuant to this Agreement, the value of such stored items is equal to the cost of replacing the physical media. Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged.
2. LIMITATION OF LIABILITY. Iron Mountain’s liability, if any, for loss or destruction of, or damage to, materials stored with Iron Mountain (“Deposits” or “Items”) is limited to the value of each Deposit as described above, or as otherwise set forth herein. Iron Mountain’s maximum liability with respect to services not related to storage is the amount paid by Customer for a discrete project or, if the loss is related to service of an ongoing and continuing nature, six months of fees paid by Customer for such service.
3. Customer Instructions and Ownership Warranty. Customer warrants that it is the owner or legal custodian of the Deposits and has full authority to store the Deposits and direct their disposition in accordance with this Agreement. IM will perform services pursuant to the direction of Customer’s agent(s) identified pursuant to IM’s standards. Authority granted to any persons on standard authorization forms shall constitute Customer’s representation that the identified persons have full authority to order any service, including disposal or removal of Deposits. Such orders may be given in person, by telephone or in writing (fax, email or hard-copy). Customer releases IM from all liability by reason of the destruction of materials pursuant to Customer’s authorization.
4. Operational Procedures. Customer shall comply with IM’s reasonable operational requirements, as modified from time to time, regarding cartons, carton integrity, delivery/pickup/account closing volumes, preparation for pickup, security, secure shredding protocols, access and similar matters. Extraordinary volume requests (defined as 125% of the average volume over the immediately preceding three month period) may involve additional charges, such as overtime, which Customer will pay at IM’s overtime rates, provided Customer consents to such charges in advance.
5. Force Majeure. Neither party shall be liable for delay or inability to perform caused by acts of God, governmental actions, labor unrest, acts of terrorism, riots, unusual traffic delays or other causes beyond its reasonable control.
6. Governmental Orders. IM is authorized to comply with any subpoena or similar order related to the Deposits, provided that IM notifies Customer promptly upon receipt thereof, unless such notice is

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

prohibited by law. IM will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

7. Confidentiality. "Confidential Information" means any information (i) contained in the Deposits, (ii) concerning or relating to the property, business and affairs of the party disclosing such information that is furnished to the receiving party, and (iii) regarding this Agreement, its Schedules and IM's processes and procedures; except for information that was previously known to the receiving party free of any obligation to keep it confidential, is subsequently made public by the disclosing party or is disclosed by a third party having a legal right to make such disclosure. Confidential Information shall be used only in the manner contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing party's written consent. IM shall not obtain any rights of any sort in or to the Confidential Information of Customer contained in Deposits. IM shall implement and maintain reasonable safeguards designed to protect Customer's Confidential Information.

8. Additional Limitation of Liability.

a. Liability for Loss or Damage to Deposits. IM shall not be liable for any loss or destruction of, or damage to, Deposits, including costs resulting from a loss of a Deposit constituting a breach of data security or confidentiality, unless such loss or damage resulted from IM's negligence. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions. Deposits are not insured by IM against loss or damage, however caused. Customer may insure Deposits through third-party insurers for any amount. Customer shall cause its insurers of Deposits to waive any right of subrogation against IM. If Deposits are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Deposits while in the custody of the carrier.

b. Liability for Non-Storage Services. With respect to services not related to the storage of Deposits, IM shall not be liable for any loss or default unless such loss or default is due to the negligence of IM. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions.

c. No Consequential Damages. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss of data, or the cost of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other theory of liability.

9. ITAR/EAR Compliance. Customer represents that none of the Deposits stored by Iron Mountain pursuant to this Agreement require protection from access by foreign persons because they contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer's Deposits do contain any such information, Customer shall notify Iron Mountain of the specific Deposits that contain such information and acknowledges that special storage and service rates shall apply thereto.

10. Non-Custodial Status. Unless Iron Mountain shall have explicitly agreed in writing, Iron Mountain's performance of services shall not cause Iron Mountain to be deemed a "custodian" of the records or "designee" of Customer under state or federal law with respect to such records.

11. Notice of Loss. When Deposits have been lost, damaged or destroyed, Iron Mountain shall, upon confirmation of the event, report the matter in writing to Customer.



Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

12. Safe Materials and Premises. Customer shall not store with IM any material that is highly flammable, may attract vermin or insects, or is otherwise dangerous or unsafe to store or handle, or any material that is regulated by federal or state law or regulation relating to the environment or hazardous materials. Customer shall not store negotiable instruments, jewelry, check stock or other items that have intrinsic value.

13. Termination. Either party may terminate this Agreement upon written notice to the other party in the event that the other party shall have breached any of its material obligations hereunder and shall not have cured such default within forty-five (45) days after written notice of such default, subject to the fees set forth in the applicable Schedule(s). Notwithstanding the foregoing or any other provision hereof, no termination shall be effective prior to the permanent withdrawal of all material stored with Supplier (not to exceed 180 days) and the payment in full for such storage and related services.

14. Definitions.

- a. "Pathology Assets" shall mean any and all Customer materials delivered to Iron Mountain pursuant to the attached schedule, statement(s) of work or Deposits currently stored in Iron Mountain facilities containing Microscope Slides and/or Paraffin Blocks.
- b. "Microscope Slide" is a small flat rectangular piece of glass on which Sections can be mounted for microscopic study, covered by a Cover Slip.
- c. "Cover Slip" is a small and very thin piece of glass used to cover the specimen on a microscope slide plate glass, or sheet glass (glass formed into large thin sheets).
- d. "Paraffin Block" is a small plastic cassette in which fixed tissue is embedded in paraffin wax.
- e. The term "Deposits" in the Agreement is hereby amended to include Pathology Assets.

15. Acceptable Materials and Containers. Customer warrants that the materials delivered to Iron Mountain will be properly labeled and packaged for transportation and will not contain any "hazardous", "toxic", or "radioactive" materials as defined by all applicable laws or regulations. Customer shall be liable for any injury, loss or damage resulting from non-conforming materials. Customer shall not store with Iron Mountain any Pathology Assets that have not been treated with a fixative such as formaldehyde or any materials which contain or have the potential to contain infectious substances arising from those agents listed under 42 CFR 72.3.

16. Removal and Disposal. Iron Mountain agrees to store Customer's Pathology Assets while such materials serve a useful clinical, diagnostic, or research purpose ("Useful Life"); Customer represents that the Pathology Assets do not constitute regulated medical waste. Customer is responsible for determining the end of a Pathology Asset's Useful Life. Upon Customer's determination that certain Pathology Assets will reach the end of their Useful Life, whether as a result of Customer's decision or by statutory requirement, and the material will become waste, Customer will immediately contact Iron Mountain, prior to the end of the Material's Useful Life, to arrange for the removal and disposal of such waste materials. Customer authorizes Iron Mountain to use a licensed third party to perform the packaging, removal, and destruction of any such waste materials. Pricing for Removal and Disposal will be included in a separate destruction schedule.

17. Compliance. Customer warrants compliance with all Federal and State laws, rules, and regulations relating to Customer Pathology Assets, including but not limited to environmental or other laws relating to the handling, packaging, labeling, transportation, storage, and disposal of Pathology Assets, and shall not cause Iron Mountain to be in violation of any such laws, rules or regulations. Customer shall reimburse

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

Iron Mountain for the costs, fees, and expenses (including reasonable attorneys' fees) incurred by Iron Mountain as a result of Customer's breach of the foregoing warranty.

18. Limitations of Liability, Pathology Services.

- f. For the purposes of the Agreement, Customer declares that the value of Pathology Assets stored pursuant to the Agreement is \$1.00 per cubic foot, container or other storage pricing unit ("Declared Value"). Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged.
- g. Iron Mountain shall not be liable for any loss or destruction of, or damage to, Pathology Assets, unless such loss or damage resulted from Iron Mountain's failure to exercise such care as a reasonably careful person would exercise under like circumstances. If liable, the amount of Iron Mountain's liability is limited to the Declared Value set forth above.
- h. Iron Mountain shall not be liable for: (i) loss or damage to Pathology Assets while in transit if Customer does not follow the operational procedures and use the containers recommended by Iron Mountain; (ii) degradation of Pathology Assets due to Customer's decision to store Pathology Assets in a non-temperature controlled environment (e.g., a non-temperature controlled area within a Records Center); or (iii) for damage to Pathology Assets stored in containers that are not packed in accordance with Iron Mountain's recommended procedures, as set forth in the Description of Services attached hereto. If Pathology Assets are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Pathology Assets while in the custody of the carrier.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

## **Appendix H to Services Contract 1325**

### **Iron Mountain Terms and Conditions for**

#### **Data Restoration Services**

Iron Mountain Information Management, LLC (“Iron Mountain” or “IM”) will perform the services described on schedules or purchase orders annexed to this Contract, either physically or by reference (each a “Schedule”), and Customer will pay IM for such services according to the rates and provisions in the Schedules. All services will be provided subject to the Contract, this Appendix, together with any other Appendices for services (as applicable), the Schedule(s) and the Glossary of terms that can be found at <http://cic.ironmountain.com> (collectively, the “Agreement”).

1. VALUE OF DEPOSITS. Customer declares, for the purposes of this Agreement, that (a) with respect to hard-copy (paper) records, microfilm and microfiche stored pursuant to this Agreement, the value of such stored items is \$1.00 per carton, linear foot of open-shelf files, container or other storage unit, and (b) with respect to round reel tape, audio tape, video tape, film, data tape, cartridges or cassettes or other non-paper media stored pursuant to this Agreement, the value of such stored items is equal to the cost of replacing the physical media. Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged.

2. LIMITATION OF LIABILITY. Iron Mountain’s liability, if any, for loss or destruction of, or damage to, materials stored with Iron Mountain (“Deposits” or “Items”) is limited to the value of each Deposit as described above, or as otherwise set forth herein. Iron Mountain’s maximum liability with respect to services not related to storage is the amount paid by Customer for a discrete project or, if the loss is related to service of an ongoing and continuing nature, six months of fees paid by Customer for such service.

3. Customer Instructions. Customer warrants that: (i) it is the owner or legal custodian of the Deposits; (ii) it has full authority to direct the disposition of the Deposits in accordance with this Agreement; and (iii) Iron Mountain’s imaging or otherwise processing the Deposits shall not violate the rights of any third party. IM will perform services pursuant to the direction of Customer’s agent(s) identified pursuant to IM’s standards. Authority granted to any persons on standard authorization forms shall constitute Customer’s representation that the identified persons have full authority to order any service, including disposal or removal of Deposits. Such orders may be given in person, by telephone or in writing (fax, email or hard-copy). Customer releases IM from all liability by reason of the destruction of materials pursuant to Customer’s authorization.

4. Operational Procedures. Customer shall comply with IM’s reasonable operational requirements, as modified from time to time, regarding cartons, carton integrity, delivery/pickup/account closing volumes, preparation for pickup, security, secure shredding protocols, access and similar matters. Extraordinary volume requests (defined as 125% of the average volume over the immediately preceding three month period) may involve additional charges, such as overtime, which Customer will pay at IM’s overtime rates, provided Customer consents to such charges in advance.

5. Force Majeure. Neither party shall be liable for delay or inability to perform caused by acts of God, governmental actions, labor unrest, acts of terrorism, riots, unusual traffic delays or other causes beyond its reasonable control.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

6. Governmental Orders. IM is authorized to comply with any subpoena or similar order related to the Deposits, provided that IM notifies Customer promptly upon receipt thereof, unless such notice is prohibited by law. IM will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

7. Confidentiality. "Confidential Information" means any information (i) contained in the Deposits, (ii) concerning or relating to the property, business and affairs of the party disclosing such information that is furnished to the receiving party, and (iii) regarding this Agreement, its Schedules and IM's processes and procedures; except for information that was previously known to the receiving party free of any obligation to keep it confidential, is subsequently made public by the disclosing party or is disclosed by a third party having a legal right to make such disclosure. Confidential Information shall be used only in the manner contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing party's written consent. IM shall not obtain any rights of any sort in or to the Confidential Information of Customer contained in Deposits. IM shall implement and maintain reasonable safeguards designed to protect Customer's Confidential Information.

8. Additional Limitation of Liability.

a. Liability for Loss or Damage to Deposits. IM shall not be liable for any loss or destruction of, or damage to, Deposits, including costs resulting from a loss of a Deposit constituting a breach of data security or confidentiality, unless such loss or damage resulted from IM's negligence. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions. Deposits are not insured by IM against loss or damage, however caused. Customer may insure Deposits through third-party insurers for any amount. Customer shall cause its insurers of Deposits to waive any right of subrogation against IM. If Deposits are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Deposits while in the custody of the carrier.

b. Liability for Non-Storage Services. With respect to services not related to the storage of Deposits, IM shall not be liable for any loss or default unless such loss or default is due to the negligence of IM. If liable, the amount of IM's liability is limited as provided in Provision 2 of these General Terms and Conditions.

c. No Consequential Damages. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss of data, or the cost of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other theory of liability.

9. ITAR/EAR Compliance. Customer represents that none of the Deposits stored by Iron Mountain pursuant to this Agreement require protection from access by foreign persons because they contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer's Deposits do contain any such information, Customer shall notify Iron Mountain of the specific Deposits that contain such information and acknowledges that special storage and service rates shall apply thereto.

10. Non-Custodial Status. Unless Iron Mountain shall have explicitly agreed in writing, Iron Mountain's performance of services shall not cause Iron Mountain to be deemed a "custodian" of the records or "designee" of Customer under state or federal law with respect to such records.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

11. **Notice of Loss.** When Deposits have been lost, damaged or destroyed, Iron Mountain shall, upon confirmation of the event, report the matter in writing to Customer.

12. **Safe Materials and Premises.** Customer shall not store with IM any material that is highly flammable, may attract vermin or insects, or is otherwise dangerous or unsafe to store or handle, or any material that is regulated by federal or state law or regulation relating to the environment or hazardous materials. Customer shall not store negotiable instruments, jewelry, check stock or other items that have intrinsic value.

13. **Termination.** Either party may terminate this Agreement upon written notice to the other party in the event that the other party shall have breached any of its material obligations hereunder and shall not have cured such default within forty-five (45) days after written notice of such default, subject to the fees set forth in the applicable Schedule(s). Notwithstanding the foregoing or any other provision hereof, no termination shall be effective prior to the permanent withdrawal of all material stored with Supplier (not to exceed 180 days) and the payment in full for such storage and related services.

14. **No Product Warranty.** Iron Mountain hereby assigns to Customer any manufacturers' warranties applicable to any products sold by Iron Mountain pursuant to this Agreement. Iron Mountain provides no warranties related to products sold. WITH RESPECT TO PRODUCTS SOLD BY IRON MOUNTAIN TO CUSTOMER, IRON MOUNTAIN MAKES NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

15. **Provision of Services; Fees for Services.** Iron Mountain hereby agrees to provide data restoration services (the "Services") to Customer. A description of the Services and the additional terms and conditions under which the Services are provided are set forth in a Statement of Work ("SOW") and/or Schedule(s). As full and complete consideration for Iron Mountain's providing the Services, Customer shall pay the fees set forth in a Schedule and any other attached addenda. Fees for Services shall begin as indicated in the Schedule(s). For the purposes of this Agreement, "Deposits" shall mean any materials provided by Customer and processed by Iron Mountain in connection with the Services under this Agreement.

16. **Security.** The Services shall be provided from service centers or facilities designated by Iron Mountain (the "Service Centers"). Iron Mountain shall maintain and enforce at the Service Centers safety, electronic and physical security procedures that are commensurate with industry standards. Iron Mountain shall process Deposits only to the extent required to carry out its obligations or exercise its rights under this Agreement or in accordance with the instructions of Customer.

17. **Transmittal of Deposits to Iron Mountain.** Customer shall ship or otherwise deliver Deposits in a format as agreed in writing by Iron Mountain and Customer.

18. **Limitation on Customer Rights in Processes, Technology.** This Agreement does not convey to Customer any ownership rights in the Services, the technology and/or software used to provide the Services, any "metadata" or indices created by Iron Mountain in connection with the performance of the Services, any documentation related to the Services created by Iron Mountain, or any processes used by Iron Mountain to provide the Services, all of which shall be the exclusive property of Iron Mountain or its licensors.

19. **Iron Mountain Representations and Warranties Concerning Services.**

a. Iron Mountain represents and warrants that the Services (excluding the effect of any third party equipment or software that is under the operation or control of, or is provided by, Customer or any

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

third party) will be provided substantially in conformity with the documentation applicable to the Services. This warranty is limited and shall not apply to any Services where the failure to satisfy this warranty results from Customer's improper use of the Services.

b. Iron Mountain represents and warrants that Iron Mountain's furnishing the Services in accordance with the terms of this Agreement does not violate, infringe or misappropriate any patent, presently published patent application, copyright, trademark, service mark or other intellectual property rights of any third party.

c. EXCEPT FOR THE WARRANTIES PROVIDED IN THIS SECTION AND IN THE AGREEMENT, AND SUBJECT TO ANY APPLICABLE RULE OF LAW THAT MAY NOT BE WAIVED, (A) ALL SERVICES CONTEMPLATED HEREIN ARE PROVIDED "AS IS" AND WITHOUT ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND, AND (B) IRON MOUNTAIN DISCLAIMS ALL WARRANTIES, INCLUDING EXPRESS, STATUTORY OR IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE, ACCURACY, INTEGRATION, COMPLETENESS OR TIMELINESS AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE OR THAT THE SERVICES WILL BE UNINTERRUPTED, NOT DELAYED OR SUSPENDED, UNCHANGED OR ERROR-FREE. CUSTOMER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY PROVIDED HEREIN, NO OTHER WARRANTIES HAVE BEEN MADE TO CUSTOMER BY OR ON BEHALF OF IRON MOUNTAIN OR OTHERWISE FORM THE BASIS FOR THE BARGAIN BETWEEN THE PARTIES. THE REPRESENTATIONS AND WARRANTIES OF IRON MOUNTAIN EXTEND ONLY TO CUSTOMER.

20. Liability for the Services. Iron Mountain shall not be liable under this Amendment unless Iron Mountain fails to exercise such care as a reasonably careful person would exercise under like circumstances. If liable, the amount of Iron Mountain's liability is limited to the amount paid by Customer for a discrete project or, if the service is of an ongoing and continuing nature, six (6) months of fees paid by Customer for such service. If Deposits are placed in the custody of a third-party carrier for transportation, the carrier shall be solely responsible for any loss or destruction of, or damage to, such Deposits while in the custody of the carrier. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss or interruption of business, or the cost of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other theory of liability.

21. Export. Customer shall not export, re-export or otherwise disclose, directly or indirectly, technical data received from Iron Mountain or the direct product of such technical data to any person or destination when such export, re-export or disclosure is prohibited by the laws of the United States or of any other applicable jurisdiction.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**Appendix I to Services Contract 1325**  
**Iron Mountain Terms and Conditions for**  
**Data Center Colocation Services**

Definitions

“Affiliate” means those entities controlling, controlled by, under common control with, or having a common parent with, either Iron Mountain or Customer as applicable. For purposes of the foregoing definition, “control” (including “controlling”, “controlled by” and “under common control with”) means direct or indirect ownership of: (a) not less than fifty percent (50%) of the voting stock of a corporation; (b) the right to vote not less than fifty percent (50%) of the voting stock of a corporation; or (c) not less than fifty percent (50%) ownership interest in a partnership or other business entity.

“AUP” or “Acceptable Use Policy” means the acceptable use policy found at [www.ironmountain.com/onlinecontracts](http://www.ironmountain.com/onlinecontracts).

“Authorized User” means an agent, employee, or other representative of Customer with a certain level of authority (“Authorization Level”) to bind Customer, as granted by Customer on Iron Mountain’s standard authorization form or secure web portal. Such authorization will constitute Customer’s representation that each Authorized User has the authority to bind Customer within the scope of his/her Authorization Level. Depending on the applicable Authorization Level, an Authorized User may order and modify Services and/or Customer Space, issue a trouble ticket for the Services, direct the disposition of Customer Equipment, modify or remove the Authorization Level of another Authorized User, or take other actions on behalf of Customer.

“Base Service” or “License Fees” means the fixed monthly recurring charges for Customer Space as set forth in the applicable Order Form(s).

“Billing Commencement Date” means the date, as specified on the applicable Order, on which License Fees begin to accrue.

“Billing Term” means any mutually agreed upon, committed term of years for the license of the applicable Customer Area(s) and Services, as set forth in an applicable Order or amendment to an Order. The first Billing Term for an applicable Order shall be referred to as the Initial Billing Term, as further defined below. Any subsequent Billing Term shall be an extension to the Term.

“Campus Cross-Connection” means a single mode fiber optic Cross-Connection between two data centers located on the same Iron Mountain Campus.

“Cloud On-Ramp Network Service” means the provision of communication network connectivity provided by Iron Mountain from Customer to a cloud service provider.

“Commencement Date” or “Availability Date” means the commencement date of Customer’s license to use the Customer Space and Services, as specified in the applicable Order Form(s) or as adjusted pursuant to Section 2.3.

“Conditioned Power” means the electrical service provided by Iron Mountain to a Customer Equipment Area which is provisioned through one or more uninterruptible power supply (UPS) system(s), and which is further supported by one or more backup sources.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

“Conditioned Power Dual Corded” means Conditioned Power which is delivered by at least two (2) PDUs or busways with capacity equal to at least the KW Amount.

“Cooling Factor” means the amount of additional power required to support the cooling and electrical overhead within the applicable Customer Equipment Area (a) as set forth in the applicable Order or, if not set forth in the Order, (b) as measured by the Iron Mountain building management system.

“Cross-Connections” means a physical cable connection to a network other than a network operated by Iron Mountain.

“Customer Area” means collectively, the applicable Customer Equipment Area(s) and the Other Customer Areas.

“Customer Equipment” means the equipment and property placed by or on behalf of Customer in the Customer Space, specifically excluding any items owned, leased or licensed by Iron Mountain or its other customers. Customer Equipment must be industry-accepted equipment suitable for use in a data center, which includes but is not limited to, (i) servers and computing devices; (ii) storage arrays and devices; (iii) tape arrays and robots; (iv) network equipment, including but not limited to, routers, switches, VOIP PBX, patch panels, DWDM terminals, hubs, media converters, monitors and keyboards, web cameras, cable management trays, terminal servers and remote power switches; and (v) security devices, including but not limited to, firewalls, intrusion detection devices, spam filters, and DDOS abatement devices.

“Customer Representatives” mean the individuals authorized to have unescorted access to the Customer Space, subject to the terms of this Agreement.

“Customer Space” or “Customer Equipment Area” means the dedicated suite, cage or cabinet space licensed to Customer by Iron Mountain under this Agreement.

“Data” means the data stored on the Customer Equipment or otherwise passing through the Services.

“Data Center” means the data center facility operated by Iron Mountain identified on the applicable Order and containing the Customer Space.

“DIA” or “Direct Internet Access” means the internet protocol bandwidth provided by Iron Mountain which features multi-homed connectivity from two or more connections, unless otherwise specified.

“Diverse Metro Wave Network Service” means the provision of two Unprotected Metro Wave Network Services, provisioned along two physically diverse paths. Automatic failover or link protection to be provided by Customer Equipment.

“Gross” means Customer’s use of Conditioned Power hereunder is included in the License Fees.

“Iron Mountain Space” means all space in the Data Center, other than Customer Space.

“KW Amount” means the amount of Conditioned Power purchased by Customer as set forth on the applicable Order.

“Minimum Monthly Power Charge” means an amount equal to the minimum monthly power rate set forth in the applicable Order multiplied by the KW Amount.



Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

“Net” means Customer shall pay for all Conditioned Power used by Customer in the Customer Equipment Area as a separate and additional charge.

“Net Conditioned Power Charges” means the charges due by Customer to Iron Mountain, as a separate and additional charge, for Net Conditioned Power used each month, as more specifically set forth herein.

“Order Term” means the Order Initial Term, and any subsequent mutually agreed upon Billing Term(s).

“Order Form” or “Order” means Iron Mountain’s standard written order form, signed by both Parties describing the Services, Customer Space, and applicable pricing. The Parties may modify or add to Customer Space or Services, subject to availability, via a mutually agreed upon modified Order Form signed by the Parties.

“Other Customer Area” means the portion of the Data Center the Customer has the exclusive right to use and occupy hereunder, other than the Customer Equipment Area, if any (e.g. office space, storage space, etc.) as specified in the applicable Order.

“Resold Network Services” means the provision of communication network connectivity provided by any third-party telecommunications provider and sold by Iron Mountain to Customer.

“Rules and Regulations” means the data center rules and regulations for the applicable Data Center(s) issued by Iron Mountain relating to its provision of Services to its customers and located at [www.ironmountain.com/onlinecontracts](http://www.ironmountain.com/onlinecontracts).

“Services” or “Related Data Center Services” means the services offered by Iron Mountain that Customer elects to receive and described in the Order Form(s), including, without limitation, the provision of electrical power, the licensing of connections, audit support, the provision of and access to Internet exchange ports and network services, Professional Services, and the build out of Customer Space.

“Service Level Agreement” or “SLA” means Schedule B attached to this Agreement, which describes all potential abatements to Customer in the event Iron Mountain does not meet the levels of Service set forth in the SLA.

“Smart Hands” means the performance of Customer directed requests as set forth in Iron Mountain’s Smart Hands Request Catalog in the Customer Portal that are performed without systems access or login, testing or heavy physical labor.

“Unprotected Metro Wave Network Service” means the provision of communication network connectivity provided by Iron Mountain to Customer, that provides a point to point fiber optic wavelength from location A to location Z. Each wavelength is provisioned along a single physical path, with no automatic failover or link protection.

## 1. License and Related Services.

1.1. Scope. Iron Mountain grants to Customer an exclusive license to use the Customer Space during the Term for (i) the installation, maintenance, repair and operation of Customer Equipment; (ii) the use and receipt of Services; and (iii) the provision and use of electrical power and Internet bandwidth within the Customer Space, subject to and in accordance with the terms and conditions of this Agreement.

1.2. Restrictions. Except as expressly provided in this Agreement, neither Party shall have any right to terminate the license granted in Section 2.1, and the Parties shall remain fully responsible for all

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

obligations and amounts payable under the applicable Order Form for the entire Term. Customer shall not acquire any right, title, or interest in capital expenditures made by Iron Mountain in the Data Center, including but not limited to, Iron Mountain's build out of Customer Space related to this Agreement.

1.3. Availability of Customer Space. Iron Mountain shall make commercially reasonable efforts to make available the Customer Space to Customer by the Commencement Date specified in the applicable Order Form. If Iron Mountain fails to make the Customer Space available to Customer by the scheduled Commencement Date, Iron Mountain shall have no liability arising out of or in connection therewith, and such failure shall not invalidate the license to use the Customer Space or release the Parties from any obligations under this Agreement. Notwithstanding anything to the contrary in this Agreement, the Commencement Date is defined as the date that Iron Mountain actually makes available the Customer Space and, in such event, the length of the Term will not be reduced thereby, and the scheduled expiration of the Term will be extended to provide for the full Term.

1.4. Expiration and Termination. On the date of the expiration or termination of this Agreement, Customer shall have no further rights with respect to the Customer Space and shall, by such date and at its own expense, (i) remove all Customer Equipment, and repair any damage to the Customer Space or Iron Mountain Space resulting from such removal; and (ii) vacate the Customer Space to Iron Mountain in the same condition as it was when delivered to Customer, ordinary wear and tear excepted. In the event of a breach of this Section by Customer, Iron Mountain may exercise any or all of the remedies set forth in the event of a Customer Default as defined in this Agreement.

1.5. Services. Iron Mountain will provide the Services described in the Order Form(s) at the rates and charges set forth therein.

1.6 Smart Hands. At Customer's request, Iron Mountain may perform Smart Hands. In such event, other than as set forth in the SLA, Iron Mountain will not have any liability for, and Customer hereby releases Iron Mountain from, any damages arising out of Iron Mountain's actions in response to, or failure to act on, any Customer request for Smart Hands services hereunder. Each month, Customer shall be entitled to request Smart Hands services in the amount and at the License Fees rate set forth in an applicable Order. Any unused Smart Hands are non-refundable and may not be rolled over to other months or transferred to other Data Centers. Smart Hands requests in excess of the amount set forth in the applicable Order shall be invoiced to Customer at Iron Mountain's License Fees rates set forth in the Customer Portal and at [www.ironmountain.com/onlinecontracts](http://www.ironmountain.com/onlinecontracts). Each request for Smart Hands will require a separate initiation by Customer to Iron Mountain by an authorized representative of Customer.

1.7 Cross-Connections. Subsequent to the execution of an Order that includes Cross-Connection(s), Customer may request that Iron Mountain complete Cross-Connection(s) to or from third-party carriers or providers within the applicable Data Center (or which serve the Data Center), provided that Customer provides to Iron Mountain a fully completed Cross Connect Request Form. Cross-Connection(s) requests in excess of the amount set forth in the applicable Order shall be invoiced to Customer at Iron Mountain's then-current rates set forth at [www.ironmountain.com/onlinecontracts](http://www.ironmountain.com/onlinecontracts). All points of interconnection, conduit and/or cable routes and other details shall be determined by Iron Mountain in its sole discretion and shall belong to Iron Mountain during and after the Term. The responsibilities of Iron Mountain shall be to run and terminate a physical cable and test the cable to confirm continuity of the physical layer thereof. Customer shall be responsible for the circuit utilizing each Cross-Connection, including the initial turn-up, integration, logical function and use thereof. Customer expressly recognizes that other than completing and maintaining the physical Cross-Connection, Iron Mountain does not have any responsibility whatsoever for the nature, performance, quality, integration, protocol,

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

timeliness, utility or other features of circuit(s) provided by a third-party carrier or provider, which shall be governed solely by Customer's agreement(s) with such carrier or provider. Customer shall not allow any carrier to be located in the Customer Equipment Area.

1.8 Requesting Additional Services. Customer may request incremental Smart Hands or Cross-Connections by submitting a written request through the Customer Portal, provided the Customer Portal has such capabilities. Any other modifications or changes shall be reflected in an Order or amendment signed by both Parties.

1.9 DIA. If DIA services are to be provided hereunder to Customer, the following terms and conditions shall apply:

In utilizing the DIA, Customer agrees to follow Iron Mountain's Rules and Regulations and AUP (as then in effect and located at [www.ironmountain.com/onlinecontracts](http://www.ironmountain.com/onlinecontracts)), and may be modified by Iron Mountain from time to time. Iron Mountain uses an industry standard 95th percentile analysis to measure usage for DIA service which allows Customer to burst beyond a given committed rate. In addition, Customer agrees that Customer shall be responsible for the consumption of DIA which is attributable to Customer or its IP space, including any consumption which occurs as a result of any denial of service attack, virus, exploited Customer system or proxy compromise or other exploit of like or kind. Customer shall secure its network and related elements at all times from attack, open proxy hijack and/or other abuse.

Customer acknowledges and agrees that Iron Mountain does not provide any logical network security or exercise any control, of any kind whatsoever, over the content of the information passing through the Internet and Iron Mountain (for itself and on behalf of any applicable service provider), disclaims any and all responsibility and liability as relates to the content of the information passing through the Internet.

Customer acknowledges and agrees as follows: (i) determination of IP address allocation size shall be at the sole discretion of Iron Mountain and in accordance with the applicable Regional Internet Registry's policies and guidelines; and (ii) the IP addresses provided to Customer hereunder shall remain the sole property of Iron Mountain. Iron Mountain hereby grants Customer a nontransferable and non-assignable license to use the IP addresses provided by Iron Mountain during the applicable Term. Iron Mountain reserves the right to require Customer to change its IP addresses with replacement addresses provided by Iron Mountain.

In the event of any termination of the applicable Order or this Agreement, Customer, upon written notice to Iron Mountain and in connection with bona fide transition efforts, shall be entitled to retain control over the route of all IP addresses used by Customer during the preceding sixty (60) days for thirty (30) days following the expiration or termination of the Order or this Agreement, provided that the Customer has complied with all of Iron Mountain's Rules and Regulations AUP and agrees to continue to do so during the thirty (30) day transition period and is otherwise in compliance with this Agreement.

Customer may resell DIA services provided that (i) Customer shall have obtained all requisite approvals or authorizations as may be required by any applicable governmental entity or regulator or Law, (ii) the obligations of Iron Mountain hereunder shall be solely to Customer and not to any third party, (iii) Iron Mountain shall not have any obligation hereunder to support, supervise or otherwise assist parties other than Customer, and (iv) Customer shall be solely responsible for the actions, omissions and other conduct of any party to which it resells the DIA services, including, without limitation, compliance with this Agreement.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

1.10 Colocation. Customer may physically colocate the equipment of a third-party (each, a “Colo User”) at a Customer Equipment Area and utilize the Customer Equipment Area for the benefit of these Colo Users provided that (a) Customer ensures the compliance by each Colo User with this Agreement (including, without limitation, these Terms and Conditions and the Rules and Regulations), (b) remains primarily responsible and liable for the acts, omissions and other conduct of each Colo User, and (c) does not solicit for any services which compete with Iron Mountain’s business of licensing space and providing Related Data Center Services (including, without limitation, colocation services) from any customer of Iron Mountain or prospect which Customer learns about as a result of its business dealings with Iron Mountain or access to a Data Center. Customer shall not provide any Related Data Center Services to a Colo User which, to the knowledge of Customer, has been terminated or refused service directly by Iron Mountain.

2. Term.

2.1. Order Initial Term. Unless otherwise set forth in an Order, the initial term of each Order will commence on the applicable Availability Date and continue for the Initial Billing Term of the applicable Order (the “Order Initial Term”).

2.2 Holdover. If Customer continues to use the Customer Space after the expiration or termination of this Agreement, the terms of this Agreement will continue to apply until (i) Customer ceases using the Customer Space; and (ii) Customer has removed all Customer Equipment from the Customer Space or Iron Mountain has exercised its remedies in the event of a Customer Default. Such use of the Customer Space beyond the expiration or termination of the Agreement will not constitute a renewal or extension of the Agreement. Base Service during such holdover period will increase to one hundred fifty percent (150%) of the Base Service that was in effect immediately prior to termination or expiration.

3. Pricing and Payment.

3.1. Unless otherwise expressly provided in the applicable Order, (a) the License Fees set forth in the Order are due and payable in advance on the first day of each month of the Term and (b) Net Conditioned Power Charges and any other Fees and charges (including, without limitation, Expenses) are due and payable within thirty (30) days’ from the date of Iron Mountain’s invoice. Any annual escalation shall be effective upon each anniversary of (a) if the Billing Commencement Date of the Order falls on the first day of a calendar month, the Billing Commencement Date of the Order, or (b) if the Billing Commencement Date of the Order falls on any day other than the first day of a calendar month, the first day of the month immediately following the Billing Commencement Date of the Order. If Customer receives Conditioned Power (NET) as set forth on an Order, Customer shall pay for all Net Conditioned Power Charges. Customer’s Net Conditioned Power Charges for each month shall be the greater of the Minimum Monthly Power Charge or an amount determined by multiplying (i) the rate per kilowatt hour billed to Iron Mountain by the utility providing electricity to the Data Center during the month, times (ii) the number of kilowatt hours consumed by Customer Equipment multiplied by the Cooling Factor. The rate per kilowatt hour for any month shall be determined from the face of the utility’s invoice by dividing the number of kilowatt hours shown on the invoice with respect to the Data Center for the month by the total charges billed to the Data Center by the utility for the month, or similar method as reasonably determined by Iron Mountain in the event of changes in the utility’s billing method from time to time.

Taxes on Customer Equipment. Customer shall be liable for and shall pay all governmental fees, taxes, tariffs, and other charges levied directly or indirectly against Customer Equipment. If any taxes for which Customer is liable are levied against Iron Mountain or Iron Mountain’s property, including as a

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

withholding agent, Customer shall pay such taxes to Iron Mountain within ten (10) days of Iron Mountain's written notice thereof.

3.2. Other Applicable Taxes. Customer shall pay all applicable taxes on the Services or Customer Space, including any taxes stated separately on Iron Mountain's invoice or as otherwise directed by Iron Mountain in writing. Taxes may include, but are not limited to, any sales, use, or other taxes, assessments or other charges imposed by any governmental or quasi-governmental authority upon Iron Mountain or Customer on (i) the Base Service or other amounts payable by Customer hereunder; (ii) this Agreement, the Services, or the Customer Space, including, without limitation, any applicable possessory interest taxes; or (iii) any document to which Customer is a party creating or transferring an interest in the Customer Space. Customer shall not be responsible for any federal or state income taxes, franchise taxes, excess profits taxes, gift taxes, capital stock taxes, or inheritance, succession or estate taxes imposed on Iron Mountain.

#### 4. Customer Representatives.

4.1. Customer Invitees. Customer shall be responsible for all acts and omissions of its employees, agents and Customer Representatives in connection with their presence at the Data Center and/or their performance under this Agreement. Iron Mountain, in its reasonable discretion, may temporarily suspend condition or restrict the right of one or more Customer, Colo User, Customer Representative(s) or Customer's invitees to visit the Data Center. Under no circumstances shall Iron Mountain be obligated to provide access to a Customer, Representative or other individual who, in the reasonable judgment of Iron Mountain, represents a threat to the orderly operation of the Data Center or Iron Mountain's provision of Services to Customer or generally. Iron Mountain shall be entitled to rely on a verbal or written instruction received or purported to be from or on behalf of any Customer Representative without being required to investigate the validity or content thereof.

4.2 Background Investigation. Customer will maintain a background investigation program that meets or exceeds the following requirements: A background investigation is required for each Customer Representative that will have unescorted physical access to the Data Center identified in an applicable Order. In the event Iron Mountain provides a Customer Party escorted access, Iron Mountain shall bill Customer for Smart Hands services. The background investigation for each individual must be refreshed every five (5) years, provided however in the event Customer licenses space in Iron Mountain's Boyer's data center (WPA-1), the background investigation for each individual must be refreshed every three (3) years. The following minimum searches\* must be completed for each designated individual: (i) Confirmed authorization to work in the U.S. (eVerify); (ii) Ten-year criminal convictions search at three levels (Federal, State and County); (iii) Developed address search to ensure all jurisdictions the person resided within the ten-year period are included in criminal searches; (iv) Government List Searches to include: OFAC SDN List, Office of Inspector General and General Services Administration; (v) Sex Offender Registry Search; and (vi) Verify US Person status. \*For non-US based individuals, the equivalent check(s) in the country of origin should be processed, in accordance with local law. Customer shall not permit or request Iron Mountain to assign any individual unescorted access to the applicable Data Center who (1) has within the past 10 years, been convicted of a felony or a misdemeanor involving violence, theft or fraud or a crime involving dishonesty or breach of trust; (2) has an unverifiable SSN or address; or (3) appears on the OFAC list. Customer shall comply with the recommendations provided by the EEOC in performing an individualized assessment by a dedicated adjudication review team should derogatory information be identified as part of the background investigation. Customer shall provide proof of compliance upon request of Iron Mountain.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

5.1. Operational Procedures. Customer and Customer Representatives shall comply with Iron Mountain's operational requirements, as modified from time to time. Such requirements include, but are not limited to, (a) the Rules and Regulations; (b) safety, security and related requirements regarding the Data Center; and (c) rules related to the Customer Space, power density, location of Customer Equipment and similar matters. Specifically, Customer and Customer Representatives shall not: (i) circumvent or damage any Data Center security equipment, including biometric readers, proximity readers, mantraps, cameras, or associated servers and electronics; or (ii) attempt to access or alter any point of network concentration, such as network demarcation cabinets, intermediate distribution frames, main distribution frames, or meet-me-rooms, without an Iron Mountain escort and Iron Mountain's written consent. Other than temporary access to common areas for the sole purpose of accessing the Customer Space, Customer shall have no access to the Iron Mountain Space unless approved in advance in writing by Iron Mountain.

5.2. Use of Customer Space. Subject to the terms of this Agreement and the Rules and Regulations, Iron Mountain shall provide Customer Representatives access to the Customer Space twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year.

5.2.1. Maintenance of Customer Equipment. Customer shall install, operate, and maintain Customer Equipment pursuant to industry standards and in a manner reasonably acceptable to Iron Mountain. Without limiting the generality of the foregoing, Customer shall safely secure Customer Equipment (including cabling) to cabinets or racks; use blanking panels or equivalent devices to maintain proper airflow; and shall not (i) install Customer Equipment in a way that impedes Data Center airflow or blocks raised floor perforated tiles or return air plenums; (ii) install Customer Equipment (including cabling) in a way that interferes with any other Data Center customer; and (iii) install cabling between cabinets or cages, except for adjacent cabinets or cages licensed by Customer.

5.2.2. Maintenance of Customer Space. Customer shall maintain the Customer Space at its sole cost and expense in accordance with industry standards and practices for data centers, which includes but is not limited to, keeping the Customer Space neat and clean; immediately removing any cardboard or flammable materials from the floor of the Customer Space or Data Center; obeying all posted signs and placards; and refraining from (i) interfering with the operation of hot or cold aisle separation and containment; (ii) using the overhead cable tray, except as directed by Iron Mountain staff; (iii) plugging any device into the track busway system or interfering with the proper operation of the track busway; (iv) interfering with any life safety systems such as fire detection and fire suppression systems; and (v) depressing an emergency shut off button except in case of an emergency. If Customer fails to timely perform any of its responsibilities hereunder, in addition to any other rights and remedies available to Iron Mountain under this Agreement and under Law, Iron Mountain shall have the right but not the obligation, to perform such responsibilities on Customer's behalf and Customer shall pay, upon demand, all amounts expended by Iron Mountain in such performance, plus ten percent (10%) of all such amounts for handling, supervision and overhead.

5.2.3. Iron Mountain's Use. Customer shall not perform any improvements, modifications, changes or alterations to the Customer Space unless approved in advance in writing by Iron Mountain. Iron Mountain may relocate any Customer Space upon prior written notice to Customer. Iron Mountain may access the Customer Space and Customer Equipment at any reasonable time to provide Services or for any other reasonable business purpose.

5.3. Suspension of Services or Access to Customer Space. In the event Iron Mountain is required by law or court order, or in the event of a Customer Default as set forth in this Agreement, Iron Mountain may

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

(i) suspend the Services including, without limitation, electrical power; or (ii) deny Customer access to the Customer Space or Data Center.

5.4. Compliance with Laws; Hazardous Material. Customer shall use the Customer Space and Services in compliance with all applicable federal, state, and local laws and regulations. Customer shall not cause or permit any hazardous material to be stored or used in the Customer Space, and shall reimburse Iron Mountain for damage to any equipment or injury to personnel (including damage or injury to other customers of the Data Center) resulting from Customer's breach of this Section.

5.5. Customer Responsibilities. Customer represents that it is the owner or legal custodian of the Customer Equipment and has full authority to install and operate the Customer Equipment in the Customer Space and direct its disposition in accordance with this Agreement. Customer shall not cause or allow any liens or encumbrances to be imposed upon the Customer Space or the Iron Mountain Space. In the event of a breach of this Section, Iron Mountain may pay all amounts necessary to remove any such liens and encumbrances, and Customer shall promptly reimburse Iron Mountain one hundred ten percent (110%) of all such amounts.

5.6. Maximum Power Limit.

5.6.1. Definition. As defined in the applicable Order Form, Customer's actual electrical power consumption for the Customer Space is limited to the lower of (i) the licensed Maximum Electrical Consumption; or (ii) 80% of the Maximum Primary Power Capacity limit. Notwithstanding the foregoing, at no time may the Maximum Electrical Consumption of any individual primary power circuit or pair of primary and redundant power circuits exceed 80% of the KW Rating of the individual primary power circuit(s) specified in the applicable Order Form. The limits in this paragraph are defined as the "Maximum Power Limit."

5.6.2. Remedies for Breach. If the Customer Space or an individual electrical power circuit has exceeded the Maximum Power Limit, Customer shall cure the breach within forty-eight (48) hours following written notification by Iron Mountain. Customer may cure a breach of this Section 6.6 by (a) reducing electrical load within the Customer Space and/or on the affected electrical power circuit to a level below the Maximum Power Limit; or (b) subject to availability, jointly executing an Order Form with Iron Mountain for additional Maximum Electrical Consumption for the Customer Space and/or for additional electrical power circuits. If Customer fails to cure a breach of this Section 6.6 within forty-eight (48) hours following written notification by Iron Mountain, Iron Mountain may (i) will be entitled to liquidated damages of five hundred dollars (\$500) per day for each day in which Customer's actual electrical consumption exceeds the Maximum Power Limit; (ii) reduce the electrical power load within the affected Customer Space or affected electrical power circuit without liability to Customer or anyone claiming by or through Customer; or (iii) exercise any or all of the remedies set forth in the event of a Customer Default as defined in this Agreement.

5.7. Subordination. In the event that Iron Mountain is a tenant under a lease with respect to the building containing the Data Center (the "Building"), and notwithstanding anything to the contrary in this Agreement, Customer hereby agrees that its use and occupancy of the Customer Space is subject and subordinate to any lease between Iron Mountain and the owner of the Building (a "Master Lease"). If the Building is owned by Iron Mountain, Customer hereby agrees that this Agreement and its rights, licenses, use and occupancy hereunder are subject and subordinate to any mortgage and/or deed of trust granted by Iron Mountain, whether existing or future, and to any renewals, modifications, consolidations, extensions and replacements thereof (including, without limitation, all advances thereon, whether existing or future), unless the holder of any such mortgage or deed of trust elects

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

otherwise. If this Agreement is subordinate to any such mortgage and/or deed of trust and the holder or any other party (the "Successor") shall succeed to the interest of Iron Mountain, at the election of the Successor, Customer shall attorn to the Successor, and this Agreement will continue in full force and effect between the Successor and Customer. Customer shall, within ten (10) business days' prior written notice from Iron Mountain, deliver to Iron Mountain a statement signed by Customer certifying as to such matters as may be reasonably requested by Iron Mountain, including any such statement or document reasonably required by Iron Mountain or its lessor or lender in connection with this Section. Customer acknowledges and agrees that any such statement may be relied upon by Iron Mountain and any of its designees, including, without limitation, any prospective purchaser, assignee, lessor or lender. This Section is self-operative, and no further instrument shall be required to effect such subordination of this Agreement.

6. Force Majeure. Any failure or delay by either Party in the performance of its obligations under this Agreement will not be deemed a default or grounds for liability or termination if such failure or delay is caused by an event beyond the affected Party's reasonable control, or by acts of God, governmental actions, labor unrest, acts of terrorism or war, unusually severe weather, riots, or fire (a "Force Majeure Event"). The affected Party will be excused from any further performance of its obligations affected by the Force Majeure Event for as long as such Force Majeure Event continues. The affected Party shall promptly notify the other Party in writing of the occurrence of a Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event. If a Party's inability to perform under the Agreement due to a Force Majeure Event persists for a period of sixty (60) days following the Force Majeure Event, the other Party may terminate only the portion of the Agreement or applicable Order Form(s) directly affected by the Force Majeure Event. Notwithstanding any provision to the contrary, a Force Majeure Event will not excuse payment obligations under this Agreement.

7. Governmental Orders. Iron Mountain cannot prevent access by governmental entities to Customer Equipment or Data. However, in the event Iron Mountain receives any subpoena, warrant, court order or similar such governmental agency or legal requirement ("Order") that purports to compel disclosure of any of Data or the Customer Equipment, Iron Mountain shall promptly notify Customer of such Order (unless such notice is prohibited by law or judicial order) and shall cooperate with Customer, at Customer's expense, in the exercise of Customer's right to protect the confidentiality of Data and/or the Customer Equipment. Iron Mountain may comply with any such Order, except to the extent Customer obtains a court order quashing or limiting such Order.

8. Confidentiality; Privacy, Security, and Data Protection.

8.1. Confidential Information. "Confidential Information" means any (i) proprietary, confidential, or trade secret information disclosed by a Party to the other Party during negotiations or discussions regarding various business activities under this Agreement, (ii) information regarding this Agreement or Order Form(s), and (iii) information regarding Iron Mountain's processes and procedures, including but not limited to, information received by Customer or Customer Representatives related to Iron Mountain's Data Center operations or other customers of Iron Mountain; except for information that was previously known to the receiving Party free of any obligation to keep it confidential, is subsequently made public by the disclosing Party, or is disclosed by a third party having a legal right to make such disclosure. Confidential Information will not include the Customer Equipment or Data, which the Parties agree to address separately under this Agreement. Confidential Information shall be used only in the manner and for the purposes contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing Party's written consent. Neither Party shall obtain any rights in or to the Confidential Information of the other Party. Each Party shall implement and maintain



## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

reasonable safeguards designed to protect the other Party's Confidential Information, and will have no liability hereunder for any disclosure, loss or misuse of Confidential Information which could not have been avoided by exercise of such degree of care. Upon the expiration or termination of this Agreement, each Party shall promptly return to the other Party or destroy all Confidential Information in its possession. Each Party acknowledges that it will not obtain any right, title or interest in or to the Confidential Information of the other party as a result of disclosure under this Agreement.

#### 9. Limitation of Liability.

9.1. Liability for Customer Equipment and Data. Iron Mountain will have no liability for any loss or destruction of, or damage to, Customer Equipment, unless and to the extent caused by its gross negligence or willful misconduct, and then only in an amount equal to the then-current value of such Customer Equipment. Iron Mountain will have no liability for loss or destruction of, or damage to (i) Customer Equipment while in the custody of third-party transportation providers; or (ii) Data, wherever stored or transmitted (including via a third-party telecommunications provider), including any and all costs, expenses or liabilities resulting from a breach of data security or confidentiality. Customer is solely responsible for encrypting its Data.

9.2. Maximum Liability. Iron Mountain's maximum aggregate liability arising out of or in connection with this Agreement regardless of the cause of action and whether arising in contract, tort (including negligence), indemnity, warranty or any other legal theory is limited to the Base Service paid by Customer for the three (3) months immediately preceding the claim. Customer acknowledges and agrees that the Services include third-party technology and products. Further, Customer acknowledges and agrees that Iron Mountain has no control over Data transmitted via third-party technology or products and Iron Mountain shall have no liability arising from or in connection with third-party technology or products.

9.3. No Consequential Damages. In no event will either Party be liable for any indirect, incidental, consequential, special, punitive, exemplary or similar such losses or damages arising out of or in connection with this Agreement including any loss of profits, interruption of business, or the loss of or cost of recreating any data, however caused, under any theory of liability (whether in contract, tort, warranty, or otherwise), and regardless of whether any remedy set forth herein fails of its essential purpose and even if a Party knew of or should have known of the possibility of such loss or damage.

9.4. Construction. This Section 10 "Limitation of Liability" is not intended to and will not be construed as excluding or limiting any liability contrary to applicable law or public policy, including but not limited to, liability for death or bodily injury. If applicable law or public policy renders any portion of this Section 10 unenforceable or invalid, the remainder of the Section will remain in full force and effect. This Section 10 survives the expiration or termination of this Agreement.

#### 10. Indemnification.

10.1. Iron Mountain Indemnification. Iron Mountain shall indemnify, defend, and hold harmless Customer and its Affiliates, subsidiaries, officers, directors and employees from and against any and all third-party claims or demands arising out of or in connection with (i) bodily injury (including death), to the extent based upon the negligent acts or omissions of Iron Mountain; and (ii) allegations that the Services infringe any United States patent or copyright of any third party or misappropriate any third party's trade secrets. Iron Mountain shall have no liability or obligation to Customer with respect to any claim of infringement or misappropriation in the event and to the extent based upon (a) use of or access to the Services in or from an application or environment or on a platform or with devices not authorized in the applicable Iron Mountain published documentation or other requirements specified under this

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

Agreement, (b) modifications, alterations, combinations or enhancements of the Services not created by Iron Mountain or (c) any patent, copyright, or trade secret in which Customer or any Affiliate of Customer has an interest. The foregoing indemnification obligations shall not apply in the event and to the extent that the claim or demand arises as a result of Customer's negligence, willful misconduct, or breach of this Agreement. This paragraph survives the expiration or termination of this Agreement.

10.2. Indemnification Procedures. Customer shall provide Iron Mountain prompt written notice of any such claim or demand. Iron Mountain shall, at its option and expense, assume control of the defense and resolution of each claim or demand and (i) Iron Mountain shall not settle any claim requiring any admission of fault or payment of money on the part of Customer without its prior written consent (not to be unreasonably withheld); (ii) Customer shall have the right to participate, at its own expense, in the claim or suit; and (iii) Customer shall cooperate with the Iron Mountain as may be reasonably requested at Iron Mountain's cost and expense. Iron Mountain's sole obligation hereunder shall be to pay any judgment rendered, or settlement made, as a result of any such claim or demand.

## 11. Insurance.

11.1. Customer Insurance. Customer shall, at its sole cost and expense, procure and maintain the following insurance: (i) General Liability insurance in an amount not less than two million dollars (\$2,000,000) per occurrence and three million dollars (\$3,000,000) in the annual aggregate for bodily injury and property damage and personal injury coverage; (ii) a policy of standard fire, extended coverage and special extended coverage insurance (all risks), in an amount equal to the full replacement value new, without deduction for depreciation, covering all Customer Equipment; and (iii) Automobile Liability insurance in an amount not less than one million (\$1,000,000) per accident. All insurance under this paragraph shall (a) be with reputable insurers licensed to do business in the state where the Data Center is located; (b) be provided by an insurer with an A.M. Best's financial rating of "A- XI" or better; (c) have commercially reasonable deductibles and be written on an occurrence basis; (d) name Iron Mountain and its designated lenders, lessors and managers as additional insureds (with respect to General Liability and Automobile Liability only); (e) be effective while Customer Equipment is in, and in transit to, the Data Center; and (f) provide that such insurance cannot be canceled upon less than thirty (30) days' prior written notice to Iron Mountain. At any time during the Term, Iron Mountain may request that Customer furnish certificates of insurance to Iron Mountain which evidence that Customer has obtained the insurance required hereunder, and provide evidence to Iron Mountain of the deductibles of all policies required hereunder. Customer shall cause its insurers to waive any rights of subrogation against Iron Mountain. Customer waives any and all rights, remedies, claims, actions and causes of action against Iron Mountain that it may have as a result of any loss or damage to Customer Equipment, or other claims or demands which are (or would have been, had Customer carried the insurance required by this Agreement) covered by insurance.

11.2. Iron Mountain Insurance. Iron Mountain shall, at its sole cost and expense, procure and maintain the following insurance during the Term: (i) commercial general liability insurance in an amount not less than two million dollars (\$2,000,000) per occurrence and three million dollars (\$3,000,000) in the annual aggregate for bodily injury and personal injury coverage; and (ii) a policy of standard fire, extended coverage and special extended coverage insurance (all risks), in an amount equal to the full replacement value of Iron Mountain's equipment in the Data Center. All insurance hereunder shall be with reputable insurers licensed to do business in the state where the Data Center is located, shall have commercially reasonable deductibles, and shall be written on an occurrence basis and may be under an umbrella, blanket or similar policy. Iron Mountain does not insure Customer Equipment or Data against loss or damage, however caused.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

## 12. Warranty.

12.1. Iron Mountain. Iron Mountain represents, warrants and covenants that as of the Effective Date it will have the legal right and authority, and will continue to maintain the legal right and authority during the Term, to grant to Customer a license for the use by Customer of the Customer Area and provide the Related Data Center Services to Customer as contemplated by this Agreement. Iron Mountain shall comply with Law in its provision of the Related Data Center Services. In addition, Iron Mountain represents and warrants that it has the legal right and authority to enter into this Agreement and abide by all of its terms and conditions throughout the term of the Agreement.

Iron Mountain will provide the Related Data Center Services in accordance with the applicable service levels set forth in the SLA at Attachment C attached hereto. IN THE EVENT OF A BREACH OF THE SLA, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, AND IRON MOUNTAIN'S SOLE AND EXCLUSIVE LIABILITY, SHALL BE FOR IRON MOUNTAIN TO PROVIDE CUSTOMER THE APPLICABLE SERVICE LEVEL CREDIT(S) SET FORTH IN ATTACHMENT C.

12.2. Limitation and Disclaimer. THE WARRANTIES SET FORTH ABOVE EXTEND ONLY TO CUSTOMER AND ARE IRON MOUNTAIN'S SOLE AND EXCLUSIVE WARRANTIES UNDER THIS AGREEMENT. THESE WARRANTIES ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE. IRON MOUNTAIN DISCLAIMS, AND CUSTOMER IRREVOCABLY WAIVES, ALL SUCH OTHER WARRANTIES.

## 13. Customer Default.

13.1. Definition. "Customer Default" means (i) Customer's failure to pay undisputed fees or other amounts when due, provided however, that Customer shall have a five (5) business day grace period no more than three (3) times in any rolling twelve (12) months; (ii) Customer exceeding the Maximum Power Limit and failing to cure within forty-eight (48) hours after written notification by Iron Mountain; (iii) Customer's failure to timely remove Customer Equipment or vacate the Customer Space in breach of Section 2.4; (iv) any violation of the AUP; or (v) the failure by Customer to cure any other breach of this Agreement within thirty (30) days after written notice is delivered by Iron Mountain.

13.2. Remedies. In the event of a Customer Default, Iron Mountain may (i) terminate the license for the Customer Space; (ii) recover from Customer all of the Base Service that would otherwise have been payable by Customer for all of the remaining Term absent any termination of this Agreement; (iii) suspend any or all of the Services (including, without limitation, electrical power); (iv) deny Customer and Customer Representatives access to the Customer Space or Data Center; and (v) at Customer's expense remove, store, securely dispose of, or sell the Customer Equipment in accordance with applicable law, provided that Iron Mountain shall provide a final written notice ten (10) days prior to such secure destruction or sale. Notwithstanding the foregoing, Iron Mountain shall not sell Customer's tapes, hard drives, cassettes, cartridges, CDs, DVDs or other media-based storage devices ("Media") in connection with this Section; Iron Mountain may only securely destroy such Media at Customer's expense. In the event of any suspension of Services hereunder, Customer shall pay Iron Mountain a commercially reasonable reinstatement fee in the event of any reinstatement of such Services. Before exercising its remedies under this Section, Iron Mountain shall provide advance written notice to an Authorized User, a Customer Representative, or Customer at the notice address set forth in Section 19. In the event Iron Mountain takes any actions pursuant to this Section, it will have no liability to Customer or anyone claiming by or through Customer, and Customer shall pay all costs incurred by Iron Mountain in connection therewith.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

14. Iron Mountain Default. Customer may terminate this Agreement in the event that Iron Mountain materially breaches any of its obligations under this Agreement, unless Iron Mountain cures (or takes reasonable steps to begin to cure) such breach within sixty (60) days following receipt of Customer's written notice thereof.

15. Service Level Agreement. Customer shall be entitled to abatement under the Service Level Agreement in the event of certain Failures as defined in the SLA. Such abatement is Customer's exclusive remedy and Iron Mountain's sole liability arising out of or in connection with any Failures under the SLA.

16. Order Forms; Purchase Orders. Executed Order Form(s) will govern the price and scope of the Customer Space and Services. If Customer requests a project or Services modification that results in a one-time nonrecurring charge, the Parties shall detail the mutually agreed upon project or modification on Iron Mountain's standard form work order signed by both Parties (a "Work Order"). All pre-printed terms and conditions included on any Customer purchase order shall be of no force or effect and shall not form a part of this Agreement. In the event of inconsistency between this text and the terms of any other document, the following will be the order of precedence: (i) this text; (ii) the Order Form(s); and (iii) any other documents executed by the Parties (excluding mutually negotiated documents that expressly amend the Agreement).

17. ITAR/EAR Compliance. Customer represents that none of the Customer Equipment of Data contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774) (cumulatively, "controlled information"), and acknowledges that Iron Mountain will not handle such materials under its plan for compliance with export controls. Notwithstanding, if Customer notifies Iron Mountain that Customer Equipment of Data contain controlled information, Iron Mountain will apply its Plan for compliance with export controls, and Customer acknowledges that special storage and service rates may apply.

18. Notices. Unless otherwise provided in this Agreement, any notice to be given by one Party to the other shall be in writing and shall be transmitted by certified mail, postage prepaid, or sent by nationally recognized overnight courier. Notice will be effective when received by the addressee. The current addresses for such notices are as follows:

If to Customer, then to:

If to Iron Mountain, then to:

Iron Mountain Data Centers, LLC  
615 N 48<sup>th</sup> Street  
Phoenix, AZ 85008  
Attn: Legal

Either Party may change the address to which notices are to be sent by sending a written notice to the other in accordance with the terms set forth in this Section.

19. Publicity. Customer hereby grants to Iron Mountain and its Affiliates a revocable, nonexclusive, worldwide, royalty-free license to use and reproduce Customer's name, logo, trademarks, and service marks on its website, marketing materials, and press releases, solely for purposes of identifying Customer as a customer of Iron Mountain. Should a security breach of Customer's Data occur and Customer is required to disclose, issue notices, or issue a press release regarding such breach, either as

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

required by law or as determined by Customer, then Customer shall not identify Iron Mountain or the location of the Data Center in any disclosure or press release pertaining to such breach. Customer, and not Iron Mountain, is solely responsible for sending any legally required notices in the event of a security breach of Customer's Data.

20. Assignment. Without the consent of the other Party, neither Party shall assign any right under the Agreement, except Iron Mountain may assign any such right to an Affiliate. The non-assigning Party shall not unreasonably withhold its consent.

21. Reserved

22. Cumulative Remedies. Unless expressly stated to the contrary in this Agreement, all rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the Parties, whether provided by law, equity, statute, in any other agreement between the Parties or otherwise.

23. Entire Agreement. This Agreement, together with the Acceptable Use Policy found at [www.ironmountain.com/onlinecontracts](http://www.ironmountain.com/onlinecontracts), incorporated herein by reference, constitutes the complete and exclusive statement of the agreement between the Parties and supersedes all prior or contemporaneous proposals, oral or written, and all other communications between the Parties relating to the subject matter of this Agreement.

#### SCHEDULE B: SERVICE LEVEL AGREEMENT

##### I. SERVICE LEVEL OBJECTIVES

Set forth below are Iron Mountain's Service Level Objectives for specific Related Data Center Services:

***Power:***

For Customers who deploy (i) Conditioned Power Dual Corded: Iron Mountain's service level objective is **100 percent (100%)** availability of Conditioned Power to the Customer Equipment Area.

***Temperature:***

Iron Mountain's service level objective is to maintain an ambient temperature between fifty-nine (59) degrees and ninety (90) degrees Fahrenheit (fifteen (15) degrees and thirty-two (32) degrees Celsius) at all times in the Customer Equipment Area.

***Humidity:***

Iron Mountain's service level objective is to maintain an ambient humidity between twenty percent (20%) and eighty percent (80%) in the Customer Equipment Area.

***DIA:***

For Customers who deploy dual network feed configurations, Iron Mountain's service level objective is one hundred percent (100%) availability of DIA.

***Resold Network Service:***

Iron Mountain's service level objective will be the service level objective provided by the underlying third-party telecommunications provider.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

***Unprotected Metro Wave Network Service:***

Iron Mountain’s service level objective is ninety-nine percent (99%) availability of Unprotected Metro Wave Network Services.

***Diverse Metro Wave Network Service:***

Iron Mountain’s service level objective is one hundred percent (100%) availability of Diverse Metro Wave Network Services.

***Cloud On-Ramp Network Service:***

Iron Mountain’s service level objective is ninety-nine percent and 99/100 (99.99%) availability of Cloud On-Ramp Network Services.

***Cross-Connections:***

Iron Mountain’s service level objective is to ensure that all cross connections licensed by Customer from Iron Mountain in the applicable Customer Equipment Area is available and uninterrupted on both the primary and redundant connections.

***Smart Hands:***

Iron Mountain’s service level objective is to acknowledge Smart Hands requests within thirty (30) minutes of such request.

***Access Control:***

Iron Mountain’s service level objective is to maintain access control which identifies or authenticates authorized visitors into the managed Data Center (the “Access Control Objective”).

**II. SERVICE LEVEL CREDITS**

The table below sets forth Customer’s sole and exclusive remedy for failures to meet any of the Service Level Objectives for the Related Data Center Services referenced therein (a “Service Level Failure”).

Service Level Objective	Service Level Failure	Service Level Credit
<b>Power</b>	<b>Primary Power Failure (Dual Corded)</b> – Where Customer deploys Conditioned Power Dual Corded in an A & B configuration from A & B PDUs or busway, it shall be a Service Level Failure if both electricity feeds A and B fail	The Service Level Credit shall equal the total monthly License Fees of the applicable Customer Equipment Area where such Conditioned Power (Dual Corded) is deployed multiplied by ten percent (10%) for each

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

	simultaneously for any amount of time to supply power, as determined at the line side of the PDU or busway.	fifteen (15) minutes or portion thereof.
<b>Temperature</b>	<b>Temperature Failure</b> - It shall be a Service Level Failure if the ambient Air Temperature (as defined in Note 1 below) average, as measured across all measurement points (a "Temperature Reading") is outside a range of fifty nine (59) degrees Fahrenheit to ninety (90) degrees Fahrenheit (fifteen (15) degrees to thirty-two (32) degrees Celsius) for four (4) hours after a Temperature Reading fell outside a range of fifty nine (59) degrees Fahrenheit to ninety (90) degrees Fahrenheit (fifteen (15) degrees and thirty-two (32) degrees Celsius).	The Service Level Credit shall equal the total monthly License Fees of the applicable Customer Equipment Area multiplied by five percent (5%) for each Temperature Failure. For purposes of clarification, Customer receives a Service Level Credit after each four (4) hour period during which a Temperature Failure continues.
<b>Humidity</b>	<b>Humidity Failure</b> - It shall be a Service Level Failure if the ambient air relative humidity average, as measured in accordance with Note 2 below (a "Humidity Reading"), is below twenty percent (20%) or above eighty percent (80%) humidity six (6) hours after a Humidity Reading fell below twenty-five percent (25%).	The Service Level Credit shall equal the total monthly License Fees of the applicable Customer Equipment Area multiplied by five percent (5%) for each Humidity Failure. For purposes of clarification, Customer receives a Service Level Credit after each six (6) hour period during which a Humidity Failure continues.
<b>Direct Internet Access (DIA)</b>	<b>DIA</b> - If Customer takes dual network feed configurations, it shall be a Service Level Failure if both network feeds are unavailable simultaneously for any amount of time to the Customer Equipment Area.	The Service Level Credit shall equal the total monthly License Fees specific to DIA for the applicable Customer Equipment Area multiplied by ten percent (10%) for each fifteen (15) minutes or portion thereof.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

<b>Resold Network Service</b>	<b>Resold Network Failure</b> -It shall be a Service Level Failure as defined by the underlying third-party telecommunications provider.	The Service Level Credit shall equal the credits received and passed through from the underlying third-party telecommunications provider not to exceed the total monthly License Fees specific to the affected Resold Network Service to the Customer Equipment Area.
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Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

Service Level Objective	Service Level Failure	Service Level Credit
<b>Unprotected Metro Wave Network Service</b>	<b>Unprotected Metro Wave Network Service Failure</b> - It shall be a Service Level Failure if the cumulative availability of each Unprotected Metro Wave Network service is less than ninety nine percent (99%) in any calendar month.	The Service Level Credit shall equal fifty percent (50%) of the total monthly License Fees specific to affected Unprotected Metro Wave Network Service to the Customer Equipment Area.
<b>Diverse Metro Waive Network Service</b>	<b>Diverse Metro Waive Network Service Failure</b> - It shall be a Service Level Failure if the cumulative availability of each Diverse Metro Waive Network Service is less than one hundred percent (100%) in any calendar month.	The Service Level Credit shall equal the total monthly License Fees specific to the affected Diverse Metro Waive Network Service to the Customer Equipment Area.
<b>Cloud On-Ramp Network Service</b>	<b>Cloud On-Ramp Network Service Failure</b> - It shall be a Service Level Failure if the cumulative availability of each Cloud On-Ramp Network Service is less than ninety-nine percent and 99/100 (99.99%) in any calendar month.	The Service Level Credit shall equal fifty percent (50%) of the total monthly License Fees specific to the affected Cloud On-Ramp Network Service to the Customer Equipment Area.
<b>Cross Connections</b>	<b>Cross Connections</b> – Provided Customer takes dual Cross Connections and deploys them in a redundant manner, it shall be a Service Level Failure if a cross connection licensed by Customer from Iron Mountain in the applicable Customer Equipment Area is unavailable on both the primary and redundant connections.	The Service Level Credit shall equal the total monthly License Fees specific to Cross-Connections for the applicable Customer Equipment Area.
<b>Smart Hands</b>	<b>Smart Hands</b> – It shall be a Service Level Failure if Iron	The Service Level Credit shall equal the total monthly License

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

	Mountain fails to acknowledge a Smart Hands requests within thirty (30) minutes of receipt of such request	Fees specific to Smart Hands for the applicable Customer Equipment Area.
<b>Access Control</b>	<b>Access Control</b> – It shall be a Service Level Failure if there is a lack of system(s) or personnel to execute the Access Control Objective.	The Service Level Credit shall equal the total monthly License Fees of the applicable Customer Equipment Area multiplied by five percent (5%) for each fifteen (15) minutes or portion thereof.

*Note 1: Air Temperature will be monitored at one or more points of the designated cold aisles in the Customer Equipment Area or as otherwise reasonably determined by Iron Mountain. If multiple points are measured, an average will be used.*

*Note 2: Humidity will be measured at one or more points of the designated cold aisles in the Customer Equipment Area, or as otherwise reasonably determined by Iron Mountain. If multiple points are measured, an average will be used.*

*Note 3: As relates to DIA, Customer recognizes that the internet is comprised of thousands of autonomous systems and that this SLA covers the provision of access by Iron Mountain to the global internet. Routing anomalies, asymmetries, inconsistencies and failures, outside of the control of Iron Mountain, can and will occur on other networks. In such instance, Iron Mountain shall use its commercially reasonable efforts to route traffic via an alternative route path, but any such events shall not be deemed to be a Service Level Failure for purposes hereof. Further, if the price of the DIA is not specified specifically on Attachment A (e.g., due to package pricing), the price will be determined by Iron Mountain using Iron Mountain’s then current market pricing for DIA.*

In the event Customer becomes aware of a Service Level Failure, Customer shall notify Iron Mountain via the Customer Portal or via telephone to Iron Mountain’s 24-hour response line. An applicable Service Level Credit allowance shall appear on Customer’s next invoice following processing. Service Level Credits shall not have any cash value at the end of the Term or otherwise. Service Level Credits shall be calculated as a rebate of monthly License Fees, as applied specifically to the particular Order and Data Center Service that experienced the Service Level Failure.

One or more concurrent Service Level Failures shall yield the specific Service Level Credit that is most favorable to Customer.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

No Service Level Credits will be given for a service interruption: (a) caused by the action or failure to act by a Customer Party; (b) due to failure of equipment provided by a Customer Party; (c) which is part of a planned service interruption for maintenance, or that results from implementation of a Customer request or direction; (d) if Customer licenses Conditioned Power Dual Corded and Customer deploys a configuration with more than fifty percent (50%) of the KW Amount deployed to either side ; (e) due to a Force Majeure Event; (f) for which Customer is entitled to a Service Level Credit for the same or a contemporaneous Service Level Failure; (g) affecting portions of the Other Customer Areas; or (h) resulting from Customer's breach of this Agreement.

Total cumulative Service Level Credits earned in any thirty (30) day period shall not exceed the amount of one (1) month's License Fees for the Customer Equipment Area.

This Service Level Agreement may be modified from time to time by Iron Mountain and can be reviewed by Customer at the Data Center, provided that Customer may request that the terms of the particular Service Level Agreement that were in effect as of the Effective Date remain applicable during the Term.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**Appendix J to Services Contract 1325**  
**Iron Mountain Terms and Conditions for**  
**Policy Center and Global Research Service**

**Definitions.**

**“Affiliate”** means those entities controlling, controlled by, under common control with, or having a common parent with, either Iron Mountain or Customer as applicable. For purposes of the foregoing definition, “control” (including “controlling”, “controlled by” and “under common control with”) shall mean direct or indirect ownership of: (a) not less than fifty percent (50%) of the voting stock of a corporation, (b) the right to vote not less than fifty percent (50%) of the voting stock of a corporation, or (c) not less than fifty percent (50%) ownership interest in a partnership or other business entity.

**“Data”** means all data and information provided by Customer to Iron Mountain under this Agreement in connection with the Services.

**“Deliverables”** means all reports, documents, charts and other physical manifestations of the results of the Professional Services.

**“Documentation”** means user manuals for the Services, the applicable installation guides, service descriptions, technical specifications, and online help files provided by Iron Mountain or available on Iron Mountain’s online portal.

**“Global Research Subscription”** shall mean the Customer’s subscription to one or more data sets as specified in a Schedule, and as further described in the applicable Service Specific Terms and Conditions “SSTC”.

**“Policy Center Subscription”** means the software service and associated Documentation specified in the Policy Center Subscription Schedule, and as further described in applicable SSTC.

**“Professional Services”** means the consulting, installation and training services performed by Iron Mountain personnel for the benefit of Customer as set forth in a Statement of Work or Schedule.

**“Schedule”** means a document annexed to this Agreement, physically or by reference, describing among other things the Global Research and Policy Center Subscription Service, applicable SSTC, term, number of licensed users and pricing.

**“Service Specific Terms and Conditions” (“SSTC”)** means the specific terms and conditions related to the Global Research and Policy Center Subscription Service the Customer is licensing from Iron Mountain under this Agreement. The applicable SSTC will be specified on each Schedule and only apply to the particular Services described therein.

**“Services”** means the Subscription Services, Support Services, Professional Services, and Documentation necessary to provide Services, all as set forth in the applicable Schedule and SSTC or Statement of Work.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

“**Statement of Work**” or “**SOW**” means the written statement of work pursuant to which Iron Mountain will perform Professional Services for Customer under this Agreement.

“**Subscription Services**” mean the Iron Mountain Policy Center Subscription and Global Research Subscription and associated Documentation, as described in the applicable Schedule.

“**Support Services**” means the service and related maintenance in support of the Subscription Services purchased by Customer as described in the applicable SSTC or Schedule.

**1. License Terms for Subscription Services.**

1.1. License Grant for Subscription Services. Iron Mountain shall perform the Subscription Services at the rates and charges set forth in a Schedule. Iron Mountain grants to Customer and its Affiliates a non-exclusive, non-transferable license for the term of this Agreement to: (i) use the Subscription Services in the manner set forth in this Agreement and the applicable Schedule; (ii) use the Subscription Services only for Customer’s internal business needs; and (iii) use the Documentation to support the use of the Subscription Services. Customer shall not sublicense, sell, rent, lease, transfer, distribute or otherwise commercially exploit or make the Subscription Services or Documentation available to any third party other than its agents or contractors who are bound to comply with the terms and conditions of this Agreement. Customer and all of its users who are licensed shall be bound by and comply with this Agreement, and Customer is solely responsible for the activities of its users and for the accuracy, integrity, legality, reliability, and appropriateness of all Data.

1.2. Restrictions. Customer shall not (i) attempt to reverse engineer, decompile, disassemble, or attempt to derive the source code of the Subscription Services; (ii) modify, port, translate, localize or create derivative works of the Subscription Services; (iii) use the Subscription Services to (a) infringe on the intellectual property rights, publicity rights, or privacy rights of any third party; (b) violate, or cause Iron Mountain to violate, any law, statute, ordinance or regulation; (c) store defamatory, trade libelous, or otherwise unlawful Data; (d) store obscene, pornographic or indecent Data in violation of applicable law; or (e) propagate any virus, worms, Trojan horses or other programming routine intended to damage any system or data; (iv) use the Subscription Services in any application that may involve risks of death, bodily injury, property damage or environmental damage (including life support applications, devices or systems); (v) exceed the number of users specified in the applicable Schedule for each user level, if specified; (vi) attempt to gain unpermitted access to any Iron Mountain computer system, network, or database; or (vii) file copyright or patent applications that include the Subscription Services or any portion thereof.

1.3. Data License Grant. Subject to the terms of this Agreement, including without limitation, the confidentiality obligations set forth herein, Customer grants to Iron Mountain a limited, non-exclusive, and non-transferable license to access and use the Data only to the extent necessary for Iron Mountain to perform the Services.

1.4. Password Protection of Subscription Service. Customer shall be responsible for protecting and safeguarding any keys (including encryption keys), certificates, passwords, access codes, user IDs or other login information (collectively, “Passwords”) provided to Customer for the purpose of accessing and using the Subscription Services. In the event that Customer makes such Passwords available to any third party, Customer shall be responsible for all actions taken by such third party in connection with the Subscription Services. Customer shall not disclose or make available Customer’s Passwords other than to Customer’s authorized employees and shall use all commercially reasonable efforts to prevent unauthorized access

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

to, or use of the Subscription Services, and will notify Iron Mountain promptly upon discovery of any such unauthorized use. In no event will Iron Mountain be liable for any loss of Data or other claims arising out of or in connection with the unauthorized acquisition of a Password.

## 2. Term and Termination.

2.1. Term of Agreement. The initial term of this Agreement will commence on the Effective Date and continue for a period of three (3) years thereafter. This Agreement will remain in effect with respect to any Schedule or SOW already issued until the expiration or termination of each such Schedule or SOW.

2.2. Termination of Agreement. Either Party may terminate this Agreement or the affected Schedule(s) or SOW(s) (a) immediately, upon the occurrence of the bankruptcy or insolvency of the other Party, if such bankruptcy or insolvency is not discharged within sixty (60) days of any filing thereof; or (b) in the event that a Party materially breaches its obligations under this Agreement and fails to cure such default within forty-five (45) days after the non-breaching Party's written notice, subject to the Fees in the applicable Schedule(s) and SOW(s).

2.3. Termination of SOW for Professional Services. Unless otherwise provided in the SOW, Customer may terminate a SOW for Professional Services without cause by providing not less than ten (10) days' prior written notice to Iron Mountain, provided that: (a) if the SOW, or any portion thereof, is on a "time and material" basis, Customer shall be responsible for paying Iron Mountain the applicable fees for Professional Services performed through the termination date; and (b) if the SOW, or any portion thereof, is on a "fixed price" basis, Customer shall be responsible for paying Iron Mountain the full amount stated in the SOW for each Deliverable that Iron Mountain has commenced work on as of Iron Mountain's receipt of the notice of termination, subject to Iron Mountain's completion of such Deliverable(s). Termination of a SOW under this Section 3.2 shall not affect the Parties obligations under this Agreement with respect to other Services provided hereunder.

2.4. Effect of Termination. Upon expiration or termination of this Agreement and/or the applicable Schedule or SOW, Customer shall (i) immediately discontinue all use of the applicable Subscription Service(s), (ii) return, uninstall, or destroy (along with all copies in any form) the applicable Documentation or other materials licensed to Customer for Subscription Services under the applicable Schedule; and (iii) pay any fees and other accrued and unpaid amounts due to Iron Mountain under the applicable Schedule(s) and SOW(s). Upon termination of any Schedule for Subscription Services, Iron Mountain (a) shall have no further obligation to make the applicable Service(s) available to Customer; (b) may securely destroy or delete the applicable Data or, upon Customer's prior written request, return the applicable Data to Customer, subject to the fees included on the applicable Schedule (if any); and (c) upon written request by Customer and payment of any applicable fees, provide a written certification to Customer that all Data has been returned or destroyed.

## 3. Prices and Payment.

3.1. Charges. Customer shall pay the charges for the Services as set forth in the applicable Schedule(s) and SOW(s) (collectively, the "Fees"). All applicable sales and use taxes and similar governmental charges will be stated separately on Iron Mountain's invoice and shall be the responsibility of Customer.

3.2. Payment Terms. Unless otherwise set forth in a Schedule or SOW, payment terms are net, thirty (30) days from date of invoice. If Customer is delinquent, Iron Mountain may (in its discretion) charge Customer late fees totaling one percent (1%) per month of the outstanding balance. In the event

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

Customer fails to pay any undisputed fees as and when due pursuant to this Agreement and such failure continues for a period of thirty (30) days, Iron Mountain may, at its option, by written notice to Customer suspend the provision of Services to Customer.

**4. Ownership Warranty; Customer Instructions.** Customer warrants that it is the owner or legal custodian of the Data and has full authority to store the Data and direct its disposition in accordance with this Agreement. Iron Mountain will perform Services pursuant to the direction of Customer's agent(s) identified pursuant to Iron Mountain's standards. Authority granted to any persons on standard authorization forms shall constitute Customer's representation that the identified persons have full authority to order any Service, including deletion of Data. Such orders may be given in person, by telephone or in writing (fax, email or hard-copy). Customer releases Iron Mountain from all liability by reason of the destruction or deletion of Data pursuant to Customer's authorization.

**5. Operational Procedures.** Customer shall comply with Iron Mountain's reasonable operational requirements regarding the Services, including but not limited to, interaction with the Data, network requirements, security, access and similar matters. Customer shall (i) comply with all Documentation; (ii) provide all hardware systems necessary to support the Services; and (iii) implement reasonable security and environmental precautions for use of the Services.

**6. Statements of Work and Change Orders for Professional Services.**

**6.1.1. Statements of Work.** Iron Mountain shall perform the Professional Services in accordance with the terms and conditions of this Agreement and as detailed in a written Statement of Work. Each SOW will (a) substantially conform to Iron Mountain's standard template SOW for the Services; (b) be signed by both Parties; (c) detail the Professional Services and Deliverables (as defined herein) to be provided by Iron Mountain; and (d) specify the applicable hourly rate, if the SOW is on a "Time and Materials" basis, or the fixed price for the Professional Services and Deliverables.

**6.1.2. Change Orders.** Either Party may request changes to the SOW, including without limitation, alterations in, additions to, or deletions from the Services or Deliverables, changes in the sequence of the performance of the Services, or the pricing. The Parties will detail any mutually agreed upon changes to the Services or SOW in a writing signed by both Parties (the "Change Order"). All Change Orders will substantially conform to Iron Mountain's standard template Change Order for the Services.

**7. Intellectual Property; Ownership of Data and Deliverables.**

**7.1. Intellectual Property.** Except with respect to the Deliverables, Iron Mountain is the sole and exclusive owner of all right, title, and interest in and to the Services (excluding any open source third-party software), and all copies thereof including all derivations and modifications thereto including, but not limited to, ownership of all intellectual property rights (collectively, "Intellectual Property"). This Agreement does not provide Customer with title or ownership of the Intellectual Property, but only a right of limited use. Customer agrees to inform Iron Mountain promptly following discovery of any infringement or other improper action with respect to the Intellectual Property. Customer recognizes and acknowledges the exclusive right of Iron Mountain in and to all Intellectual Property and proprietary rights in and to Intellectual Property and that such Intellectual Property is the sole and exclusive property of Iron Mountain. Customer waives its right to contest the validity and/or ownership of such Intellectual Property.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

7.2. Ownership of Customer Data. All rights, title, and interest in Data will remain with Customer. This Agreement does not provide Iron Mountain with title or ownership of the Data, but only a right of limited use as set forth in Section 2.3.

7.3. Ownership of Deliverables. Customer owns the copyright in the contents of all reports, documents, charts and other materials demonstrating the results of the Professional Services delivered to Customer by Iron Mountain (“Deliverables”), and the Deliverables will constitute a “work made for hire” to the extent permissible under U.S. copyright law. If the Deliverables are not works made for hire under U.S. copyright law, Iron Mountain assigns the ownership of copyrights in the Deliverables to Customer. Subject to Iron Mountain’s confidentiality obligations set forth in Section 11 of this Agreement, Customer hereby grants Iron Mountain an irrevocable, fully paid-up, nonexclusive, worldwide, royalty-free license to (i) use, reproduce, display, sublicense and distribute the Deliverables; (ii) prepare derivative works based on the Deliverables; and (iii) retain copies of the Deliverables for quality assurance and recordkeeping purposes. Iron Mountain may (a) use for any purpose, including in connection with any of its customers, the concepts, techniques and know-how developed, used or enhanced in the course of performing the Services; and (b) perform similar services for other customers using its general knowledge, skills and experience, including any gained during the course of performing the Services. Customer will not acquire any ownership interest in the know-how, techniques, or methods that Iron Mountain employs in performing the Services.

## 8. Warranties and Disclaimers.

8.1. Iron Mountain Subscription Service Warranty. Iron Mountain warrants to Customer that for the term of the applicable Schedule, the Subscription Services will perform in substantial conformance with the Documentation. Iron Mountain does not warrant that the Subscription Services will be error-free in all circumstances, and Customer will provide prompt written notice to Iron Mountain of any non-conforming Subscription Service. In the event of Iron Mountain’s breach of the foregoing warranty, Customer’s exclusive remedy and Iron Mountain’s sole liability will be for Iron Mountain to use commercially reasonable efforts to repair or replace such Subscription Services at no additional charge to Customer. This warranty is limited and shall not apply where the failure of the Subscription Services to satisfy this warranty results from Customer’s failure to use the Subscription Services in accordance with the Documentation.

8.2. Iron Mountain Professional Services Warranty. Iron Mountain warrants that it will perform the Professional Services using reasonable care and skill in accordance with professional industry standards and that the persons it assigns to perform the Professional Services shall have the appropriate skill, training and background to perform such Professional Services in a competent manner. This warranty is limited and shall not apply to any Professional Services where the failure of the Professional Services to satisfy this warranty results from improper use by Customer of the Services or from Customer’s decision not to implement any reasonable practices to which the Services apply that may be recommended by Iron Mountain. In the event of Iron Mountain’s breach of the foregoing warranty, Customer’s exclusive remedy and Iron Mountain’s sole liability will be the re-performance of the applicable Professional Service, at no charge to Customer.

8.3. Limitation and Disclaimer. UNLESS EXPRESSLY SET FORTH HEREIN, IRON MOUNTAIN PROVIDES ALL SERVICES WITHOUT WARRANTIES OF ANY KIND. IRON MOUNTAIN DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE SERVICES OR THAT IRON MOUNTAIN WILL CORRECT ALL DEFECTS. THE WARRANTIES SET FORTH ABOVE IN THIS SECTION 9 AND IN THE APPLICABLE



Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

SSTC ARE THE SOLE AND EXCLUSIVE WARRANTIES OF IRON MOUNTAIN UNDER THIS AGREEMENT AND ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE. ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED BY IRON MOUNTAIN AND WAIVED BY CUSTOMER. THE WARRANTIES EXTEND ONLY TO CUSTOMER AND IRON MOUNTAIN WILL NOT BE LIABLE FOR ANY THIRD PARTY CLAIM OR DEMAND AGAINST CUSTOMER IN CONNECTION WITH THIS SECTION 9.

8.4. Legal Advice Disclaimer. Customer understands and acknowledges that the Services performed by Iron Mountain under this Agreement do not constitute legal advice and are not provided as part of the practice of law. The legal data and information provided by Iron Mountain under this Agreement is intended to provide the Customer with information to inform decisions regarding its information management requirements. As used in this Section, “legal advice” shall mean any written or oral statement that constitutes advice, opinion, explanation or interpretation of any aspect of the law, court rules, or court procedures or recommends a specific course of action to a user in the user’s specific factual circumstances. Customer in its sole discretion with assistance of counsel shall determine whether the Deliverables and use of the Subscription Services are sufficient for the legal purpose for which such Deliverables and Subscription Services are intended. For the avoidance of doubt, use of the Subscription Services or Deliverables does not create an attorney client relationship between Iron Mountain and Customer.

#### **9. Limitation of Liability; Indemnification.**

9.1. Limitation of Liability for the Services; No Consequential Damages. Iron Mountain’s maximum aggregate liability arising out of or in connection with this Agreement regardless of the cause of action and whether arising in contract, tort (including negligence), warranty, indemnity, or any other legal theory shall be limited to the total Fees paid by Customer under this Agreement in the six (6) months immediately preceding any claim. In no event will either Party be liable for any indirect, incidental, consequential, special, punitive, exemplary or similar such losses or damages arising out of or in connection with this Agreement including any loss of profits, interruption of business, or the loss of or cost of recreating any data, however caused, under any theory of liability (whether in contract, tort, warranty, or otherwise), and regardless of whether any remedy set forth herein fails of its essential purpose and even if a Party knew of or should have known of the possibility of such loss or damage. This section is not intended to and will not be construed as excluding or limiting any liability contrary to applicable law or public policy, including but not limited to, liability for death or bodily injury. If applicable law or public policy renders any portion of this section unenforceable or invalid, the remainder of the section will remain in full force and effect. This section survives the expiration or termination of this Agreement.

9.2. Customer Environment. With respect to Subscription Services provided under this Agreement, Iron Mountain shall bear no liability to Customer resulting from or related to: (a) Customer’s failure to implement any change to Customer’s technical environment that supports the Services that is advised by Iron Mountain in writing; (b) Customer’s unauthorized combination, operation, or use of the Documentation with any product, data, apparatus, or business method that Iron Mountain did not provide; (c) Customer’s modification of the Documentation; (d) Customer’s distribution, operation or use of the Documentation for the benefit of a third party; or (e) Customer’s failure to use the Services in accordance with the Documentation. Further, Customer shall inform Iron Mountain of any system change that may reasonably be expected to affect Iron Mountain’s ability to provide the Services.

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

9.3. Customer Indemnification. To the extent permitted by law, Customer shall indemnify, defend, and hold harmless Iron Mountain and its Affiliates, subsidiaries, officers, directors and employees from and against any and all third-party claims or demands and all liabilities arising out of or in connection with Customer's breach of the license terms and use restrictions for Subscription Services set forth in Section 2 of this Agreement. Iron Mountain shall provide Customer prompt written notice of any such claim or demand and Customer shall have sole control of the defense and all related settlement negotiations. Iron Mountain shall provide any necessary assistance, information and authority and Customer will reimburse Iron Mountain for any reasonable, documented, out-of-pocket expenses incurred by Iron Mountain in providing such assistance. Iron Mountain shall have the right to participate, at its own expense, in the claim or suit. This paragraph shall survive the expiration or termination of this Agreement.

9.4. Infringement Indemnification. Iron Mountain shall defend, indemnify and hold harmless Customer and its officers, directors and employees from and against any third-party claim or demand alleging that the Services or Deliverables infringe any United States patent or copyright of any third party or misappropriate any third party's trade secrets, provided that Customer provides Iron Mountain with prompt written notice of any such claim, suit or demand and consents and authorizes Iron Mountain's sole control of the defense of any resulting litigation or settlement thereof. With respect to the foregoing indemnification, Iron Mountain's sole obligation and Customer's exclusive remedy will be for Iron Mountain to defend any such claim or demand and pay any resulting judgment or settlement made, notwithstanding the limitations of liability in this Section 10. Iron Mountain will have no liability or obligation to Customer with respect to any claim of infringement or misappropriation in the event and to the extent based upon (i) use of or access to the Services or Deliverables in or from an application or environment or on a platform or with devices not authorized in Documentation or other requirements specified in a Schedule, SOW or this Agreement; (ii) modifications, alterations, combinations or enhancements of the Services or Deliverables not created by Iron Mountain; or (iii) any patent, copyright, or trade secret in which Customer or any Affiliate of Customer has an interest. The foregoing indemnification obligations shall not apply in the event that the claim or demand arises as a result of Customer's negligence, intentional misconduct, or breach of this Agreement. If any Services or Deliverables are held, or in Iron Mountain's reasonable opinion could be held, to constitute an infringement or misappropriation of any third party's copyright or trade secret, Iron Mountain may at its option (a) procure the right for Customer to continue using or accessing the Services or Deliverables, (b) replace the Services or Deliverables with a non-infringing equivalent service or deliverables; or (c) modify the Services or Deliverables to make them non-infringing. This section states Iron Mountain's sole liability to Customer and Customer's exclusive remedy with respect to any claims of infringement or misappropriation arising out of or in connection with this Agreement.

10. **Confidentiality.** "Confidential Information" means any (i) proprietary, confidential or trade secret information concerning or relating to the property, business and affairs of the party disclosing such information (the "Disclosing Party") that is disclosed to the other party and designated as confidential at the time of disclosure (the "Receiving Party"); (ii) information regarding this Agreement, Schedules or SOWs; and (iii) information regarding Iron Mountain's processes and procedures. Notwithstanding the foregoing, Confidential Information will not include information that the Receiving Party can demonstrate by reasonably sufficient evidence: (a) was known to the Receiving Party before receipt thereof under this Agreement; (b) is disclosed to the Receiving Party by a third party who has a right to make such disclosure without any obligation of confidentiality to the Disclosing Party; (c) is or becomes generally known to the public or in the trade without violation of either this Agreement by the Receiving Party or any confidentiality obligation owed to the Disclosing Party by any third party; (d) is furnished by the Disclosing Party to a third party without restriction on subsequent disclosure; or (e) is

independently developed by the Receiving Party or its employees or subcontractors. The Receiving Party shall use Confidential Information only in the manner and for the purposes contemplated by this Agreement and shall not intentionally disclose Confidential Information to third parties without the Disclosing Party's written consent, except as necessary in its filings with the U.S. Securities and Exchange Commission or as required to comply with corporate governance practices. Nothing herein will preclude either Party from disclosing the existence of this Agreement or generally describing the transactions contemplated hereby. Neither Party shall obtain any rights in or to the Confidential Information of the other Party. Each Party shall implement and maintain reasonable safeguards designed to protect the other Party's Confidential Information. Customer warrants that it shall not disclose to Iron Mountain any information relating to an identified or identifiable natural person under this Agreement without Iron Mountain's prior written consent.

**11. Data Protection.** Iron Mountain shall implement and maintain appropriate administrative, physical and technical safeguards designed to protect Data against loss, damage or disclosure. Iron Mountain shall process Data solely for the purpose of providing Services under this Agreement or in accordance with the instructions of Customer. Except as authorized by Customer or pursuant to Section 13 below, Iron Mountain will not disclose Data to any third party other than subcontractors and agents who have agreed to comply with obligations substantially similar to those set forth herein. Upon discovery by Iron Mountain of any loss or unauthorized disclosure of Data while in the custody and control of Iron Mountain under this Agreement, Iron Mountain will promptly notify Customer thereof in writing.

**12. Governmental Orders.** In the event Iron Mountain receives any subpoena, warrant, court order or similar such governmental agency or legal requirement ("Order") that purports to compel disclosure of Data, Iron Mountain shall promptly notify Customer of such Order (unless such notice is prohibited by law or judicial order) and shall cooperate with Customer, at Customer's expense, in the exercise of Customer's right to protect the confidentiality of Data. Iron Mountain may comply with any such Order, except to the extent Customer obtains a court order quashing or limiting such Order.

**13. Force Majeure.** Any failure or delay by either Party in the performance of its obligations under this Agreement shall not be deemed a default or grounds for liability or termination hereunder if such failure or delay is caused by an event beyond the affected Party's reasonable control, or by acts of God, governmental actions, labor unrest, acts of terrorism or war, unusually severe weather, riots, or fire (a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event, the affected Party shall be excused from any further performance of its obligations pursuant to this Agreement affected by the Force Majeure Event for as long as such Force Majeure Event continues. The affected Party shall promptly notify the other Party in writing of the occurrence of a Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event. If a Party's inability to perform under the Agreement due to a Force Majeure Event persists for a period of sixty (60) days following the Force Majeure Event, the other Party may terminate only the portion of the Agreement or applicable Schedule(s) directly affected by the Force Majeure Event. Notwithstanding any provision to the contrary, a Force Majeure Event shall not excuse payment obligations under this Agreement.

**14. General Provisions.**

**14.1. Notices.** All notices relating to this Agreement shall be in writing and shall be delivered (i) by overnight courier or hand; (ii) postage prepaid certified or registered first-class mail with return receipt requested; (iii) electronic transmission; or (iv) facsimile. Notices shall be sent to the address of the other Party set forth in this Agreement or the applicable Schedule and shall be deemed given upon personal

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

delivery, five (5) calendar days after deposit in the mail, or upon acknowledgment or receipt of electronic transmission.

14.2. Independent Contractor. The relationship between Customer and Iron Mountain is that of independent contractor and nothing in this Agreement shall be construed as creating an employment relationship, agency, partnership, or joint venture between the Parties. Each Party shall control and direct the methods by which it performs its responsibilities hereunder. Except as provided herein, neither Party is authorized to act on behalf of the other in any other matter whatsoever.

14.3. Relationship with Third Parties. No customer, end user or other person or entity not a Party to this Agreement shall be considered a third-party beneficiary of this Agreement.

14.4. Severability and Survival. If applicable law or public policy renders any portion of this Agreement unenforceable or invalid, the remainder of the Agreement shall remain in full force and effect. The following provisions shall survive any termination of this Agreement: Section 2, "License Terms for Subscription Services"; Section 3.4, "Effect of Termination"; Section 4, "Prices & Payment"; Section 8, "Intellectual Property; Ownership; Data Disclaimer"; Section 10, "Limitation of Liability; Indemnification"; Section 11, "Confidentiality"; Section 15 "General Provisions."

14.5. Dispute Resolution. Each Party agrees to adhere to the following procedure in all disputes under this Agreement which the Parties cannot resolve informally. The aggrieved Party shall notify the other Party in writing of the nature of the dispute with as much detail as possible about the nature of the dispute, such notice to be delivered in accordance with Section 15.1 of this Agreement. Authorized personnel of each Party who have familiarity with and responsibility for the subject matter of the dispute shall meet (in person or by telephone) within fourteen (14) days after the notice date. If those persons are unable to agree on a resolution, then senior management personnel of each of Iron Mountain and Customer having authority to resolve the dispute without the further consent of any other person ("Management") shall meet or otherwise act promptly to facilitate an agreement. If Management cannot resolve the dispute within thirty (30) days after their initial meeting or other action (or in case either party fails to participate in the dispute resolution), either party may take such other and further action as it deems necessary. Except with respect to a party's right to seek equitable relief, Iron Mountain and Customer agree that neither Party shall take any legal action unless and until this dispute resolution procedure has been employed or waived.

14.6. Choice of Law; Waiver of Jury Trial. This Agreement will be governed by the law of the state in which the Customer's principal place of business is located. The United Nations Convention on Contracts for the International Sale of Goods does not apply. The parties expressly waive any right to a jury trial regarding disputes related to this Agreement.

14.7. Export. Customer may not use or otherwise export or re-export any software agent or product provided by Iron Mountain hereunder except as authorized by United States law and the laws of the jurisdiction in which the agent or product was obtained. In particular, but without limitation, an agent may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to any person on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Persons List or Entity List. By receiving any such software agent or product Customer represents and warrants that it is not located in any such country or included on any such list.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

14.8. Assignment. Without the consent of the other Party, neither Party shall assign any right under the Agreement, except Iron Mountain may assign any such right to an Affiliate. The non-assigning Party shall not unreasonably withhold its consent.

14.9. ITAR/EAR Compliance. Customer represents that none of the Data stored by Iron Mountain pursuant to this Agreement require protection from access by foreign persons because they contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer's Data does contain any such information, Customer shall notify Iron Mountain of the specific Data that contains such information and acknowledges that special rates shall apply thereto.

14.10. Cumulative Remedies. Unless expressly stated to the contrary in this Agreement, all rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the Parties, whether provided by law, equity, statute, in any other agreement between the Parties or otherwise.

14.11. Waiver. Each Party agrees that the failure of the other Party at any time to require performance by such Party of any of the provisions herein shall not operate as a waiver of the rights of such Party to request strict performance of the same or like provisions, or any other provisions hereof, at a later time.

14.12. Non-Hire of Employees. During the term of each SOW and for one (1) year thereafter, Customer shall not hire, as an employee, independent contractor, or in any other capacity, any individual assigned to perform Services under the SOW who is an employee or independent contractor of Iron Mountain or was an employee or independent contractor of Iron Mountain at any time during the previous six (6) months (unless Iron Mountain terminated that individual's employment or independent contractor agreement).

14.13. Order of Precedence; Purchase Orders. In the event of inconsistency between this text and the terms of any SSTC, SOW or Schedule, the following shall be the order of precedence: (i) the SSTC, with respect to the applicable Services only; (ii) this text; and (iii) the SOW or Schedule specific to the applicable Service only. In the event that Customer issues a purchase order to Iron Mountain covering the Services, any terms and conditions set forth in the purchase order which are in addition to or establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.

14.14. Entire Agreement. This Agreement and its Schedules constitutes the complete and exclusive statement of the agreement between the Parties and supersedes all prior or contemporaneous proposals, oral or written, and all other communications between the Parties relating to the subject matter of this Agreement.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**Appendix K to Services Contract 1325**  
**Iron Mountain Terms and Conditions for**  
**Insight Services**

**1. DEFINITIONS.** Capitalized terms shall have the meanings set forth in this section, or in the section where they are first used.

**1.1 “Access Protocols”** means the usernames, passwords, access codes, encryption keys, service accounts, technical specifications, connectivity standards or protocols, or other relevant procedures, as may be necessary to allow Customer to access the Services.

**1.2 “Affiliates”** means those entities controlling, controlled by, under common control with, or having a common parent with, either Iron Mountain or Customer as applicable. For purposes of the foregoing definition, “control” (including “controlling”, “controlled by” and “under common control with”) shall mean direct or indirect ownership of: (a) not less than fifty percent (50%) of the voting stock of a corporation; (b) the right to vote not less than fifty percent (50%) of the voting stock of a corporation; or (c) not less than fifty percent (50%) ownership interest in a partnership or other business entity. If the Parties wish to add Customer’s Affiliate to receive Services under this Agreement, such Affiliate and Iron Mountain shall execute a Statement of Work, which will be subject to the terms and conditions of this Agreement. Upon execution of a Statement of Work by Customer’s Affiliate, any reference to “Customer” within this Agreement shall be deemed to include Customer’s Affiliate.

**1.3 “Authorized User”** means any individual who is an employee of Customer or such other person or entity as may be authorized by Customer to access the InSight Services pursuant to Customer’s rights under this Agreement. An authorized user is granted access using the Customer owned Identity Provider (“IDP”) or through an Iron Mountain managed IDP.

**1.4 “AUP”** means the acceptable use policy for Iron Mountain’s hosting provider, currently found at: <https://cloud.google.com/terms/aup>, which may be updated from time to time by the Host (as defined in Section 6.7).

**1.5 “Customer Data”** means all content, data and information provided by, or on behalf of, Customer to Iron Mountain through the Services under this Agreement. For the avoidance of doubt, Customer Data does not include Usage Data or any other information reflecting the access or use of the InSight Services by or on behalf of Customer or any Authorized User.

**1.6 “Documentation”** means the user manuals, training materials, reference guides, instruction materials, help files and similar documentation provided by Iron Mountain or its suppliers to Customer in hard copy or electronic form or available on Iron Mountain’s online portal describing the use, operations, features, functionalities, user responsibilities, procedures, commands, requirements, limitations and capabilities of and/or similar information about the Services.

**1.7 “Encrypted” or “encrypted”** shall mean data that has been rendered through algorithmic transformation or any other means available into an unrecognizable form in which meaning cannot be understood without the use of a confidential process or key.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**1.8 “High Risk Activities”** means uses such as the operation of nuclear facilities, air traffic control, or life support systems, where the use or failure of the Services could lead to death, personal injury, or environmental damage.

**1.9 “InSight Services”** means the hosting of the Customer Data on the Iron Mountain InSight platform, the classification and extraction of relevant metadata using machine learning (“ML”) and artificial intelligence (“AI”) models, and integration APIs, and the access and search capabilities available through the Iron Mountain InSight platform.

**1.10 “Intellectual Property Rights”** means any and all now known or hereafter existing (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights; (c) trade secret rights; (d) patents, patent rights, and industrial property rights; (e) layout design rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (f) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world.

**1.11 “Implementation Services”** means the services documented in an SOW, including service details related to IDP integration, security controls and special accommodations which require Iron Mountain assistance to implement.

**1.12 “Professional Services”** means the training, customization, Implementation Services, data ingestion, consulting or other services Iron Mountain or its suppliers may perform for the benefit of Customer in connection with the InSight Services as set forth in a Statement of Work.

**1.13 “Usage Data”** means the data and information related to Customer’s use, patterns, trends, and other statistical data derived from the InSight Services that is used by Iron Mountain in an aggregate and anonymized manner to provide, operate, maintain, and improve Iron Mountain products and services.

**1.14 “Services”** means the InSight Services, Professional Services and Support Services, as may be set forth in one or more Statement(s) of Work.

**1.15 “Services Technology”** means the software, databases, platforms and other technologies used by or on behalf of Iron Mountain in performing the Services, whether operated directly by Iron Mountain or through the use of third-party services.

**1.16 “Statement of Work” or “SOW”** means a document that (a) contains details regarding the Services to be performed or provided, including pricing and other specifics, (b) is mutually agreed upon and executed by the Parties, and (c) is incorporated into this Agreement.

**1.17 “Support Services”** means the support services and related maintenance for the InSight Services purchased by Customer as described in a Statement of Work.

## **2. PROVISION OF SERVICES**

**2.1 Services Use.** Subject to and conditioned on Customer’s and its Authorized Users’ compliance with the terms and conditions of this Agreement, Iron Mountain hereby grants Customer a non-exclusive, non-transferable right, during the Term of this Agreement, solely for Customer’s internal business purposes and in accordance with the limitations and restrictions contained herein, (a) to access

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

and use the Services in accordance with this Agreement and the Documentation; and (b) to use the Documentation solely to support Customer's use of the Services. Iron Mountain may change or modify the Documentation and Services, including adding or removing features and functions, from time to time, provided that in no event will such modifications materially reduce the functionality provided to Customer during the Term.

**2.2 Access Protocols.** Iron Mountain will provide the Services to Customer at the rates and charges set forth in the applicable Statement(s) of Work. Iron Mountain will work with the Customer to provide access through the mutually agreed Access Protocol implementation process, including providing Customer with training on user account setup and access control implementation with the applicable IDP. Customer is solely responsible for obtaining and maintaining its equipment, computers, networks, and communications, including Internet access, required to access and utilize the Services and for all expenses related thereto. Iron Mountain is not responsible for any issues relating to access attributable to Customer or any third party. Customer agrees to maintain and update an industry leading anti-virus program within its computer systems that are used in connection with the Services.

**2.3 Authorized Users.** Customer may designate its Authorized Users and their access rights to the features and functions of the InSight Services. Usernames and passwords ("**User IDs**") cannot be shared or used by more than one Authorized User at a time. Depending on the agreed login and authorization implementation, Iron Mountain may assist the Customer with establishing User IDs for Customer's Authorized User who has been designated as a "User Manager" and provide such User Manager with rights to create, control and manage its portfolio of Authorized Users, including, but not limited to, the number of Authorized Users and all User IDs, in accordance with the Access Protocols. Customer shall not disclose or make available User IDs or other Access Protocols other than to Customer's Authorized Users and shall prevent unauthorized access to, or use of, the InSight Services, and will notify Iron Mountain promptly of any actual or suspected unauthorized use. Customer is solely responsible for managing the User IDs and access rights of its Authorized Users, including, but not limited to, terminating an Authorized User's access if such individual is no longer employed by Customer or otherwise authorized to have access. Customer is responsible for ensuring all Authorized Users comply with Customer's obligations under this Agreement. Iron Mountain reserves the right (a) to track and review user profiles, access and activity at any time, and (b) to terminate any User ID that it reasonably determines may have been used in a way that breaches this Section 3.3.

**2.4 Professional Services.** Iron Mountain will provide Professional Services as may be mutually agreed to by the Parties from time to time and set forth in one or more Statement(s) of Work. Each Statement of Work will be subject to the terms and conditions of this Agreement.

**2.5 Other Services.** Iron Mountain's services outside the scope of this Agreement, if any, shall be provided pursuant to Iron Mountain's then-current applicable services policies and procedures, including, at a minimum, negotiation and execution of Iron Mountain's then-current agreement for such service and payment of Iron Mountain's then-current fees for such services, plus Iron Mountain's reasonable costs and expenses incurred in providing such services.

### **3. INTELLECTUAL PROPERTY**

**3.1 Ownership.** The Services, Documentation, Usage Data and all other materials provided by Iron Mountain hereunder, including but not limited to all manuals, reports, records, programs, data and other materials, and all worldwide Intellectual Property Rights in each of the foregoing, are the



## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

exclusive property of Iron Mountain and its suppliers. All rights in and to the Services, Documentation and Usage Data not expressly granted to Customer in this Agreement are reserved by Iron Mountain and its suppliers. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Customer regarding the Services, Documentation, Usage Data or any part thereof, including any right to obtain possession of any source code, data or other technical material related to the Services. In furtherance of the foregoing, Customer hereby unconditionally and irrevocably grants to Iron Mountain an assignment of all its right, title and interest in and to the Usage Data, including all Intellectual Property Rights relating thereto.

**3.2 License; Ownership.** Customer grants Iron Mountain and its suppliers a non-exclusive, worldwide, royalty-free and fully paid license to access, use, reproduce, modify, display, process and store the Customer Data and any metadata extracted from such data as necessary for purposes of providing the Services for the Customer and building, training and maintaining its machine learning models. All data resulting from ML and AI processing, including classification and extracted metadata (“**Derivative Data**”), are property of the Customer and the Customer shall be provided access to Derivative Data, subject to the terms contained herein governing the destruction of such data upon termination of this Agreement. Iron Mountain will not retain Customer Data or Derivative Data in ML and AI models or otherwise to use or share with other customers. The Customer Data hosted by Iron Mountain as part of the Services, and all worldwide Intellectual Property Rights in it, are the exclusive property of Customer. All rights in and to the Customer Data and any Derivative Data not expressly granted to Iron Mountain in this Agreement are reserved by Customer. Under this Agreement, the Parties acknowledge and agree that Iron Mountain is a data processor.

**3.3 Restrictions on Use.** Customer shall not permit any party to access or use the Services, Services Technology or Documentation, other than the Authorized Users. Customer agrees that it will not, and will not permit any Authorized User or other party to: (a) copy, modify, adapt, alter or translate, in whole or in part, the Services Technology, Documentation or any component thereof; (b) license, sublicense, sell, resell, lease, rent, loan, transfer, assign, distribute, or otherwise commercially exploit or make available, in whole or in part, the Services, Services Technology or Documentation to any third party; (c) reverse engineer, decompile, disassemble, decode, adapt or otherwise derive or determine or attempt to derive, determine or gain access to the source code (or the underlying ideas, algorithms, structure or organization) of or make derivative works based upon the Services Technology, Documentation or any component thereof, in whole or in part; (d) disclose or transmit any information regarding the Services, Services Technology or Documentation to any individual other than an Authorized User, except as expressly allowed herein; (e) use or access the Services, Services Technology or Documentation to build a similar product; (f) use the Services, Services Technology or any component thereof (I) to send or store infringing, threatening, harassing, defamatory, libelous, obscene, pornographic, indecent or otherwise unlawful or tortious material, including material harmful to children or violating third party privacy rights, (II) to send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs, (III) for High Risk Activities, or (IV) in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Rights or other right of any person or that violates any applicable law; (g) disclose the results of any benchmark test of Services, Services Technology or Documentation to any third party; (h) interfere with or disrupt the integrity or performance of the Services, Services Technology or the data contained therein; or (i) bypass or breach any security device or protection used for or contained in the Services or Services Technology or otherwise attempt to gain unauthorized access to the Services, Services Technology or its related systems or networks. Unless otherwise specified in writing by Iron Mountain, Iron Mountain does not intend use of the Services to create obligations under the Health Insurance Portability and Accountability Act of 1996

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

as it may be amended from time to time and any regulations issued under it (“HIPAA”), and Iron Mountain makes no representations that the Services satisfy HIPAA requirements. Customer shall not provide Iron Mountain access to, nor use the Services for any purpose or in any manner involving Protected Health Information (as defined in HIPAA) unless specifically agreed to in writing by the Parties (including through the signing of a Business Associate Agreement).

**3.4 Open Source Software.** Certain items of software may be provided to Customer with the Services and are subject to “open source” or “free software” licenses (“**Open Source Software**”). Some of the Open Source Software is owned by third parties. The Open Source Software is not subject to the terms and conditions of the section titled *Indemnification* or the subsection titled *Services Use*. Instead, each item of Open Source Software is licensed under the terms of the end-user license that accompanies such Open Source Software. Nothing in this Agreement limits Customer’s rights under, or grants Customer rights that supersede, the terms and conditions of any applicable end user license for the Open Source Software.

**3.5 Feedback.** If Customer provides Iron Mountain any feedback or suggestions about the Services or Documentation (the “**Feedback**”), then Iron Mountain may use that information without obligation to Customer, and Customer hereby irrevocably assigns all rights, title and interest in the Feedback to Iron Mountain.

#### **4. FEES AND EXPENSES; PAYMENTS**

**4.1 Fees.** In consideration for the access rights granted to Customer and the Services performed by Iron Mountain under this Agreement, Customer will pay to Iron Mountain the fees set forth in the applicable Statement(s) of Work. Fees and charges during the Initial Term shall be as set forth in the applicable Statement(s) of Work, and may thereafter be changed at any time by Iron Mountain upon thirty (30) days’ written notice.

**4.2 Payment Terms.** Except as otherwise provided in a Statement of Work, all fees for Services shall be billed monthly in arrears. Payment terms are net thirty (30) days from the date of invoice. To the extent permitted by applicable law, any amounts not paid when due shall bear interest at the rate of one percent (1%) per month, or the maximum legal rate if less, and Customer shall be liable for all expenses incurred in collection, including reasonable attorneys’ fees and expenses. In the event that Customer exceeds the total storage volume of the Customer’s subscription plan, Customer shall be charged additional fees as set forth in the applicable Statement of Work for any overages during each month such overage occurs.

**4.3 Taxes.** The fees are exclusive of all applicable sales, use, value-added and other taxes, and all applicable duties, tariffs, assessments, export and import fees, or other similar charges, and Customer will be responsible for payment of all such taxes (other than taxes based on Iron Mountain’s income), fees, duties, and charges and any related penalties and interest, arising from the payment of the fees and the delivery of the Services to Customer under this Agreement. Customer will make all payments of fees to Iron Mountain free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments of fees to Iron Mountain will be Customer’s sole responsibility, and Customer will provide Iron Mountain with official receipts issued by the appropriate taxing authority, or such other evidence as the Iron Mountain may reasonably request, to establish that such taxes have been paid. To the extent permitted by law, Customer shall indemnify and defend Iron Mountain in connection with any proceedings brought by any taxing authorities in connection with Customer’s breach of this Section 4.3.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

## 5. CUSTOMER RESPONSIBILITIES

**5.1 Customer Warranty.** Customer represents and warrants that (a) it is the owner or legal custodian of the Customer Data; (b) it has all necessary consents, authorizations and/or legal permissions required to direct and enable Iron Mountain and its suppliers to access, use and process the Customer Data as set forth in this Agreement; and (c) any Customer Data hosted by Iron Mountain as part of the Services shall not (i) infringe any copyright, trademark, or patent; (ii) misappropriate any trade secret; (iii) be defamatory, obscene, pornographic or unlawful; (iv) contain any viruses, worms or other malicious computer programming codes intended to damage Iron Mountain's systems or data; or (v) otherwise violate the rights of a third party or violate any applicable law. Iron Mountain is not obligated to back up any Customer Data. Customer agrees that any use of the Services contrary to or in violation of the representations and warranties of Customer in this Section constitutes unauthorized and improper use of the Services. Customer will immediately notify Iron Mountain of any issues of which it becomes aware that could negatively impact Iron Mountain's use of the Customer Data in accordance with the terms of this Agreement.

**5.2 Customer Responsibility for Data and Security.** Customer and its Authorized Users shall have access to the Customer Data and shall be responsible for (a) all changes to and/or deletions of Customer Data, the maintaining security and confidentiality of all User IDs and other Access Protocols required in order to use and access the InSight Services, and (b) all activities that occur in connection with such use and access. Iron Mountain and its suppliers are not responsible or liable for the deletion of or failure to store any Customer Data; Customer is responsible for securing and backing up the Customer Data that is provided to Iron Mountain. Iron Mountain shall maintain service accounts and encryption keys on behalf of the Customer necessary to perform the Services. Iron Mountain shall not be liable to Customer for its inability to perform the Services due to Customer's failure to provide such access. Customer shall have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data, and for ensuring that it complies with the AUP. Iron Mountain and its suppliers reserve the right to review the Customer Data for compliance with the AUP. In no event will Iron Mountain be liable for any loss of Customer Data or other claims arising out of or in connection with the unauthorized acquisition or use of Access Protocols.

**5.3 Cooperation.** Customer agrees to provide Iron Mountain with such cooperation, materials, information, access and support which Iron Mountain deems reasonably required to allow Iron Mountain to successfully provide the Services. Customer understands and agrees that the success of the Services is contingent upon Customer providing such cooperation, materials, information, access and support.

**5.4 Data Transmittal.** Customer shall transmit any Customer Data to Iron Mountain in accordance with the acceptable methods and requirements for data transmittal set forth in a Statement of Work or Documentation. All Customer Data transmitted must use secure and encrypted protocols. Customer assumes full responsibility to safeguard against unauthorized access and to encrypt its electronic Customer Data prior to and during the transmission and transfer of its electronic Customer Data to Iron Mountain. With respect to physical and tangible Customer Data, the terms and conditions of this Agreement shall apply only to physical and tangible Customer Data that is in Iron Mountain's possession in the performance of the Services. Physical and tangible Customer Data shall only be deemed to be in Iron Mountain's possession while in an Iron Mountain facility, in an Iron Mountain vehicle or in the custody of an Iron Mountain employee. Customer shall have the ability to export Customer Data hosted by Iron Mountain as part of the Services out of the Host's (as defined below) platform.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**5.5 Host.** Iron Mountain will store the Customer Data on a hosting service provided by a third party (“**Host**”), which as of the Effective Date shall be the Google Cloud Platform (“**GCP**”), pursuant to Iron Mountain’s agreement with Google, during which time it will be maintained in accordance with Google’s Cloud Platform terms, which can be found at <https://cloud.google.com/terms>. Iron Mountain may change the Host upon notice to Customer, at which time it will be maintained in accordance with the then-current terms of the new Host.

## 6. CONFIDENTIALITY

**6.1 Confidential Information.** During the Term of this Agreement, each Party (the “**Disclosing Party**”) may provide the other Party (the “**Receiving Party**”) with certain information regarding the Disclosing Party’s business, technology, products, or services or other confidential or proprietary information, and which is marked as “confidential” or “proprietary” or would normally under the circumstances be considered confidential information (collectively, “**Confidential Information**”). Customer Data will be considered Confidential Information of Customer, and the Services, Services Technology, Documentation, Usage Data and all enhancements and improvements thereto will be considered Confidential Information of Iron Mountain.

**6.2 Protection of Confidential Information.** The Receiving Party agrees that it will (a) not disclose to any third party any Confidential Information of the Disclosing Party, except (i) to its Affiliates, directors, employees, agents, suppliers or subcontractors to the extent such disclosure is necessary for the performance of this Agreement and who have agreed to restrictions similar to those set forth in this Section 7 or (ii) as may be required by law; (b) not use any Confidential Information of the Disclosing Party except for the purposes contemplated by this Agreement; and (c) protect the Disclosing Party’s Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own confidential and proprietary information of a similar nature, but in no event with less than reasonable care.

**6.3 Exceptions.** The confidentiality obligations set forth in this section will not apply to any information that (a) becomes generally available to the public through no fault of the Receiving Party; (b) is lawfully provided to the Receiving Party by a third party free of any confidentiality duties or obligations; (c) was already known to the Receiving Party at the time of disclosure; or (d) the Receiving Party can prove, by clear and convincing evidence, was independently developed by employees and contractors of the Receiving Party who had no access to the Confidential Information. In addition, the Receiving Party may disclose Confidential Information to the extent that such disclosure is necessary for the Receiving Party to enforce its rights under this Agreement or is required by law, governmental regulation, court order, subpoena, warrant, governmental regulatory or agency request, or other valid legal authority, legal procedure or similar process (“**Legal Process**”), provided that the Receiving Party uses commercially reasonable efforts to promptly notify the Disclosing Party in writing of such required disclosure unless the Receiving Party is informed that (i) it is legally prohibited from giving notice or (ii) the Legal Process relates to exceptional circumstances involving danger of death or serious physical injury to any person. The Receiving Party will cooperate with the Disclosing Party if the Disclosing Party seeks an appropriate protective order.

## 7. WARRANTIES AND DISCLAIMERS

**7.1 Limited Warranty for Professional Services.** Iron Mountain warrants to Customer that it will perform the Professional Services using reasonable care and skill.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**7.2 Disclaimer.** THE LIMITED WARRANTY SET FORTH IN SECTION 8.1 IS MADE FOR THE BENEFIT OF CUSTOMER ONLY. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 8.1 AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IRON MOUNTAIN AND ITS SUPPLIERS MAKE NO (AND HEREBY DISCLAIM ALL) OTHER WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, COURSE OF DEALING, TRADE USAGE OR PRACTICE, MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. INSIGHT SERVICES ARE PROVIDED “AS IS” AND NEITHER IRON MOUNTAIN NOR ITS SUPPLIERS WARRANT THAT ALL ERRORS OR DEFECTS CAN BE CORRECTED, OR THAT OPERATION OF THE SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE. THE SERVICES ARE NOT DESIGNATED OR INTENDED FOR HIGH RISK ACTIVITIES.

**8. LIMITATION OF LIABILITY**

**8.1 Types of Damages.** TO THE MAXIMUM EXTENT LEGALLY PERMITTED UNDER APPLICABLE LAW, NEITHER PARTY NOR IRON MOUNTAIN’S SUPPLIERS SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR SIMILAR LOSSES OR DAMAGES OF ANY NATURE INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS DUE TO LOSS OF PROFITS, REVENUE, GOODWILL, PRODUCTION OR USE, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR THE LOSS OR COST OF RECREATING ANY DATA, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, EVEN IF A PARTY WAS ADVISED OF, KNEW OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

**8.2 Amount of Damages.** TO THE MAXIMUM EXTENT LEGALLY PERMITTED UNDER APPLICABLE LAW, THE MAXIMUM LIABILITY OF IRON MOUNTAIN AND ITS SUPPLIERS ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID BY CUSTOMER TO IRON MOUNTAIN UNDER THIS AGREEMENT DURING THE SIX (6) MONTHS PRECEDING THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY.

**8.3 Exceptions to Limitations.** NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE EITHER PARTY’S LIABILITY FOR: (A) GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT; (B) DEATH OR BODILY INJURY RESULTING FROM ITS NEGLIGENCE OR THE NEGLIGENCE OF ITS EMPLOYEES OR AGENTS; (C) FRAUD OR FRAUDULENT MISREPRESENTATION; (D) MISAPPROPRIATION OR INFRINGEMENT OF THE OTHER PARTY’S INTELLECTUAL PROPERTY RIGHTS; (E) OBLIGATIONS UNDER SECTION 10; (F) CUSTOMER’S PAYMENT OBLIGATIONS; OR (G) MATTERS FOR WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**9. INDEMNIFICATION**

**9.1 By Iron Mountain.** Iron Mountain will defend at its expense any suit brought against Customer, and will pay any settlement Iron Mountain makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim by any third party alleging that the Services misappropriates any trade secret recognized under the Uniform Trade Secrets Act or infringes any copyright or United States patent issued as of the Effective Date. If any portion of the Services becomes, or in Iron Mountain’s opinion is likely to become, the subject of a claim of infringement, Iron Mountain may, at Iron Mountain’s option: (a) procure for Customer the right to continue using the Services; (b) replace the Services with non-infringing services which do not materially impair the functionality of the Services; (c) modify the Services so that it becomes non-infringing; or (d) terminate this Agreement and

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

refund any fees actually paid by Customer to Iron Mountain for the remainder of the Term then in effect, and upon such termination, Customer will immediately cease all use of the Documentation and Services. Notwithstanding the foregoing, Iron Mountain shall have no obligation under this section or otherwise with respect to any infringement claim based upon (w) any use of the Services not in accordance with this Agreement or as specified in the Documentation; (x) any use of the Services in combination with other products, equipment, software or data not supplied by Iron Mountain; (y) any modification of the Services by any person other than Iron Mountain or its authorized agents or (z) Customer's breach of this Agreement. This subsection states the sole and exclusive remedy of Customer and the entire liability of Iron Mountain, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for infringement claims and actions.

**9.2 By Customer.** Customer will defend at its expense any suit brought against Iron Mountain by a third party, and will pay any settlement Customer makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim arising out of or relating to Customer Data, Customer's use of the Services in violation of the AUP, or Customer's breach or alleged breach of the subsection titled *Customer Warranty*.

**9.3 Procedure.** The indemnifying Party's obligations as set forth above are expressly conditioned upon each of the foregoing: (a) the indemnified Party shall promptly notify the indemnifying Party in writing of any threatened or actual claim or suit; (b) the indemnifying Party shall have sole control of the defense or settlement of any claim or suit; and (c) the indemnified Party shall cooperate with the indemnifying Party to facilitate the settlement or defense of any claim or suit.

## 10. TERM AND TERMINATION

**10.1 Term.** This Agreement commences on the Effective Date and remains in effect for a period of [INITIAL TERM] or as otherwise set forth in the applicable Statement of Work(s), whichever is longer ("**Initial Term**"), unless earlier terminated as set forth below. This Agreement shall be automatically renewed for consecutive one (1) year terms (each, a "**Renewal Term**") unless either Party provides written notice to the other of non-renewal at least thirty (30) days prior to the expiration of the then-current term. Under this Agreement, "**Term**" shall mean the Initial Term together with any Renewal Term(s).

**10.2 Termination for Cause.** Either Party may terminate this Agreement immediately (a) upon the occurrence of the bankruptcy or insolvency of the other Party, if such bankruptcy or insolvency is not discharged within sixty (60) days of any filing thereof; or (b) upon notice to the other Party if the other Party materially breaches this Agreement, and such breach remains uncured more than forty-five (45) days after receipt of written notice of such breach, subject to the fees in the applicable Statement of Work.

**10.3 Termination for Changes to Applicable Law or Supplier Relationship.** Either Party may terminate this Agreement upon written notice to the other Party if (a) the relationship and/or the transactions contemplated in a Statement of Work would violate any applicable law; or (b) if an agreement between Iron Mountain and a supplier ("**Supplier Agreement**") expires or terminates or a supplier discontinues any portion or feature of the services supplier provides pursuant to a Supplier Agreement, resulting in Iron Mountain's inability to provide the applicable Services to Customer in whole or in part.

**10.4 Suspension of Services by Iron Mountain.** Iron Mountain may suspend or limit Customer's or any Authorized User's use of the Services provided under this Agreement (including, without limitation, its transmission or retrieval of Customer Data) immediately upon written notice to

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

Customer, without liability, for any one of the following reasons: (a) Customer fails to pay any undisputed fees as and when due pursuant to this Agreement or the applicable Statement of Work and such failure continues for a period of thirty (30) days; (b) the Services are being used by Customer or any of its Authorized Users in violation of any applicable federal, state or local law, ordinance or regulation; (c) the Services are being used by Customer or any of its Authorized Users in an unauthorized manner; (d) Customer's or any of its Authorized User's use of the Services violates the AUP, adversely affects Iron Mountain's provision of services to other customers or poses a security risk to Iron Mountain's systems; or (e) a court or other governmental authority having jurisdiction issues an order prohibiting Iron Mountain from furnishing the Services to Customer. During any such suspension, Customer shall remain responsible and liable for all fees due for the suspended Services. If any of the foregoing grounds for suspension continues for more than fifteen (15) days, Iron Mountain shall have the right to terminate the Agreement for cause and without an opportunity to cure by Customer.

**10.5 Effect of Termination.** If this Agreement expires or is terminated for any reason, then: (a) Customer's rights to access and use the Services shall immediately terminate; (b) all fees owed by Customer to Iron Mountain will be immediately due upon receipt of the final invoice; (c) Iron Mountain and the Customer shall delete all Customer Data from the Host and InSight Services by the termination or expiration date of this Agreement; and (d) upon request and subject to the Host's terms and policies to the extent applicable, each Party will use commercially reasonable efforts to return or delete all Confidential Information of the other Party, provided that, for clarity, Iron Mountain's obligations under this subsection (d) do not apply to any Usage Data. In the event that Customer Data remains on the Host after the expiration or termination of this Agreement, the terms of this Agreement shall continue to apply until all Customer Data has been removed from the Host. The sections and subsections titled *Definitions, Restrictions on Use, Confidentiality, Warranties and Disclaimers, Limitation of Liability, Indemnification, Effect of Termination, and Miscellaneous* will survive expiration or termination of this Agreement for any reason.

## 11. MISCELLANEOUS

**11.1 Governing Law and Venue.** Unless the Customer is prohibited by law, this Agreement and any action related thereto will be governed and interpreted by and under the laws of the Commonwealth of Massachusetts, without giving effect to any conflicts of laws principles that require the application of the law of a different jurisdiction. Customer hereby expressly consents to the personal jurisdiction and venue in the state and federal courts for the county in which Iron Mountain's principal place of business is located for any lawsuit filed there against Customer by Iron Mountain arising from or related to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. The laws of the jurisdiction where Customer is located may be different from Massachusetts law. The Parties expressly waive any right to a jury trial regarding disputes related to this Agreement. Customer shall always comply with all international and domestic laws, ordinances, regulations, and statutes that are applicable to its purchase and use of the Documentation or Services hereunder.

**11.2 Dispute Resolution.** The following procedure will be adhered to by the Parties to resolve any dispute concerning material obligations under this Agreement. The aggrieved Party shall notify the other Party in writing of the nature of the dispute with as much detail as possible about the nature of the dispute, all in accordance with the terms set forth in Section 12.15 of this Agreement. The persons identified for purposes of notices set forth in Section 12.15 or their designees, shall meet (in person or by telephone) within fourteen (14) days after the date of the written notification to attempt to resolve the dispute. If those persons are unable to agree on a resolution, then senior management personnel of each

## Iron Mountain – Public Sector - Service Specific Terms and Conditions \_November 2020

of Iron Mountain and Customer having authority to resolve the dispute without the further consent of any other person (“**Management**”) shall meet or otherwise act promptly to facilitate an agreement. If Management cannot resolve the dispute within thirty (30) days after their initial meeting or other action (or in case either Party fails to participate in the dispute resolution), either Party may take such other and further action as it deems necessary. Iron Mountain and Customer agree that neither of them shall take any legal action unless and until this dispute resolution procedure has been employed or waived.

**11.3 Publicity.** Iron Mountain and Customer may issue joint external communications regarding the performance of the Services. Upon mutual agreement, Customer will speak to the press and a limited number of potential Iron Mountain customers as a reference customer. Upon Customer’s prior written consent, Customer also agrees to allow Iron Mountain to use its name; trademarks, service marks, logos and other distinctive brand features of Customer; application; and non-competitive deployment details in both text and pictures in its various marketing communications and materials. Iron Mountain may verbally reference Customer as a customer of the Services. Neither Party needs approval if it is repeating a public statement that is substantially similar to a previously-approved public statement.

**11.4 Compliance.** Each Party shall comply with, and retain responsibility for its compliance with, all applicable export control laws and economic sanctions programs relating to its respective business, facilities, and the provision of services to third parties (collectively, “**Trade Control Laws**”). Iron Mountain shall not be required by the terms of this Agreement to be directly or indirectly involved in the provision of goods, software, services and/or technical data that may be prohibited by applicable Trade Control Laws if performed by Iron Mountain and it shall be in the sole discretion of Iron Mountain to refrain from being involved in such activities.

(a) **Export Laws.** Applicable Trade Control Laws may include U.S. export control laws such as the Export Administration Regulations (“**EAR**”) and the International Traffic in Arms Regulations (“**ITAR**”), and U.S. economic sanctions programs that are or may be maintained by the U.S. Government, including sanctions and other controls currently imposed against Cuba, Iran, North Korea, Sudan, Syria and Crimea (territory of Ukraine) (collectively, “**Restricted Countries**”), as well as individuals and entities identified on, or owned or controlled by or acting on behalf of individual or entities identified on, applicable government restricted party lists such as the Specially Designated Nationals and Blocked Persons List, Sectoral Sanctions Identification List, Foreign Sanctions Evader List, Denied Persons List, Unverified List, Entity List and Debarred Parties List (collectively, “**Restricted Parties**”).

(b) **Restricted Parties.** Customer represents that neither the Customer nor any of its end users (i) is a Restricted Party; (ii) is located in, organized under the laws of or ordinarily resident in a Restricted Country; (iii) will directly or indirectly export, re-export or otherwise transfer any goods, technology or Services covered by the Agreement to Restricted Countries or Restricted Parties; or (iv) will access or otherwise use the Services from or in a Restricted Country.

(c) **Restricted Activities.** Customer will not directly or indirectly use or transfer the Services (i) in violation of any Trade Control Laws; (ii) for activities directly or indirectly related to the design, development, production, stockpiling or use of nuclear explosive devices, missiles, chemical or biological weapons or other restricted end-uses; or (iii) for activities directly or indirectly related to Restricted Countries or Restricted Parties. Customer will not use the Services or any component thereof to process, export, re-export, store, host or otherwise transfer any Customer Data that is subject to the ITAR or subject to the EAR. Customer is solely responsible for compliance with Trade Control Laws in the use of the Services and in the use and processing of Customer Data or access to Customer Data by Customer. Customer is solely responsible for obtaining and complying with any required licenses or other authorizations under applicable Trade Control Laws for such activities.



Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**11.5 Severability.** If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will remain enforceable and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Without limiting the generality of the foregoing, Customer agrees that the section titled *Limitation of Liability* will remain in effect notwithstanding the unenforceability of any provision in the subsection titled *Limited Warranty*.

**11.6 Waiver.** Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**11.7 Remedies.** Except as provided in the sections titled *Limited Warranty for Professional Services* and *Indemnification*, the Parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the Services, Services Technology and Documentation contain valuable trade secrets and proprietary information of Iron Mountain and its suppliers, that any actual or threatened breach of the sections titled *Services Use*, *Intellectual Property* or *Confidentiality* or any other breach by Customer of its obligations with respect to Intellectual Property Rights of Iron Mountain or its suppliers will constitute immediate, irreparable harm to Iron Mountain and its suppliers for which monetary damages would be an inadequate remedy. In such case, Iron Mountain and its suppliers will be entitled to immediate injunctive relief without the requirement of posting bond. If any legal action is brought to enforce this Agreement, the prevailing Party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

**11.8 No Assignment.** Neither Party shall assign or otherwise transfer this Agreement, or its rights and obligations herein, without obtaining the prior written consent of the other Party, which shall not be unreasonably withheld, and any attempted assignment or transfer in violation of the foregoing will be null and void; provided, however, that Iron Mountain may assign or transfer this Agreement to an Affiliate. In the event of a change of control (as defined in Section 2.2) of a Party, whether in connection with a merger, acquisition, reorganization or sale of all or substantially all of its assets, or other operation of law, such Party will provide written notice to the other Party at least (30) days prior to the change of control. The terms of this Agreement shall be binding upon the Parties and their respective successors and permitted assigns.

**11.9 Force Majeure.** Any failure or delay by either Party in the performance of its duties or obligations (except the payment of money owed) will not be considered a default, breach or ground for termination of this Agreement if such failure or delay is caused by an act of God, war, civil commotion, terrorism, riot, labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the reasonable control of such Party (a "**Force Majeure Event**"). Upon the occurrence of a Force Majeure Event, the affected Party shall be excused from any further performance of its obligations pursuant to this Agreement affected by the Force Majeure Event for as long as such Force Majeure Event continues. The affected Party shall use reasonable efforts, under the circumstances, to notify the other Party of the occurrence of a Force Majeure Event and use commercially reasonable efforts to resume performance in a timely manner.

**11.10 Independent Contractors.** Customer's relationship to Iron Mountain is that of an independent contractor, and neither Party is an agent or partner of the other. Customer will not have, and will not represent to any third party that it has, any authority to act on behalf of Iron Mountain.

**11.11 Third Parties.** Certain software vendors are intended third party beneficiaries of Section 4.2 of this Agreement for the purposes of protecting their Intellectual Property Rights and for no other purposes.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**11.12 Notices.** Each Party must deliver all notices or other communications required or permitted under this Agreement in writing to the other Party at the address listed below by courier, by certified or registered mail (postage prepaid and return receipt requested), by electronic mail or by a nationally-recognized overnight delivery service. If delivered by certified or registered mail, any such notice will be considered to have been given five (5) business days after it was mailed, as evidenced by the postmark. If delivered by courier, electronic mail or overnight delivery service, any such notice shall be considered to have been given on the delivery date. Each Party may change its address for receipt of notice by giving notice of such change to the other Party.

To Customer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_

Fax: (\_\_\_\_) \_\_\_\_ - \_\_\_\_

E-Mail: \_\_\_\_\_

To Iron Mountain:

Iron Mountain Information Management Services, Inc.

One Federal Street

Boston, MA 02110

Attention: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_

Fax: (\_\_\_\_) \_\_\_\_ - \_\_\_\_

E-Mail: \_\_\_\_\_

for  
With a copy (which shall not constitute notice but which is nonetheless required  
notice) to:

Iron Mountain Information Management Services, Inc.

One Federal Street

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

Boston, MA 02110

Attention: Legal

Telephone: (617) 535-4766

E-Mail: [Legal.Department@ironmountain.com](mailto:Legal.Department@ironmountain.com)

**11.13 Conflict of Terms; Purchase Orders.** In the event of a conflict or inconsistency between this text and the terms of any Statement of Work, this text shall govern and control. In the event that Customer issues a purchase order to Iron Mountain covering the Services, any terms and conditions set forth in the purchase order which are in addition to or establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

## FRAMEWORK AGREEMENT FOR MANAGED SERVICES

### 1. Definitions.

“**Affiliate**” means those entities controlling, controlled by, under common control with, or having a common parent with, either Iron Mountain or Customer as applicable. For purposes of the foregoing definition, “control” (including “controlling”, “controlled by” and “under common control with”) shall mean direct or indirect ownership of: (a) not less than fifty percent (50%) of the voting stock of a corporation, (b) the right to vote not less than fifty percent (50%) of the voting stock of a corporation, or (c) not less than fifty percent (50%) ownership interest in a partnership or other business entity. If the Parties wish to add a Customer Affiliate to receive Services under this Agreement, such Affiliate and Iron Mountain shall execute a new Schedule referencing this Agreement.

“**Data**” means all data and information provided by Customer to Iron Mountain under this Agreement in connection with the Services.

“**Documentation**” means user manuals for the Services, the applicable installation guides, service descriptions, technical specifications, and online help files provided by Iron Mountain or its Suppliers or available on Iron Mountain’s online portal.

“**Encrypted**” or “**encrypted**” shall mean data that has been rendered through algorithmic transformation or any other means available into an unrecognizable form in which meaning cannot be understood without the use of a confidential process or key.

“**Professional Services**” means the installation, training, or data shuttling services performed by Iron Mountain or Supplier personnel for the benefit of Customer as set forth in a Schedule.

“**Schedule**” means a document annexed to this Agreement, physically or by reference, describing among other things the Services, applicable SSTC, term, number of licensed users and pricing.

“**Service Specific Terms and Conditions**” (“SSTC”) means the specific terms and conditions related to the Service(s) the Customer is licensing from Iron Mountain as part of its provision of managed services. The applicable SSTC will be specified on each Schedule, and each SSTC will only apply to the particular Services described therein.

“**Services**” means the managed, hosted, and/or cloud-based services, Support Services, Professional Services, and Documentation necessary to provide Services, all as set forth in the SSTC and applicable Schedule.

“**Suppliers**” means Iron Mountain’s licensors, vendors, and/or third party providers of the Services.

“**Support Services**” means the service and related maintenance in support of the Services purchased by Customer as described in the applicable SSTC or Schedule.

### 2. License.

14.15. License Grant for Services. Iron Mountain shall perform the Services at the rates and charges set forth in a Schedule. Iron Mountain grants to Customer a non-exclusive, non-transferable license for the term of this Agreement to: (i) use the Services in the manner set forth in this Agreement and number of licensed users set forth in the applicable Schedule; (ii) use the Services only for Customer’s internal business needs; and (iii) use the Documentation to support the use of the Services. Customer shall not sublicense, sell, rent, lease, transfer, distribute or otherwise commercially exploit or make the Services and/or Documentation available to any third party. Customer and all of its users are licensed shall be

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

bound by and comply with this Agreement, and Customer is solely responsible for the activities of its users and for the accuracy, integrity, legality, reliability, and appropriateness of all Data.

14.16. Restrictions. Customer shall not (i) attempt to reverse engineer, decompile, disassemble, or attempt to derive the source code of the Services; (ii) modify, port, translate, localize or create derivative works of the Services; (iii) use the Services to (a) infringe on the intellectual property rights, publicity rights, or privacy rights of any third party; (b) violate, or cause Iron Mountain or its Suppliers to violate, any law, statute, ordinance or regulation; (c) store defamatory, trade libelous, or otherwise unlawful Data; (d) store obscene, pornographic or indecent Data in violation of applicable law; or (e) propagate any virus, worms, Trojan horses or other programming routine intended to damage any system or data; (iv) use the Services in any application that may involve risks of death, bodily injury, property damage or environmental damage (including life support applications, devices or systems); (v) exceed the number of users specified in the applicable Schedule; (vi) attempt to gain unpermitted access to any Iron Mountain or Supplier computer system, network, or database; or (vii) file copyright or patent applications that include the Services or any portion thereof.

14.17. Data License Grant. Customer grants to Iron Mountain and its Suppliers a limited, non-exclusive, and non-transferable license to the Data only to the extent necessary for Iron Mountain or its Suppliers to perform the Services. In the event that Iron Mountain needs to access the Data to respond to any technical problems, queries, or requests from Customer, Customer shall ensure that both Customer and Iron Mountain are permitted to do so.

14.18. Password Protection of Service. Customer shall be responsible for protecting and safeguarding any keys (including encryption keys), certificates, passwords, access codes, user IDs or other login information (collectively, "Passwords") provided to Customer for the purpose of accessing and using the Services. In the event that Customer makes such Passwords available to any third party, Customer shall be responsible for all actions taken by such third party in connection with the Services. Customer shall not disclose or make available Customer's Passwords other than to Customer's authorized employees and shall use all commercially reasonable efforts to prevent unauthorized access to, or use of the Services, and will notify Iron Mountain promptly of any such unauthorized use. In no event will Iron Mountain be liable for any loss of Data or other claims arising out of or in connection with the unauthorized acquisition of a Password.

### 3. Term and Termination.

14.19. Term of Agreement. The term of this Agreement shall commence on the Effective Date and shall continue until all Schedules executed under this Agreement expire or terminate. In the event that Iron Mountain or its Suppliers continue to hold Data after the expiration or termination of this Agreement, the terms of this Agreement shall continue to apply until all Data has been removed from Iron Mountain's or its Suppliers' facilities, except that Iron Mountain may adjust rates upon thirty (30) days' written notice.

14.20. Termination for Cause. Either Party may terminate this Agreement or the affected Schedule(s) (a) immediately, upon the occurrence of the bankruptcy or insolvency of the other Party, if such bankruptcy or insolvency is not discharged within sixty (60) days of any filing thereof; or (b) in the event that a Party materially breaches its obligations under this Agreement and fails to cure such default within forty-five (45) days after the non-breaching Party's written notice, subject to the Fees in the applicable Schedule(s).

14.21. Termination for Changes to Applicable Law or Supplier Termination. Any Schedule may be terminated immediately by either Party upon written notice to the other Party if (i) the relationship and/or the transactions contemplated in the Schedule would violate any applicable law; or (ii) if an agreement

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

between Iron Mountain and a Supplier expires or terminates, resulting in Iron Mountain's inability to provide the applicable Services to Customer.

14.22. Effect of Termination. Upon termination of the applicable Schedule, Customer shall (i) immediately discontinue all use of the applicable Service, (ii) return, uninstall, or destroy (along with all copies in any form) the applicable Documentation or other materials licensed to Customer for such Services under the applicable Schedule; and (iii) pay any fees and other accrued and unpaid amounts due to Iron Mountain under the applicable Schedule(s). Upon termination of any Schedule, Iron Mountain shall (a) have no further obligation to make the applicable Service(s) available to Customer; (b) securely destroy the applicable Data or, upon Customer's prior written request, return the applicable Data to Customer, subject to the Fees on the applicable Schedule; and (c) upon written request by Customer and payment of the applicable Fees, provide a written certification to Customer that all Data has been returned or destroyed. Upon termination or expiration of a Schedule, Iron Mountain may delete all Data stored pursuant to the expired or terminated Schedule and will have no liability for such action to Customer or anyone claiming by or through Customer.

**4. Prices and Payment.**

14.23. Charges. Customer shall pay the charges for the Services as set forth in the applicable Schedule(s) (collectively, the "Fees"). All applicable sales and use taxes and similar governmental charges will be stated separately on Iron Mountain's invoice and shall be the responsibility of Customer.

14.24. Payment Terms. Unless otherwise set forth in a Schedule, payment terms are net, thirty (30) days from date of invoice; if Customer is delinquent, Iron Mountain may (in its discretion) charge Customer late fees totaling one percent (1%) per month of the outstanding balance.

**5. Ownership Warranty; Customer Instructions.** Customer warrants that it is the owner or legal custodian of the Data and has full authority to store the Data and direct its disposition in accordance with this Agreement. Iron Mountain will perform Services pursuant to the direction of Customer's agent(s) identified pursuant to Iron Mountain's standards. Authority granted to any persons on standard authorization forms shall constitute Customer's representation that the identified persons have full authority to order any Service, including deletion of Data. Such orders may be given in person, by telephone or in writing (fax, email or hard-copy). Customer releases Iron Mountain from all liability by reason of the destruction or deletion of Data pursuant to Customer's authorization.

**6. Operational Procedures.** Customer shall comply with Iron Mountain's reasonable operational requirements regarding the Services, including but not limited to, interaction with the Data, network requirements, access to Customer locations, security, access and similar matters. Customer shall (i) comply with all Documentation; (ii) provide all hardware systems necessary to support the Services; and (iii) implement reasonable security and environmental precautions for use of the Services. If Customer exceeds the storage capacity purchased in the applicable Schedule, Iron Mountain may move Customer to the appropriate Services tier and adjust rates accordingly to reflect Customer's actual usage of the Services.

**7. Intellectual Property; Ownership; Data Disclaimer.**

14.25. Intellectual Property. Iron Mountain or its Suppliers are the sole and exclusive owner of all right, title, and interest in and to the Services (excluding any open source third-party software), and all copies thereof including all derivations and modifications thereto including, but not limited to, ownership of all intellectual property rights (collectively, "Intellectual Property"). This Agreement does not provide

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

Customer with title or ownership of the Intellectual Property, but only a right of limited use. Customer agrees to inform Iron Mountain promptly following discovery of any infringement or other improper action with respect to the Intellectual Property. Customer recognizes and acknowledges the exclusive right of Iron Mountain and/or its Suppliers in and to all intellectual property and proprietary rights in and to Intellectual Property and that such Intellectual Property is the sole and exclusive property of Iron Mountain and/or its Suppliers. Customer waives its right to contest the validity and/or ownership of such Intellectual Property.

14.26. Ownership of Customer Data. All rights, title, and interest in Data will remain with Customer. This Agreement does not provide Iron Mountain with title or ownership of the Data, but only a right of limited use as set forth in Section 2.3.

14.27. Data Disclaimer. CUSTOMER EXPRESSLY AGREES THAT IRON MOUNTAIN DOES NOT CREATE, OPERATE, CONTROL OR ENDORSE ANY DATA, INFORMATION, OR THIRD-PARTY PRODUCTS USED IN CONJUNCTION WITH THE SERVICES PROVIDED HEREUNDER.

## 8. Warranties.

14.28. Iron Mountain Service Warranty. Iron Mountain warrants to Customer that for the term of the applicable Schedule, the Services will perform in substantial conformance with the Documentation. Iron Mountain does not warrant that the Services will be error-free in all circumstances, and Customer will provide prompt written notice to Iron Mountain of any non-conforming Service. In the event of Iron Mountain's breach of the foregoing warranty, Customer's exclusive remedy and Iron Mountain's sole liability will be for Iron Mountain to use commercially reasonable efforts to repair or replace such Services. This warranty is limited and shall not apply where the failure of the Services to satisfy this warranty results from Customer's failure to use the Services in accordance with the Documentation.

14.29. Iron Mountain Professional Services Warranty. Iron Mountain warrants that it will perform the Professional Services using reasonable care and skill in accordance with professional industry standards. This warranty is limited and shall not apply to any Professional Services where the failure of the Professional Services to satisfy this warranty results from improper use by Customer of the Services or from Customer's decision not to implement any reasonable practices to which the Services apply that may be recommended by Iron Mountain. In the event of Iron Mountain's breach of the foregoing warranty, Customer's exclusive remedy and Iron Mountain's sole liability will be the re-performance of the applicable Professional Service, at no charge to Customer.

14.30. Limitation and Disclaimer. UNLESS EXPRESSLY SET FORTH HEREIN OR OTHERWISE SPECIFIED BY AN IRON MOUNTAIN SUPPLIER, IRON MOUNTAIN AND ITS SUPPLIERS PROVIDE ALL SERVICES WITHOUT WARRANTIES OF ANY KIND. IRON MOUNTAIN DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE SERVICES OR THAT IRON MOUNTAIN OR ITS SUPPLIERS WILL CORRECT ALL DEFECTS. THE WARRANTIES SET FORTH ABOVE IN THIS SECTION 8 AND IN THE APPLICABLE SSTC ARE THE SOLE AND EXCLUSIVE WARRANTIES OF IRON MOUNTAIN UNDER THIS AGREEMENT AND ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE. ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED BY IRON MOUNTAIN AND WAIVED BY CUSTOMER. THE WARRANTIES EXTEND ONLY TO CUSTOMER AND IRON MOUNTAIN WILL NOT BE LIABLE FOR ANY THIRD PARTY CLAIM OR DEMAND AGAINST CUSTOMER IN CONNECTION WITH THIS SECTION 8.

## 9. Limitation of Liability; Indemnification.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

14.31. Negligence Based Liability. Iron Mountain shall have no liability for any losses, costs, damages or expenses arising out of or in connection with loss, destruction or damage to Data, unless and to the extent caused by its failure to exercise such care as a reasonably careful person would exercise under like circumstances.

14.32. Maximum Liability for the Services. Iron Mountain's maximum aggregate liability arising out of or in connection with this Agreement regardless of the cause of action and whether arising in contract, tort (including negligence), warranty, indemnity, or any other legal theory shall be limited to the Fees paid by Customer in the six (6) months immediately preceding any claim. Data is not insured by Iron Mountain against loss or damage, however caused and Customer shall cause its insurers of Data to waive any right of subrogation against Iron Mountain. Customer is solely responsible for encrypting its Data. Customer agrees that the terms of this Agreement apply only to Data in Iron Mountain's possession in the performance of the Services. Data in the custody of third-party transportation providers is not in Iron Mountain's possession, and Iron Mountain shall have no liability for loss, damage or destruction that occurs while Data is in the custody of such persons. Iron Mountain assumes no liability whatsoever for Data that is (i) unencrypted; or (ii) modified or deleted by Customer.

14.33. No Consequential Damages. Except for liability arising from Customer's indemnification obligations in this Agreement, in no event will either Party or Iron Mountain's Suppliers be liable for any indirect, incidental, consequential, special, punitive, exemplary or similar such losses or damages arising out of or in connection with this Agreement including any loss of profits, interruption of business, or the loss of or cost of recreating any data, however caused, under any theory of liability (whether in contract, tort, warranty, or otherwise), and regardless of whether any remedy set forth herein fails of its essential purpose and even if a Party knew of or should have known of the possibility of such loss or damage.

14.34. Customer Environment. Iron Mountain shall bear no liability to Customer and Customer shall indemnify and hold Iron Mountain harmless from and against any third-party claims (including reasonable attorneys' fees) arising out of or in connection with: (a) Customer's decision not to implement any reasonable change to Customer's technical environment that supports the Services that may be advised by Iron Mountain in writing; (b) Customer's combination, operation, or use of the Documentation with any product, data, apparatus, or business method that Iron Mountain or its Suppliers did not provide; (c) Customer's modification of the Documentation; (d) Customer's distribution, operation or use of the Documentation for the benefit of a third party; or (e) Customer's failure to use the Services in accordance with the Documentation. Further, Customer shall inform Iron Mountain of any system change that may reasonably be expected to affect Iron Mountain's ability to provide the Services.

14.35. Customer Indemnification. Customer shall indemnify, defend, and hold harmless Iron Mountain and its Suppliers, Affiliates, subsidiaries, officers, directors and employees from and against any and all third-party claims or demands and all liabilities arising out of or in connection with (i) allegations that the Data infringes any intellectual property right of any third party or violates any applicable law; and (ii) Customer's breach of the license terms and use restrictions set forth in Section 2 or in a SSTC. Iron Mountain shall provide Customer prompt written notice of any such claim or demand and Customer shall have sole control of the defense and all related settlement negotiations. Iron Mountain shall provide any necessary assistance, information and authority and Customer will reimburse Iron Mountain for any reasonable, documented, out-of-pocket expenses incurred by Iron Mountain in providing such assistance. Iron Mountain shall have the right to participate, at its own expense, in the claim or suit. This paragraph shall survive the expiration or termination of this Agreement.

14.36. Infringement Indemnification. Iron Mountain shall defend, indemnify and hold harmless Customer and its officers, directors and employees from and against any third-party claim or demand alleging that the Services infringe any United States patent or copyright of any third party or



## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

misappropriate any third party's trade secrets, provided that Customer provides Iron Mountain with prompt written notice of any such claim, suit or demand and consents and authorizes Iron Mountain's sole control of the defense of any resulting litigation or settlement thereof. With respect to the foregoing indemnification, Iron Mountain's sole obligation and Customer's exclusive remedy will be for Iron Mountain to defend any such claim or demand and pay any resulting judgment or settlement made, notwithstanding the limitations of liability in this Section 9. Iron Mountain will have no liability or obligation to Customer with respect to any claim of infringement or misappropriation in the event and to the extent based upon (i) use of or access to the Services in or from an application or environment or on a platform or with devices not authorized in Documentation or other requirements specified in a Schedule or this Agreement; (ii) modifications, alterations, combinations or enhancements of the Services not created by Iron Mountain; or (iii) any patent, copyright, or trade secret in which Customer or any Affiliate of Customer has an interest. The foregoing indemnification obligations shall not apply in the event that the claim or demand arises as a result of Customer's negligence, intentional misconduct, or breach of this Agreement. If any Services are held, or in Iron Mountain's reasonable opinion could be held, to constitute an infringement or misappropriation of any third party's copyright or trade secret, Iron Mountain may at its option (a) procure the right for Customer to continue using or accessing the Services, (b) replace the Services with a non-infringing equivalent service; or (c) modify the Services to make them non-infringing. This section states Iron Mountain's sole liability to Customer and Customer's exclusive remedy with respect to any claims of infringement or misappropriation arising out of or in connection with this Agreement.

14.37. **Construction.** This Section 9 "Limitation of Liability; Indemnification" is not intended to and will not be construed as excluding or limiting any liability contrary to applicable law or public policy, including but not limited to, liability for death or bodily injury. If applicable law or public policy renders any portion of this Section 9 unenforceable or invalid, the remainder of the Section will remain in full force and effect.

**10. Confidentiality.** "Confidential Information" means any (i) proprietary, confidential, or trade secret information disclosed by a Party to the other Party during negotiations or discussions regarding various business activities under this Agreement, (ii) information regarding this Agreement or Schedule(s), and (iii) information regarding Iron Mountain's processes and procedures; except for information that was previously known to the receiving Party free of any obligation to keep it confidential, is subsequently made public by the disclosing Party, or is disclosed by a third party having a legal right to make such disclosure. Confidential Information shall be used only in the manner and for the purposes contemplated by this Agreement and shall not be intentionally disclosed to third parties without the disclosing Party's written consent. Neither Party shall obtain any rights in or to the Confidential Information of the other Party. Each Party shall implement and maintain reasonable safeguards designed to protect the other Party's Confidential Information.

**11. Data Protection.** Iron Mountain shall implement and maintain appropriate administrative, physical and technical safeguards designed to protect Data processed by Iron Mountain against loss, damage or disclosure. Iron Mountain shall process Data only to the extent required to carry out its obligations or exercise its rights under this Agreement or in accordance with the instructions of Customer. Customer hereby instructs Iron Mountain to take such steps in the processing of Data as are reasonably necessary to the performance of Iron Mountain's obligations under this Agreement, and agrees that such instructions constitute its full and complete instructions as to the means by which Data shall be processed by Iron Mountain. Except as authorized by Customer or pursuant to Section 12 below, Iron Mountain will not disclose Data to any third party other than subcontractors and agents who have agreed to comply with obligations substantially similar to those set forth herein. To the extent that any privacy or data protection laws impose an obligation upon Iron Mountain to comply with an individual's request for

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

access to or correction of their Data, Customer agrees that it shall satisfy such obligations. Upon termination of this Agreement, Iron Mountain shall return Data to the Customer or destroy such Data in accordance with Customer's written instructions, subject to the Fees on the applicable Schedule(s).

**12. Governmental Orders.** Iron Mountain cannot prevent access by governmental entities to Data. However, in the event Iron Mountain receives any subpoena, warrant, court order or similar such governmental agency or legal requirement ("Order") that purports to compel disclosure of Data, Iron Mountain shall promptly notify Customer of such Order (unless such notice is prohibited by law or judicial order) and shall cooperate with Customer, at Customer's expense, in the exercise of Customer's right to protect the confidentiality of Data. Iron Mountain may comply with any such Order, except to the extent Customer obtains a court order quashing or limiting such Order.

**13. Audit.** During the Term of this Agreement, Customer shall maintain records reasonably required to verify its compliance with this Agreement and all applicable Schedules. Upon at least thirty (30) calendar days' notice to Customer, and not less than twelve (12) months since a prior audit, Iron Mountain may audit and inspect the applicable records of Customer, at Customer's principal place of business, during Customer's normal business hours and in such a manner as to avoid unreasonable interference with Customer's business operations.

**14. Force Majeure.** Any failure or delay by either Party in the performance of its obligations under this Agreement shall not be deemed a default or grounds for liability or termination hereunder if such failure or delay is caused by an event beyond the affected Party's reasonable control, or by acts of God, governmental actions, labor unrest, acts of terrorism or war, unusually severe weather, riots, or fire (a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event, the affected Party shall be excused from any further performance of its obligations pursuant to this Agreement affected by the Force Majeure Event for as long as such Force Majeure Event continues. The affected Party shall promptly notify the other Party in writing of the occurrence of a Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event. If a Party's inability to perform under the Agreement due to a Force Majeure Event persists for a period of sixty (60) days following the Force Majeure Event, the other Party may terminate only the portion of the Agreement or applicable Schedule(s) directly affected by the Force Majeure Event. Notwithstanding any provision to the contrary, a Force Majeure Event shall not excuse payment obligations under this Agreement.

**15. Customer Default.** In the event Customer fails to pay any undisputed fees as and when due pursuant to this Agreement or the applicable Schedule and such failure continues for a period of thirty (30) days, Iron Mountain may, at its option, by written notice to Customer: (a) suspend the provision of Services to Customer; or (b) restrict Customer's access to the Data then held by Iron Mountain. If such failure persists for a period of six (6) months, Iron Mountain may securely destroy Data, provided that Iron Mountain shall have given ninety (90) days' prior written notice to Customer. Customer shall pay Iron Mountain's standard price for such secure destruction. A final notice will be sent to Customer ten (10) days prior to secure destruction of the Data. In the event Iron Mountain takes any actions pursuant to this Section, it shall have no liability to Customer or any agent, representative or other third party claiming by or through Customer. The foregoing rights of Iron Mountain shall be without prejudice to any other rights it may have at law or in equity or as may be otherwise set forth in this Agreement.

**16. Notice of Loss.** When Data has been lost, damaged or destroyed, Iron Mountain shall, upon confirmation of the event, report the matter in writing to Customer.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

## 17. General Provisions.

14.38. Notices. All notices relating to this Agreement shall be in writing and shall be delivered (i) by overnight courier or hand; (ii) postage prepaid certified or registered first-class mail with return receipt requested; (iii) electronic transmission; or (iv) facsimile. Notices shall be sent to the address of the other Party set forth in this Agreement or the applicable Schedule and shall be deemed given upon personal delivery, five (5) calendar days after deposit in the mail, or upon acknowledgment or receipt of electronic transmission.

14.39. Relationship with Third Parties. No customer, end user or other person or entity not a Party to this Agreement shall be considered a third-party beneficiary of this Agreement.

14.40. Severability. If applicable law or public policy renders any portion of this Agreement unenforceable or invalid, the remainder of the Agreement shall remain in full force and effect. The following provisions shall survive any termination of this Agreement: Section 2, "License"; Section 3.4, "Effect of Termination"; Section 4, "Prices & Payment"; Section 7, "Intellectual Property; Ownership; Data Disclaimer"; Section 9, "Limitation of Liability; Indemnification"; Section 10, "Confidentiality"; Section 17 "General Provisions."

14.41. Dispute Resolution. Any and all disputes, controversies or claims of whatsoever kind or nature arising out of or in connection with this Agreement regardless of the cause of action and whether arising in contract, tort (including negligence), warranty or any other legal theory (each, a "Dispute") will be resolved by the process set forth in this section. Each of the Parties shall appoint a member of its senior management to attempt to settle the Dispute in an amicable and equitable manner. If the Parties are unable to resolve any such Dispute within sixty (60) calendar days of the event giving rise to the Dispute, the Dispute will be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and in such event each Party hereby consents to the resolution of such Dispute in this manner. Judgment on the award rendered by the arbitration may be entered in any court of competent jurisdiction. Within fourteen (14) days after the commencement of arbitration, the Parties shall mutually agree on the appointment of a single arbitrator, or failing agreement within such fourteen (14) day period, the American Arbitration Association will select the single arbitrator. The place of arbitration will be Boston, Massachusetts, USA. The Parties shall maintain as strictly confidential the arbitration proceedings and arbitration award, except as is otherwise required by court order or as is necessary to confirm, vacate or enforce the award and for disclosure in confidence to the Parties' respective attorneys, tax advisors and senior management. The Parties agree that all Disputes will be arbitrated on an individual basis and that neither Party shall bring (or participate in) any class, collective, or multi-party claim with respect to a Dispute. Arbitration in the manner set forth in this section is the exclusive means of resolving any Disputes except for (i) the enforcement by either Party of its intellectual property rights; or (ii) in the event a Party seeks injunctive relief.

14.42. Choice of Law; Waiver of Jury Trial. This Agreement will be governed by the law of the state in which the Customer's principal place of business is located. The United Nations Convention on Contracts for the International Sale of Goods does not apply. The parties expressly waive any right to a jury trial regarding disputes related to this Agreement.

14.43. Export. Customer may not use or otherwise export or re-export any agent or product provided by Iron Mountain hereunder except as authorized by United States law and the laws of the jurisdiction in which the agent or product was obtained. In particular, but without limitation, an agent may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to any person on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Persons

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

List or Entity List. By receiving any such agent or product Customer represents and warrants that it is not located in any such country or included on any such list.

14.44. Assignment. Without the consent of the other Party, neither Party shall assign any right under the Agreement, except Iron Mountain may assign any such right to an Affiliate. The non-assigning Party shall not unreasonably withhold its consent.

14.45. Government End-User Notice. If a Schedule includes licensed software, such licensed software is a “Commercial Item,” as that term is defined at 48 C.F.R. § 2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation,” as such terms are used in 48 C.F.R. § 12.212 and 48 C.F.R. § 227.7202, as applicable. Consistent with 48 C.F.R. §§ 12.212, 227.7202-1 through 227.7202-4, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end-users (i) only as Commercial Items and (ii) with only those rights as are granted to all other end-users pursuant to the terms and conditions herein.

14.46. ITAR/EAR Compliance. Customer represents that none of the Data stored by Iron Mountain or its Suppliers pursuant to this Agreement require protection from access by foreign persons because they contain technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of Customer’s Data does contain any such information, Customer shall notify Iron Mountain of the specific Data that contains such information and acknowledges that special rates shall apply thereto.

14.47. Cumulative Remedies. Unless expressly stated to the contrary in this Agreement, all rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the Parties, whether provided by law, equity, statute, in any other agreement between the Parties or otherwise.

14.48. Waiver. Each Party agrees that the failure of the other Party at any time to require performance by such Party of any of the provisions herein shall not operate as a waiver of the rights of such Party to request strict performance of the same or like provisions, or any other provisions hereof, at a later time

14.49. Order of Precedence; Purchase Orders. In the event of inconsistency between this text and the terms of any SSTC or Schedule, the following shall be the order of precedence: (i) the SSTC, with respect to the applicable Services only; (ii) this text; and (iii) the Schedule. In the event that Customer issues a purchase order to Iron Mountain covering the Services, any terms and conditions set forth in the purchase order which are in addition to or establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.

14.50. Entire Agreement. This Agreement and its Schedules constitutes the complete and exclusive statement of the agreement between the Parties and supersedes all prior or contemporaneous proposals, oral or written, and all other communications between the Parties relating to the subject matter of this Agreement.

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

**Appendix L to Services Contract 1325**  
**Iron Mountain Terms and Conditions for**  
**Hyland Hosted Solution Service**

The Iron Mountain Hyland Hosted Solution Service Subscription is licensed for use by Customer under these Service Specific Terms and Conditions (“SSTC”) and the Framework Agreement for Managed Services (or Framework Amendment for Managed Services) between the Parties (“FAMS”), which is expressly incorporated into this SSTC. The Parties agree to be bound by the terms and conditions set forth in the FAMS and this SSTC. Capitalized terms used but not otherwise defined in this SSTC shall have the same meaning as set forth in the FAMS.

**1. Definitions.**

- (a) “Documentation” means the “Help Files,” whether online or included in the Software which relate to the functional, operational or performance characteristics of the Software.
- (b) “Error” means any defect or condition inherent in the Software which causes the Software to fail to function in all material respects as described in the Documentation, and which is reported by Customer in accordance with this SSTC and confirmed by Iron Mountain.
- (c) “Host Vendor” means Hyland Software, Inc.
- (d) “Host Web Site” means the web site hosted by Host Vendor as part of the Hosted Solution on a web server included in the Network, through which Customer will access the Software and Customer Data stored using the Software.
- (e) “Hosted Solution” means a Host Web Site, Network, Software, Third Party Software and Hosting Services provided, collectively, for use by Customers under this SSTC.
- (f) “Network” means the computers and peripheral storage devices, switches, firewalls, routers and other network devices provided as part of the Hosted Solution.
- (g) “Optional Hosting Services” means optional services described in the Process Manual which Host Vendor offers as Hosting Services, but which are not included in the Standard Hosting Services.
- (h) “Process Manual” means the latest version of the manual describing the Hosting Services, the Network and certain other components of the Hosted Solution, including the attestations, certification documents and assistance with compliance and security testing Host Vendor agrees to provide (based upon the Service Class selected by Customer), as posted by Iron Mountain at: <http://www.ironmountain.com/utility/legal/hyland-acceptable-use-language>
- (i) “Sandbox Environment” means a separate instance of the Software and Third Party Software (excluding Customer Data) hosted by Iron Mountain on the Network for Customer, for use by Customer solely with non-production data in a non-production environment for the limited purpose of functional testing of the Software and Third Party Software.
- (j) “Service” means, for the purposes of this SSTC, any of the Software Service, Standard Hosting Services and/or Technical Support Services.

Iron Mountain – Public Sector - Service Specific Terms and Conditions \_November 2020

- (k) "Service Class" means the service level commitment included as part of Standard Hosting Services, as described in the Service Class Manual, and purchased by Customer as part of the Hosted Solution.
- (l) "Service Class Manual" means the latest version of the manual describing the Service Classes, as posted by Iron Mountain at: <http://www.ironmountain.com/utility/legal/hyland-acceptable-use-language>
- (m) "Software" means Host Vendor's proprietary software products included from time to time in the Hosted Solution, including third party software bundled by Host Vendor together with Host Vendor's proprietary software products as a unified product.
- (n) "Software Service" means the Iron Mountain Hyland Subscription service and associated Documentation specified in the Order Form.
- (o) "Standard Hosting Services" means the Hosting Services described in the Process Manual as being standard hosting services.
- (p) "Subscription Period" means the period commencing with the start date and expiring on the end date specified in the applicable Schedule.
- (q) "Term" means the term of this SSTC as defined in Section 2.
- (r) "Technical Support Services" means the services described in the Service Class Manual.
- (s) "Third Party Software" means all third party software products (other than third party software products bundled by Iron Mountain as a part of the Software) licensed by Iron Mountain and sublicensed through this SSTC by Iron Mountain to Customer as part of the Hosted Solution.
- (t) "User" shall mean the Customer and Affiliates' employees and contractors who use the Service through User IDs issued in a manner contemplated by this SSTC.
- (u) "User Testing Environment" means a separate instance of the Software and Third Party Software (including Customer Data) hosted by Iron Mountain on the Network for Customer, for use by Customer solely with production data in a non-production environment for the limited purpose of functional and performance testing of the Software and environment and Third Party Software.

**2. Term.** The Term of this SSTC (the "Term") shall commence on the date of the execution of the first Schedule for the Service and continue until all outstanding Subscription Periods under Schedules for the Software Service expire or until this SSTC is terminated in accordance with the FAMS. Expiration or termination of one Schedule shall not affect any other Schedule, unless the SSTC as a whole is terminated pursuant to the FAMS.

**3. Subscription.**

- 3.1 Subscription Procedure. Customer will subscribe to the Software Service under one or more Schedules. The features of the Software Service and the terms and conditions applicable to that order are specified in the Schedule. In the event of any conflict between this SSTC and a Schedule, this SSTC shall control.
- 3.2. Initial Service. Iron Mountain will provide the Software Service described in any Schedule to Customer for the Subscription Period specified therein according to such Schedule and this SSTC.
- 3.3. Additional Service. Additional Schedules may be entered into by the Parties to subscribe to additional or different features of the Software Service. Unless designated as replacing a specific

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

outstanding Schedule, a new Schedule will be considered in addition to currently outstanding Schedules.

- 3.4 User and Technical Documentation. The Service contains online Documentation describing the operation of the Software Service under normal circumstances, which shall constitute Iron Mountain's Confidential Information, as defined in the FAMS.

**4. Certain Responsibilities and Obligations of Customer.**

- 4.1 (a) Customer may not retain any third party contractor as a provider of services to Customer ("Contractor"), other than for capturing, storing, processing and accessing Customer's own Data in fulfillment of the Contractor's contractual obligations as a service provider to Customer and only if such Contractor and Host Vendor have executed an agreement in a form acceptable to Iron Mountain; and (b) Customer will comply with Host Vendor's Acceptable Use Policy, as in effect from time to time, a copy of the current form of which is available at: <http://www.ironmountain.com/utility/legal/hyland-acceptable-use-language>

- 4.2 Customer is responsible for obtaining and maintaining all software, hardware (including without limitation network systems), telephonic or other communications circuits, and internet service provider relationships that are necessary or appropriate for Customer to properly access and use the Hosted Solution. Iron Mountain and Host Vendor shall have no responsibility or liability under this SSTC for any unavailability or failure of, or nonconformity or defect in, the Hosted Solution that is caused by or related in any manner to any failure of Customer to obtain and maintain all such software, hardware, equipment and relationships.

- 5. Fees & Payment.** Customer will pay an annual subscription fee as set forth in the applicable Schedule ("Subscription Fee") for the Software Service, including the Licensing Subscription Fee and the Hosting Fee set forth therein. All other terms and conditions governing the payment of fees, including, without limitation, any late payment provisions, are set forth in the FAMS.

- 6. Permitted Use.** Subject to the terms and conditions of this SSTC, Iron Mountain agrees to and hereby grants to Customer a revocable, non-exclusive, non-assignable, limited license to use the Software and Third Party Software, in machine-readable object code form only, for the Subscription Period in accordance with the terms of this SSTC, the relevant Schedule and the FAMS. Further, Customer is granted the following usage rights as stated below for the Services described in the Schedule(s).

- 6.1 Customer may use the Software and Third Party Software only as part of the Hosted Solution, solely for use by Customer internally, and only for capturing, storing, processing and accessing Customer's own Data. The Software and Third Party Software are licensed to Customer for use by a single organization and may not be used for processing of third-party data as a service bureau, application service provider or otherwise. Customer will not permit or authorize any person, legal entity, or other third party to use the Hosted Solution except as otherwise expressly permitted under the terms of this SSTC. Customer shall not make any use of the Software or Third Party Software in any manner not expressly permitted by this SSTC. Customer agrees not to remove any Iron Mountain or Host Vendor notices in the Software or any copyright, trademark or other proprietary rights notices that appear on the Third Party Software or that appear during use of the Third Party Software.

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

- 6.2 Customer acknowledges that the licenses granted herein are limited to the right of concurrent access to the Customer Data via telecommunications equipment by web browser or Software application to the Host Web Site. Customer acknowledges that each module of the Software is licensed for a specific type of use, such as concurrently or on a specified workstation or by a specified individual and that the Software controls such use. Software products that are volume-restricted will no longer function when the number of images processed during the Subscription Period exceeds the maximum number of images per year (the "Volume Level"). Customer may choose to purchase a higher volume level at any time. Customer may not circumvent or attempt to circumvent this restriction by any means, including but not limited to changing the computer calendars. Use of software or hardware that reduces the number of clients directly accessing or utilizing the Software (sometimes called "multiplexing" or "pooling" software or hardware) does not reduce the number of Software licenses required. The required number of Software licenses would equal the number of distinct inputs to the multiplexing or pooling software or hardware. Customer is prohibited from using any software other than the Software client modules or licensed API modules to access the Software or any data stored in the Software database for any purpose other than generating reports or statistics regarding system utilization, unless Iron Mountain has given its prior written consent to Customer's use of such other software and the Licensing Subscription Fee and the Hosting Fee have been adjusted to reflect such additional Software and Customer pays such additional Licensing Subscription Fee and the Hosting Fee with respect to such access to the Software or data stored in the Software database in accordance with the Host Vendor's licensing policies applicable to the Software modules that provide access to the Software application modules and data stored in the Software database.
- 6.3 Accessing User Accounts. Iron Mountain will issue User IDs needed by Customer to access and use the Service features specified in the applicable Schedule during the Subscription Period. Customer is responsible for all activity occurring under its User IDs. Customer may request Iron Mountain to add/drop User IDs as reasonably needed to accommodate changes in Customer workforce. Customer is not entitled to a refund for any unused or unassigned User IDs.
- 6.4 Data Preparation & Configuration. Customer will use commercially reasonable efforts to ensure that: (i) Data is in proper format as specified by the Documentation; (ii) its Users are familiar with the use and operation of the Software Service, and (iii) no other software, data or equipment has been introduced by Customer. Iron Mountain will load the Data provided in the format specified and configure the Software Service as part of the Subscription Fee; any additional data preparation or manipulation required by Iron Mountain to load Data will be billed at general service rates specified on the Schedule. Customer is responsible for updates to its internal processes as needed to operate the Software Service and any updates in Customer's computing environment.
- 6.5 Evaluation Use. In the event that Customer is provided with an evaluation license during a trial period ("Trial Period") as set forth in an applicable Schedule, Customer shall be entitled to use one (1) production copy of the Software and Third Party Software. Further, Customer may purchase limited access to a Sandbox Environment or a User Testing Environment, or both. Customer acknowledges and agrees that it shall use only non-production data in the Sandbox Environment, and that Iron Mountain, Host Vendor and its suppliers shall have no liability, direct or indirect, with respect to any loss or breach of confidential information with respect to data



## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

used or ingested into the Sandbox Environment or a User Testing Environment. Customer's sole recourse in the event of any dissatisfaction with the Sandbox Environment or a User Testing Environment is to stop using the Sandbox Environment or a User Testing Environment, as Iron Mountain, Host Vendor and its suppliers make no representations that the Sandbox Environment or a User Testing Environment, or the Software or Third Party Software provided therein will perform or conform to any Documentation or statement, either written or verbal. IRON MOUNTAIN, HOST VENDOR AND ITS SUPPLIERS MAKE NO WARRANTIES WITH RESPECT TO THE SANDBOX ENVIRONMENT, USER TESTING ENVIRONMENT OR THE SOFTWARE OR THIRD PARTY SOFTWARE PROVIDED THEREIN AND THEY ARE PROVIDED "AS IS". Iron Mountain reserves the right to further define the permitted use(s) and/or restrict the use(s) of the Sandbox Environment and User Testing Environment. Customer shall not make or use any additional copies of the Software or Third Party Software.

- 6.6 Ownership. Host Vendor and its Suppliers own the Software, Third Party Software, any and all computer hardware and telecommunications or other equipment and computer software, including the Host Web Site and the Network, and including, without limitation, any and all worldwide copyrights, patents, trade secrets, trademarks and proprietary and confidential information rights in or associated with the components of the Hosted Solution. The Software, Third Party Software and other software components of the Hosted Solution are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. THIS SSTC IS NOT A WORK-FOR-HIRE AGREEMENT. At no time will Customer file or obtain any lien or security interest in or on any components of the Hosted Solution.
- 6.7 Limitations. The Hosted Solution is not fault-tolerant and is not guaranteed to be error free or to operate uninterrupted. The Hosted Solution is not designed or intended for use in any situation where failure or fault of any kind of the Hosted Solution could lead to death or serious bodily injury to any person, or to severe physical or environmental damage ("High Risk Use"). Customer is not licensed to use the Hosted Solution in, or in conjunction with, High Risk Use. High Risk Use is STRICTLY PROHIBITED. High Risk Use includes, for example, the following: aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, or weaponry systems. Customer agrees not to use, distribute or sublicense the use of the Hosted Solution in, or in connection with, any High Risk Use. Customer agrees to indemnify and hold harmless Iron Mountain and Host Vendor from any third-party claim arising out of Customer's use of the Hosted Solution in connection with any High Risk Use.
- 6.8 Reservation of Rights. Iron Mountain expressly reserves all rights in the Services not specifically granted to Customer. It is acknowledged that all rights, title and interest in the Services will remain with Iron Mountain (or third party suppliers, if applicable) and that the Software Service is licensed on a subscription basis to Customer. Customer expressly reserves all rights in the Data, except the limited right of Iron Mountain to use the Data for the sole purpose of providing the Service features for Customer's benefit and only during the Subscription Period. Unless specifically agreed in writing, each Party's exclusive ownership rights extend to any update, adaptation, translation, customization, compilation or derivative work thereof.
- 6.9 Open Source Software. Customer acknowledges that, depending on the Software or Third Party Software licensed, the Software or Third Party Software may include open source software

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

governed by an open source license, in which case the open source license (a copy of which is provided in the Software, Third Party Software, or related documentation) may grant you additional rights to such open source software.

- 6.10 AccuZip. The optional AccuZip component of the OCR for AnyDoc and AnyDoc EXCHANGEit Software products contains material obtained under agreement from the United States Postal Service (USPS) and must be kept current via an update plan provided by Iron Mountain to maintain Customer's continued right to use. The USPS has contractually required Host Vendor to include "technology which automatically disables access to outdated [zip code] products." This technology disables only the AccuZip component and is activated only if AccuZip is not updated on a regular and timely basis. Iron Mountain regularly updates the zip code list as part of Hosted Solution Support for the AccuZip module.
7. **Hosting Services.** Customer acknowledges and agrees that Iron Mountain shall subcontract to Host Vendor the provision of all Hosting Services and fulfillment of all other obligations under this Section 7.
- 7.1 Hosting. Iron Mountain (through the Host Vendor) will host the Hosted Solution commencing on the Date specified in the Schedule, subject to and in accordance with the terms of the Process Manual and Service Class Manual. The initial Service Class purchased by Customer will be as set forth in Customer's initial purchase order. Customer may upgrade the Service Class at any time, but may downgrade such Service Class only after the expiration of the then current Subscription Period. In the event Customer elects to downgrade such Service Class, such downgrade will not be effective until the beginning of the next Subscription Period. To modify a Service Class selection, Customer and Iron Mountain must execute a mutually acceptable Schedule indicating the new Service Class.
- 7.2 Process Manual and Service Class Manual. Iron Mountain has delivered or otherwise made available current copies of the Process Manual and Service Class Manual to Customer. Iron Mountain will have the right to modify the Process Manual and the Service Class Manual (including the right to issue an entirely restated version of each Manual) from time to time.
8. **Support Services.** Iron Mountain shall use commercially reasonable efforts to provide the Technical Support Services substantially as presented therein (the "Service Commitment"). Support requests are triaged by an Iron Mountain representative assigned to the company support pool. Upon initial review, the support request is categorized and assigned to the appropriate support group. Technical requests will be assigned to the engineering support group and Customer account requests will be assigned to the administration support group. Support Services do not include preparation of Data, configuration or customization of Software Service features needed to function in Customer's production environment.

8.1 Support Services.

8.1.1. *Call-In Support*. Iron Mountain will provide call-in Support Services during normal hours of operation (currently 8:00 a.m. to 8:00 p.m., Monday through Friday, UTC/GMT). In order to receive such call-in support service, Customer must: (A) communicate the error to Iron Mountain using its designated contact persons; and (B) Describe and document the reported error.

8.1.2. *Online Support*. Iron Mountain will provide online Support Services via support website and email during normal hours of operation (currently 8:00 a.m. to 8:00 p.m., Monday through Friday, UTC/GMT). In order to receive such online support service, Customer must: (i)

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

communicate the support request to Iron Mountain; and (ii) adequately describe and document the reported error. At any time, Customer may check on an existing support request, view the name of the support group assigned to the request, the severity level and make additional follow on comments using the online support website.

8.1.3. *Off-hours Support.* Although an Iron Mountain representative may not be available until Normal Hours of Operation, Iron Mountain will provide call-in Support and online support systems to allow Customer to initiate a new support request or check on an existing support request, 24 hours a day, 7 days a week. Customer must follow the same support request procedures set forth in Sections 8.1.1 and 8.1.2.

8.1.4. *Response to Support Request.* Response time is calculated from the time that Iron Mountain logs-in a service request in proper form from the Customer's authorized contacts. Service requests received after Normal Hours of Operation will be logged at the beginning of the next business day on which Iron Mountain is normally open for business. Iron Mountain will use reasonable efforts to respond to Support Service requests based on their level of severity.

- 8.2 Errors in the Software. With respect to any Errors in the Software, Iron Mountain will engage Host Vendor to use commercially reasonable efforts to correct any Error, which may be affected by a commercially reasonable workaround. Iron Mountain shall promptly commence to confirm any properly reported Errors after receipt of the Error report from Customer. Host Vendor may correct any Error by updating or upgrading the Software included in the Hosted Solution to a new build or version.
- 8.3 Network, Third Party Software or Host Web Site Defects. With respect to any defects (non-conformity to manufacturer's provided user documentation) in the Network, Third Party Software or Host Web Site which are properly reported by Customer and which are confirmed by Iron Mountain or Host Vendor or its suppliers, in the exercise of their reasonable judgment, Iron Mountain will engage Host Vendor to use reasonable efforts to repair the defective component so as to correct the defect, or replace the defective component with a replacement component providing substantially similar functionality. Iron Mountain shall undertake to confirm any reported defects in the Network, Third Party Software or Host Web Site promptly after receipt of proper notice from Customer, in accordance with Iron Mountain's then-current Error reporting procedures.
- 8.4 Update, Upgrade, Change or Replacement of Components of the Hosted Solution. Customer shall receive bug-fixes, enhancements to existing functionality, and all new releases commensurate with the Software, as designated by Iron Mountain in its reasonable discretion, and at no additional charge. Iron Mountain or Host Vendor may update or upgrade the build or version of the Software used in the Hosted Solution from time to time at Iron Mountain's expense. Host Vendor also may change, replace, update or upgrade the hardware or other software components of the Hosted Solution from time to time. Customer agrees to collaborate with Host Vendor and assist Host Vendor in connection with the completion of installation and testing of any update or upgrade of the Software.
- 8.5 Exceptions. The Service Commitment does not apply to any inability to connect, suspension, termination or other performance issues of the Software Service, and neither Iron Mountain nor

## Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

Host Vendor is responsible for providing, or obligated to provide, Support under the SSTC: (i) caused by factors outside of Iron Mountain's reasonable control, including any Internet access or related problems beyond the demarcation point of the Software Service hosted networks; (ii) that result from any negligent or malicious actions or inactions of Customer or its Users; (iii) that result from Customer's or its Users' equipment, software or other technology and/or third party equipment; (iv) that result from any maintenance as provided for pursuant to the SSTC; or (v) arising from suspension or termination of Customer's right to use the Software Service in accordance with the SSTC.

#### 8.6 Service Credits.

8.6.1 *Entitlement.* In the event the Software Service does not meet the Service Commitment, Customer may receive a Service Credit as posted by Iron Mountain from time to time on a website designated by Iron Mountain. Iron Mountain will only apply Service Credits against future payments for the Software Service otherwise due from Customer. Iron Mountain's sole liability and Customer's exclusive remedy for any failure to meet the Service Commitment is the receipt of a Service Credit (if eligible).

8.6.2 *Credit Request and Payment Procedures.* To receive a Service Credit, Customer (for any User) shall submit a request through the Iron Mountain customer support group by phone or email. To be eligible, the credit request must be received by Iron Mountain by the end of the calendar month after which the incident occurred and must include: (i) the words "Credit Request" in the subject line; (ii) the dates and times of each incident that Customer is claiming; and (iii) the request logs that document the errors and corroborate the claimed outage, with any confidential or sensitive information removed or redacted. If such request is confirmed by Iron Mountain and is less than the Service Commitment, Iron Mountain shall issue the Service Credit to Customer within sixty (60) days following the month in which the request is confirmed by Iron Mountain. Customer's failure to provide the request and other information as required above will disqualify Customer from receiving a Service Credit.

8.7 Limitations. Neither Iron Mountain nor Host Vendor is responsible for providing, or obligated to provide, Hosted Solution Support under this SSTC: (1) in connection with any Errors, defects or problems that result in whole or in part from any of the following activities undertaken by any party other than Host Vendor: any alteration, revision, change, enhancement or modification of any nature of the Software, any Third Party Software, any components of the Network or the Host Web Site, or from any design defect in any configuration of any component of the Hosted Solution, unless any of the forgoing are a direct result of an item specified in the Documentation or are expressly permitted by Host Vendor in a writing signed by an executive authorized to so bind Host Vendor; (2) in connection with any Error in the Software or defect or problem in any other component of the Hosted Solution if Host Vendor has previously provided corrections for such Error or defect which the Customer fails to implement; (3) in connection with any Errors, defects or problems which have been caused by errors, defects, problems, alterations, revisions, changes, enhancements or modifications in any software, hardware or system or networking which is not a part of the Hosted Solution; (4) if the Hosted Solution has been subjected to abuse, misuse, improper handling, accident or neglect; (5) if any party other than Host Vendor or Iron Mountain has provided any services in the nature of maintenance or technical support to the Customer with

Iron Mountain – Public Sector - Service Specific Terms and Conditions\_November 2020

respect to the Hosted Solution, or (6) in connection with any problems (other than Errors) related to the operation or use of the Software application programming interfaces (APIs). Support relating to the operation or use of APIs may be provided, on a case-by-case basis, as mutually agreed to in an applicable services proposal which outlines professional services for such support activities.

**9. Limitation Of Liability.** IN NO EVENT SHALL IRON MOUNTAIN'S, HOST VENDOR'S OR THEIR SUPPLIERS' LIABILITY EXCEED THE AMOUNT OF THE FEES AND CHARGES ACTUALLY PAID BY CUSTOMER TO IRON MOUNTAIN FOR THE SERVICES DESCRIBED IN THIS SSTC DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH LIABILITY. IN NO EVENT SHALL Iron Mountain, HOST VENDOR OR THEIR DIRECT OR INDIRECT SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR OTHER PECUNIARY LOSS, INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR INFORMATION OR THE COST OF RECOVERING SUCH DATA OR INFORMATION, THE COST OF SUBSTITUTE SOFTWARE, HARDWARE OR SERVICES, OR CLAIMS BY THIRD PARTIES, ARISING OUT OF OR IN CONNECTION WITH THIS SSTC OR ANY USE OR INABILITY TO USE THE HOSTED SOLUTION, EVEN IF IRON MOUNTAIN OR SUCH SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES. ADDITIONALLY, IN NO EVENT SHALL MICROSOFT CORPORATION, AS A SUPPLIER TO HOST VENDOR, BE LIABLE FOR ANY DAMAGES.

FOR CUSTOMERS THAT PROVIDE HEALTHCARE SERVICES: IF CUSTOMER USES THE HOSTED SOLUTION IN A CLINICAL SETTING, CUSTOMER ACKNOWLEDGES THAT THE HOSTED SOLUTION IS AN ADVISORY DEVICE AND IS NOT INTENDED TO SUBSTITUTE FOR THE PRIMARY DEFENSES AGAINST DEATH OR INJURY DURING MEDICAL DIAGNOSIS, TREATMENT OR SIMILAR APPLICATIONS, WHICH DEFENSES SHALL CONTINUE TO BE THE SKILL, JUDGMENT AND KNOWLEDGE OF THE CUSTOMER'S USERS OF THE HOSTED SOLUTION.

**10. Miscellaneous Provisions.**

10.1 Survival of Obligations. The provisions of this SSTC that by their nature or express terms extend beyond the termination or non-renewal of this SSTC will survive and remain in effect until all obligations thereunder are satisfied. All disclaimers of warranties and limitations of liability set forth in this SSTC will survive any termination or non-renewal of this SSTC.

10.2 Third Parties. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties hereto, any rights or remedies by reason of this SSTC; provided, however, that Host Vendor and third party suppliers of software products bundled with the Software are third party beneficiaries to this SSTC as it applies to their respective services or software products.

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

**EXHIBIT A-2**

**PRICING SCHEDULE**

**COSB SHRED AND RECORDS MANAGEMENT 3 YEARS OMNIA**

**EFFECTIVE AS OF 7/1/2024**

## Exhibit A-2

### County of Santa Barbara Shred and Records Management Pricing - 3 years

# SCHEDULE A: PRICING SCHEDULE



## SECURE SHREDDING SERVICES UNDER THE OMNIA AGREEMENT (IM CONTRACT #MA- SLED0001050)

This Schedule A for Secure Shredding services and the terms of the Contract #1325 between Port of Portland, Oregon (the "Lead Agency") and Iron Mountain Information Management, LLC effective as of January 26, 2021 (the "Master Agreement"), including the Glossary of terms for records that can be found at <https://www.ironmountain.com/support/how-it-works>, will be incorporated into any Purchase Order between Iron Mountain and County of Santa Barbara (the "Customer"). The Glossary includes definitions of the terms used in this Pricing Schedule and details regarding the Company's services, standard processes, and billing practices. In addition, restrictions applicable to volume and/or applicable timeframes for some service transaction types are provided in the Glossary under each service type.

This Secure Shredding Pricing Schedule supersedes and terminates any prior Pricing Schedule and/or Schedule A for Secure Shredding services existing between Iron Mountain and the Customer for the customer accounts noted below.

### CONTRACT TERMS

Any Purchase Order issued as a result of this Schedule A must include the following language:

This Purchase Order is subject to the terms and conditions of Contract #1325 between Port of Portland, Oregon (the "Lead Agency") and Iron Mountain Information Management, LLC effective as of January 26, 2021 (the "Master Agreement"). This Purchase Order shall be exclusively in accordance with the terms and conditions of the Master Agreement, even if it fails to reference the Master Agreement or contains inconsistent items. All additional or inconsistent terms and conditions in this Purchase Order, except with respect to price, quantity, and location-specific terms, are expressly rejected by the parties.

### **NOTICE: THIS DOCUMENT INCLUDES IRON MOUNTAIN CONFIDENTIAL INFORMATION.**

The information contained herein is confidential and is intended for evaluation purposes only.

### COUNTY OF SANTA BARBARA

District Name/Number: Multi-District | Customer ID: 23FNK, 286LA, 692LA, LA097, LA982, LS508, LS720, LS721, LS722, LS723, LS724, LS727, LS728, LS730, LS733, LU533, RS7K6, SCGO6

Effective Date: July 1, 2024

# IRON MOUNTAIN SECURE SHREDDING



## PRICING

Service Offering – Off-Site Services <sup>1,2,3,4,5</sup>	Price	Unit
Shred Offsite Minimum - First 3 Bins	\$42.20	Work Order
Offsite Scheduled - Console	\$7.78	Container
Offsite Scheduled - 65 Gallon	\$7.78	Container
Offsite Scheduled - 95 Gallon	\$7.78	Container
Offsite Scheduled - Box	\$7.78	Container
Offsite Scheduled - Mini Console	\$7.78	Box
Offsite Scheduled - Off- Cycle Trip Charge	\$58.08	Work Order

Service Offering – On-Site Services <sup>1,2,3,4,5</sup>	Price	Unit
Shred Onsite Minimum - First 3 Bins	\$52.75	Work Order
Onsite Scheduled - Console	\$10.38	Container
Onsite Scheduled - 65 Gallon	\$10.38	Container
Onsite Scheduled - 95 Gallon	\$10.38	Container
Onsite Scheduled - Box	\$10.38	Container
Onsite Scheduled - Mini Console	\$10.38	Box
Onsite Scheduled - Off- Cycle Trip Charge	\$71.36	Work Order

Non-Standard Schedule Surcharges	Price	Unit
Shred Surcharge: 8 Week Cycle	\$149.19	Order
Shred Surcharge: 12 Week Cycle	\$311.95	Order

Service Offering – Additional	Price	Unit
Transportation - Zone 2	\$49.80	Trip
Transportation - Zone 3	\$56.71	Trip
Transportation - Zone 4	\$63.63	Trip
Transportation - Zone 5	\$74.08	Trip
Transportation - Zone 6	Call for Quote	Trip
Transportation - Metro	\$37.13	Trip
Transportation - NY Metro	\$46.35	Trip

Service Offering – Purge Services <sup>1,2,3,4,5</sup>	Price	Unit
Offsite Purge - 65 Gallon	\$9.90	Container
Offsite Purge - 95 Gallon	\$15.50	Container
Offsite Purge - Box	\$5.58	Container



Service Offering – Purge Services <sup>1,2,3,4,5</sup>	Price	Unit
Offsite Purge - Trip Charge	\$74.31	Per Trip plus corresponding Offsite Purge Container Fee(s)
Onsite Purge - 65 Gallon	\$18.59	Container
Onsite Purge - 95 Gallon	\$24.78	Container
Onsite Purge - Box (Carton)	\$6.20	Container
Onsite Purge - Trip Charge	\$86.71	Per Trip plus corresponding Offsite Purge Container Fee(s)
One Time Project Minimum Order Value	\$3,173.80	Order

Service Offering – Additional Services <sup>1,2,3,4</sup>	Price	Unit
Shred Hourly Labor <sup>6</sup>	\$79.10	Hour
Container Pickup / Delivery	\$11.53	Container
Plastics Destruction	\$0.86	Per Pound
Shred Contamination Fee <sup>7</sup>	\$97.94	Container
Secure Shredding Minimum Order Value	\$2,000.00	Year

## MULTI-YEAR PRICING TERMS

Effective date of agreement: **July 1<sup>st</sup> 2024**

Agreement Length: 3 yrs

Task / Description	Base Year	Year 2	Year 3
	July 1 <sup>st</sup> 2024-June 30 <sup>th</sup> 2025	July 1 <sup>st</sup> 2025- June 30 <sup>th</sup> 2026	July 1 <sup>st</sup> 2026 – June 30 <sup>th</sup> 2027
Shred Offsite Minimum - First 3 Bins	\$42.20	\$44.73	\$47.41
Offsite Scheduled - Console	\$7.78	\$8.25	\$8.75
Offsite Scheduled - 65 Gallon	\$7.78	\$8.25	\$8.75
Offsite Scheduled - 95 Gallon	\$7.78	\$8.25	\$8.75
Offsite Scheduled - Box	\$7.78	\$8.25	\$8.75
Offsite Scheduled - Mini Console	\$7.78	\$8.25	\$8.75
Offsite Scheduled - Off- Cycle Trip Charge	\$58.08	\$61.56	\$65.25
Shred Onsite Minimum - First 3 Bins	\$52.75	\$55.93	\$59.29
Onsite Scheduled - Console	\$10.38	\$11.00	\$11.66
Onsite Scheduled - 65 Gallon	\$10.38	\$11.00	\$11.66
Onsite Scheduled - 95 Gallon	\$10.38	\$11.00	\$11.66
Onsite Scheduled - Box	\$10.38	\$11.00	\$11.66

Task / Description	Base Year	Year 2	Year 3
	July 1 <sup>st</sup> 2024-June 30 <sup>th</sup> 2025	July 1 <sup>st</sup> 2025- June 30 <sup>th</sup> 2026	July 1 <sup>st</sup> 2026 – June 30 <sup>th</sup> 2027
Onsite Scheduled - Mini Console	\$10.38	\$11.00	\$11.66
Onsite Scheduled - Off- Cycle Trip Charge	\$71.36	\$75.64	\$80.18
Shred Surcharge: 8 Week Cycle	\$149.19	\$158.14	\$167.63
Shred Surcharge: 12 Week Cycle	\$311.95	\$330.67	\$350.51
Transportation - Zone 2	\$49.80	\$52.79	\$55.96
Transportation - Zone 3	\$56.71	\$60.11	\$63.72
Transportation - Zone 4	\$63.63	\$67.45	\$71.50
Transportation - Zone 5	\$74.08	\$78.52	\$83.23
Transportation - Zone 6	Call for Quote	Call for Quote	Call for Quote
Transportation - Metro	\$37.13	\$39.36	\$41.72
Transportation - NY Metro	\$46.35	\$49.13	\$52.08
Offsite Purge - 65 Gallon	\$9.90	\$10.49	\$11.12
Offsite Purge - 95 Gallon	\$15.50	\$16.43	\$17.42
Offsite Purge - Box	\$5.58	\$5.91	\$6.26
Offsite Purge - Trip Charge	\$74.31	\$78.77	\$83.50
Onsite Purge - 65 Gallon	\$18.59	\$19.71	\$20.89
Onsite Purge - 95 Gallon	\$24.78	\$26.27	\$27.85
Onsite Purge - Box (Carton)	\$6.20	\$6.57	\$6.96
Onsite Purge - Trip Charge	\$86.71	\$91.91	\$97.42
One Time Project Minimum Order Value	\$3,173.80	\$3364.23	\$3566.08
Shred Hourly Labor <sup>6</sup>	\$79.10	\$83.85	\$88.88
Container Pickup / Delivery	\$11.53	\$12.22	\$12.95
Plastics Destruction	\$0.86	\$0.91	\$0.96
Shred Contamination Fee <sup>7</sup>	\$97.94	\$103.82	\$110.05
Secure Shredding Minimum Order Value	\$2,000.00	\$2000.00	\$2000.00

**Service Descriptions:** <https://www.ironmountain.com/support/how-it-works>

Notes:

- 1) *Unless otherwise specified, pricing is for paper based shredding services.*
- 2) *Pricing is for services provided directly by Iron Mountain, within 50 miles of an Iron Mountain transportation depot. Services performed out of Iron Mountain standard service areas or by Approved Subcontractors shall be priced separately.*
- 3) *Customer locations with restricted access or non-standard service requirements may be subject to additional fees.*
- 4) *Fuel Surcharge - A Fuel Surcharge is applied monthly based upon changes in the price of diesel fuel as published by the US Department of Energy. This charge is calculated monthly and included as a percentage of transportation related service charges. The current monthly Fuel Surcharge information can be found on the website at [cic.ironmountain.com/FuelSurcharge](http://cic.ironmountain.com/FuelSurcharge).*
- 5) *Paper recycling surcharge adjusts monthly and is applied against secure shred services. The paper recycling surcharge is indexed to the national average of recovered paper prices as published by FastMarket RISI's PPI Pulp & Paper Week. The current monthly paper recycling surcharge information can be found at <https://www.ironmountain.com/support/how-it-works/resources/paper-recycling>*
- 6) *Special Project Services provided outside the scope of routine services will be quoted on a per project basis. Pricing for transactional services listed on the Pricing Schedule may differ when they are part of a special project. Additional Labor Fees and a Minimum Service Fee may apply.*
- 7) *Fee assessed when shred transportation teams identify contamination (i.e., non-paper materials) upon "tipping" customers' shred collection container.*

# SCHEDULE A: PROGRAM PRICING SCHEDULE



## RECORDS MANAGEMENT SERVICES UNDER THE OMNIA AGREEMENT (IM CONTRACT #MA- SLED0001050)

This Schedule A for Records Management services and the terms of the Contract #1325 between Port of Portland, Oregon (the "Lead Agency") and Iron Mountain Information Management, LLC as executed by the parties on January 26, 2021 (the "Master Agreement"), including the Glossary of terms for records that can be found at <https://www.ironmountain.com/support/how-it-works>, will be incorporated into any Purchase Order between Iron Mountain and Santa Barbara County Public Defender. (the "Customer"). The Glossary includes definitions of the terms used in this Pricing Schedule and details regarding the Company's services, standard processes, and billing practices. In addition, restrictions applicable to volume and/or applicable timeframes for some service transaction types are provided in the Glossary under each service type.

This Records Management Pricing Schedule supersedes and terminates any prior Pricing Schedule and/or Schedule A for Records Management services existing between Iron Mountain and the Customer for the customer accounts noted below.

### ▶ CONTRACT TERMS

Any Purchase Order issued as a result of this Schedule A must include the following language:

This Purchase Order is subject to the terms and conditions of Contract #1325 between Port of Portland, Oregon (the "Lead Agency") and Iron Mountain Information Management, LLC as executed by the parties on January 26, 2021 (the "Master Agreement"). This Purchase Order shall be exclusively in accordance with the terms and conditions of the Master Agreement, even if it fails to reference the Master Agreement or contains inconsistent items. All additional or inconsistent terms and conditions in this Purchase Order, except with respect to price, quantity, and location-specific terms, are expressly rejected by the parties.

## NOTICE: THIS DOCUMENT INCLUDES IRON MOUNTAIN CONFIDENTIAL INFORMATION.

The information contained herein is confidential and is intended for evaluation purposes only.

## SANTA BARBARA COUNTY PUBLIC DEFENDER

District Name/Number: Multi-District | Customer ID: SCG06

### 3 Year Term

- Year 1 – July 1, 2024 – June 30, 2025
- Year 2 – July 1, 2025 – June 30, 2026
- Year 3 – July 1, 2026 – June 30, 2027

# IRON MOUNTAIN RECORDS MANAGEMENT



## PRICING FOR CORE SERVICES

<b>Standard Storage and Services</b> (SEE: <a href="https://www.ironmountain.com/support/how-it-works">https://www.ironmountain.com/support/how-it-works</a> FOR SERVICE DEFINITIONS)				
Description	Year 1	Year 2	Year 3	Per
Carton Storage	\$0.343	\$0.364	\$0.385	Cubic Foot
Carton Storage, New	\$0.343	\$0.364	\$0.385	Cubic Foot
Receiving and Entering - Carton	\$2.44	\$2.59	\$2.74	Cubic Foot
Regular Retrieval - Carton	\$3.07	\$3.25	\$3.45	Cubic Foot
Regular Retrieval - File from Carton	\$4.12	\$4.37	\$4.63	File
Regular Refile - Carton	\$3.07	\$3.25	\$3.45	Cubic Foot
Regular Refile - File to Carton	\$4.12	\$4.37	\$4.63	File
Archival Destruction - Carton	\$3.73	\$3.95	\$4.19	CF plus Regular Retrieval Charge and Handling Charge
Storage LF, Medical	\$0.700	\$0.740	\$0.790	Linear Foot
Open Shelf Storage (X-Ray)	\$1.07	\$1.13	\$1.20	Linear Foot
Receiving & Entering - Open Shelf File	\$4.46	\$4.73	\$5.01	Linear Foot
Regular Retrieval - File from Open Shelf	\$2.40	\$2.54	\$2.70	File
Regular Refile - File to Open Shelf	\$2.40	\$2.54	\$2.70	File
Archival Destruction - File from Open shelf	\$2.30	\$2.44	\$2.58	File plus Regular Retrieval Charge and Handling Charge
Transportation Zone 1	\$29.06	\$30.80	\$32.65	Visit plus Handling Charge
Transportation Zone 2	\$49.80	\$52.79	\$55.96	Visit plus Handling Charge
Transportation Zone 3	\$56.71	\$60.11	\$63.72	Visit plus Handling Charge
Transportation Zone 4	\$63.63	\$67.45	\$71.49	Visit plus Handling Charge
Transportation Zone 5	\$74.08	\$78.52	\$83.24	Visit plus Handling Charge
Transportation Zone 6	Call for a quote	Call for a quote	Call for a quote	Visit plus Handling Charge
Transportation Zone Metro	\$37.13	\$39.36	\$41.72	Visit plus Handling Charge
Transportation Zone NY Metro	\$46.35	\$49.13	\$52.08	Visit plus Handling Charge
Handling Charge	\$2.79	\$2.96	\$3.13	Cubic Foot

<b>Premium Storage and Services</b> (SEE: <a href="https://www.ironmountain.com/support/how-it-works">https://www.ironmountain.com/support/how-it-works</a> FOR SERVICE DEFINITIONS)				
Description	Year 1	Year 2	Year 3	Per
Archival Destruction - File from Carton	\$3.49	\$3.70	\$3.92	File plus Regular Retrieval Charge and Handling Charge
Permanent Withdrawal - File from Carton	\$2.30	\$2.44	\$2.58	File plus Regular Retrieval Charge
Permanent Withdrawal - Carton	\$4.63	\$4.91	\$5.20	CF plus Regular Retrieval Charge and Handling Charge
Permanent Withdrawal - File From Open Shelf	\$2.30	\$2.44	\$2.58	File plus Regular Retrieval Charge
Rush Retrieval - Carton	\$8.37	\$8.87	\$9.40	Cubic Foot
Rush Retrieval - File from Carton	\$11.03	\$11.69	\$12.39	File
Regular Interfile - Carton	\$10.14	\$10.75	\$11.39	Each
Rush Retrieval - File from Open Shelf	\$8.75	\$9.28	\$9.83	File

**Premium Storage and Services** (SEE: <https://www.ironmountain.com/support/how-it-works> FOR SERVICE DEFINITIONS)

Description	Year 1	Year 2	Year 3	Per
Regular Interfile - Open Shelf	\$6.78	\$7.19	\$7.62	Each
Expedited Transportation - Zones 1, 2, 3, Metro, Metro NY	* 20% Upcharge	* 20% Upcharge	* 20% Upcharge	Visit
Transportation Rush	\$144.80	\$153.49	\$162.70	Visit plus Handling Charge
Rush Delivery - Weekends/Holidays/After Hours	\$290.85	\$308.30	\$326.80	Visit plus Handling Charge
Miscellaneous Services - Labor	\$75.02	\$79.52	\$84.29	Hour
Re-boxing Charge	\$5.76	\$6.11	\$6.47	Labor Plus New Carton
Re-lid Charge	\$3.36	\$3.56	\$3.78	Labor Plus New Lid

**Note:** Expedited Transportation service will apply a 20% additional cost to the applicable Transportation Zone charge. (*This Expedited Transportation is only available for Transportation Zones 1, 2, 3, Metro, and NY Metro*)

**Other Program Fees** (SEE: <https://www.ironmountain.com/support/how-it-works> FOR SERVICE DEFINITIONS)

Description	Year 1	Year 2	Year 3	Per
Administrative Fee (Summary Billing)	\$51.79	\$54.90	\$58.19	Account ID per Month
Administrative Fee (Detailed Billing)	\$106.86	\$113.27	\$120.07	Account ID per Month
Fuel Surcharge	**	**	**	Transportation Visit

**Note:** Minimum Storage accounts are not charged a monthly Administrative Fee.

**Note:** A Fuel Surcharge is applied monthly based upon changes in the price of diesel fuel as published by the US Department of Energy. This charge is calculated monthly and included as a percentage of transportation-related service charges. The current monthly Fuel Surcharge information can be found at <https://www.ironmountain.com/support/how-it-works/resources/transportation/fuel-surcharge/us-fuel-surcharge>

**Custom Storage and Services** (SEE: <https://www.ironmountain.com/support/how-it-works> FOR SERVICE DEFINITIONS)

Description	Year 1	Year 2	Year 3	Per
Outside Courier/Customer Representative Handling	\$11.40	\$12.08	\$12.81	Each
Vaccinated Driver Surcharge	\$7.54	\$7.99	\$8.47	Transportation Visit
Order Service Fee	\$15.00	\$15.90	\$16.85	Work Order
Storage Minimum	\$352.64	\$373.80	\$396.23	Account ID per Month
Minimum Service Order Charge	\$19.01	\$20.15	\$21.36	Order
Individual List/Indexing	\$0.850	\$0.901	\$0.955	File
Individual List/Indexing - Open Shelf	\$0.850	\$0.901	\$0.955	File
RFID Z Label	\$0.760	\$0.806	\$0.854	Each
RFID T Label	\$0.760	\$0.806	\$0.854	Each
Standard Letter/Legal	\$5.67	\$6.01	\$6.37	Each
Auto-Fold Letter/Legal	\$4.36	\$4.62	\$4.90	Each
#251 Std Attached Lid	\$5.78	\$6.13	\$6.49	Each
Image on Demand – Digital Images Scanned (in excess of the first 50 images)	\$0.250	\$0.265	\$0.281	Image
Image on Demand – Imaging Minimum (includes first 50 images)	\$27.08	\$28.70	\$30.43	Order
Image on Demand – Hourly Labor	\$75.02	\$79.52	\$84.29	Hour
Image on Demand Professional Services	\$420.38	\$445.60	\$472.34	Hour
Professional Services	\$420.38	\$445.60	\$472.34	Hour

**Note:** Image on Demand is not available in all markets. If the customer's requirements differ from those described in Image on Demand – Overview within the Glossary of the Customer Information Center (<https://www.ironmountain.com/support/how-it-works>), then custom services are available and must be described in an agreed upon statement of work.

# TRANSPORTATION SERVICES



## PICKUP & DELIVERY

### STANDARD DELIVERY

2 cartons or less; or 10 files or less - Order by 3:00 PM for delivery within 2 Business Days via Third Party

Deliveries of 3 or more items will be delivered on a fixed weekly schedule.

Fixed Weekly Schedule for your market can be determined by clicking this link:

<https://www.ironmountain.com/contact/zip-code-lookup>

### EXPEDITED TRANSPORTATION

Only available for Transportation Zones 1, 2, 3, Metro, and NY Metro - Order by 3:00 pm for next Business Day delivery or pickup.

### RUSH DELIVERY, BUSINESS DAY

Order between 8:00 am and 3:00 pm, deliver within 3 hours

### RUSH DELIVERY, WEEKENDS/HOLIDAYS/AFTER HOURS

Order after 3:00 pm or before 8:00 am, deliver within 4 hours.

### REGULAR PICKUP

All PICK-UPS will be serviced on a fixed weekly schedule. - Local markets will communicate fixed weekly schedules.

Fixed Weekly Schedule for your market can be determined by clicking this link:

<https://www.ironmountain.com/contact/zip-code-lookup>

### RUSH PICKUP, BUSINESS DAY

Pickup orders placed before 4:00 pm on a Business Day will be picked up on the following Business Day.

## **RECORDS MANAGEMENT – STANDARD IMAGE ON DEMAND (IOD)**



This pricing included in this schedule applies specifically to the conversion on (stored) business records. Due to the complexity inherent to document conversion, additional document types may be subject to additional and/or specific pricing.

Document Conversion using Image on Demand (IOD):

- The IOD scan rate includes up to 8-minutes of total labor for each file requested for IOD conversion, covering document preparation, scanning, quality control, standard indexing, scanning non-letter legal documents and reassembly.
- Conversion work that exceeds 8-minutes per file will be charged an hourly rate in 15-minute increments (per order).
- Flatbed Scanning may be required and will be invoiced at the current photocopy rate.
- Standard Image on Demand Services are only available as a next day service, place order by 3:00 PM on a business day, for next Business Day. Rush or half day services are considered Custom Image on Demand Services that require a separate statement of work and subject to geographical availability.
- For large volume requests (in excess of 2,000 images), one business day will be added for each 2,000 images.
- Digital images and indexing data will be made available through a hyperlink delivered to the requestor via email.
- Activation of IOD service is required before an order can be placed.
- All pages contained in the file will be scanned.
- Digital images will be scanned at 300 DPI, in black and white as a PDF multi-page image.
- If the customer’s requirements differ from those described in this Schedule A or the description contained in “Image on Demand – Overview” within the glossary of the Customer Information Center (<https://www.ironmountain.com/support/how-it-works>), then those requirements are considered Custom Image on Demand Services and must be described in a separate, agreed upon statement of work.

Damaged, illegible and/or odd sized documents will be scanned using a flatbed scanner, a fee will be charged for every image generated at Iron Mountain's current photocopy rate.

Rates defined above do not include charges for retrieval, refile, disposition, or physical delivery of source documentation. Rates for these services are based on customer's existing rates. All other services, not specifically listed herein or quoted on a separate Schedule A, will be charged at Iron Mountain's then current rates.



# ADDITIONAL DEAL TERMS



Deal Term	Details
<b>Multi-year Pricing</b>	The pricing offered in this Schedule A for each year of the agreement has been outlined above. Upon anniversary date Iron Mountain will automatically apply pricing for the new year as outlined above.

Approved as to Form and Pricing  
Content: Iron Mountain Opportunity  
Support and Price Desk

SA-118879  
DR-032308  
Approved Date: 7/23/2024

*Miguel Silva*

Created By: Narinda  
Created Date: 7/26/2024  
Customer: County of Santa Barbara

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

**EXHIBIT B**

**PAYMENT ARRANGEMENTS**

**SEE SECTION 5 OF CONTRACT #1325 BETWEEN PORT OF PORTLAND, OREGON AND IRON MOUNTAIN  
INFORMATION MANAGEMENT, LLC.**

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

**EXHIBIT C**

Insurance Requirements

(For Service Contracts Not Requiring Professional Liability Insurance)

**NOTIFICATION OF ACCIDENTS**

CONTRACTOR shall notify COUNTY promptly in the event of any serious accident or injury arising out of or in connection with this PA.

**INSURANCE**

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against liabilities 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, or its , employees.

A. Scope of Insurance

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): covering CGL on an “occurrence” basis, including products-completed operations, personal & advertising injury, with limits \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
2. Automobile Liability: with a limit of \$1,000,000 per accident for bodily injury and property damage covering all owned, non-owned and hired autos.
3. Workers’ Compensation: Insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with a limit of \$1,000,000 per accident for bodily injury or disease. (Not required if CONTRACTOR provides written verification that it has no employees).

B. Other Insurance Provisions

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

1. Additional Insured – COUNTY, 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. A blanket additional insured endorsement shall be provided.

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

2. Notice of Cancellation – Each insurance policy required above shall provide notice of cancellation in accordance with policy provisions.
3. Deductibles and Self-Insured Retention – Any deductibles or self-insured retentions must be declared to the COUNTY. The COUNTY may require the CONTRACTOR to provide proof of financial standing.
4. 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".
5. Verification of Coverage – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR'S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement.
6. 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, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
7. Subcontractors – CONTRACTOR shall require all subcontractors to maintain insurance adequate for their exposure based Contractor's standards.
8. Special Risks or Circumstances – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances upon review and approval of Contractor.

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

Any failure, actual or alleged, on the part of COUNTY 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 COUNTY.

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

### EXHIBIT D

#### HIPAA BUSINESS ASSOCIATE AGREEMENT (BAA)

This Business Associate Agreement (“BAA”) supplements and is made a part of that certain Participating Agreement dated \_\_\_\_\_, 2024 (“Agreement”) between COUNTY (referred to herein as “Covered Entity”) and CONTRACTOR (referred to herein as “Business Associate”). All capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Agreement.

#### RECITALS

Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).

Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate 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”) (HIPAA, the HITECH Act, the Security Rule, the Data Breach Notification Rule, and the Privacy Rule, collectively, the “HIPAA Regulations”).

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule require Covered Entity to enter into a contract containing specific requirements with Business Associate 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.

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

- 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 Covered Entity to Business Associate or created or received by Business Associate on Covered Entity'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 Business Associate

- a. **Permitted Uses.** Business Associate shall not use Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Further, Business Associate 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 Covered Entity. However, Business Associate may use Protected Information (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate, or (iii) for Data Aggregation purposes for the Health Care Operations of Covered Entity [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** Business Associate shall not disclose Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Business Associate 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 Covered Entity. However, Business Associate may disclose Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity. If Business Associate discloses Protected Information to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party 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 Business Associate 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

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

164.504(e)(4)(ii)].

- c. **Prohibited Uses and Disclosures.** Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes. Business Associate 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)]. Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to the Agreement. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the Agreement, this BAA, or the HIPAA Regulations.
- d. **Appropriate Safeguards.** Business Associate 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)]. Business Associate 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]. However, the parties acknowledge and agree it shall be the responsibility of Covered Entity and not Business Associate to comply with requirements under 45 CFR §164.312 to implement encryption or decryption mechanisms for electronic PHI maintained on physical media (e.g. tapes) stored by Covered Entity with Business Associate.
- e. **Reporting of Improper Access, Use or Disclosure.** Business Associate shall report to Covered Entity in writing of any access, use or disclosure of Protected Information not permitted by the Agreement and this BAA, and any Breach, as required by the Data Breach Notification Rule, including, but not limited to, all of the information specified in 45 C.F.R. Section 164.410(c), upon discovery of such breach (“discovered” as defined in 45 C.F.R. Section 164.410(a)(2)) without unreasonable delay and in no case later than 60 (sixty) calendar 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); 45 C.F.R. Section 164.410].
- f. **Business Associate’s Subcontractors and Agents.** Business Associate 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 Business Associate with respect to such PHI and implement the safeguards required by paragraph (d) 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)]. Business Associate 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 Covered Entity keeps a designated record set then Business Associate shall make Protected Information maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to Covered Entity for inspection and copying within five (5) days of a request by Covered Entity to enable Covered Entity 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 Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

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

- h. Amendment of PHI for Business Associate who is Required to Maintain a Record Set.** If Business Associate is required to maintain a designated record set on behalf of the Covered Entity the Business Associate shall within ten (10) days of receipt of a request from Covered Entity for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such Protected Information available to Covered Entity for amendment to enable Covered Entity 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 Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Entity [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- i. Accounting Rights.** Within ten (10) days of notice by Covered Entity of a request for an accounting of disclosures of Protected Information, Business Associate and its agents or subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity 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 Covered Entity. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors. 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 Business Associate 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 Business Associate or its agents or subcontractors, Business Associate shall within five (5) days of a request forward it to Covered Entity in writing. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested. Business Associate 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.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services ("Secretary") for purposes of determining Business Associate's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)].
- k. Minimum Necessary.** Business Associate (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)]. Business Associate 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.** Business Associate acknowledges that Business Associate has no ownership rights with



## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

respect to the Protected Information.

m. **Reserved.**

n. **Notification of Possible Breach.** During the term of the Agreement, Business Associate shall promptly notify Covered Entity of each Breach, or any access, use or disclosure of Protected Information not permitted by the Agreement or this BAA or the HIPAA Regulations, or unauthorized use or disclosure of PHI of which Business Associate becomes aware, and/or any use or disclosure of data in violation of any applicable federal or state laws or regulations (each such occurrence, a "Breach Incident"). Business Associate shall take (i) prompt corrective action to cure any and all such Breaches and (ii) any action pertaining to such Breach 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)] In the event of a Breach Incident, such notification shall be made in accordance with and as required of a business associate by the HIPAA Regulations, including without limitation pursuant to 45 CFR 164.410, but in no event more than three (3) business days after Business Associate discovers, becomes aware of, or has reason to know of such Breach Incident. Business Associate will provide reasonable assistance and cooperation in the investigation of any such Breach Incident and shall document the specific documents, PHI, Protected Information, and other data which have been compromised, the identity of any unauthorized third party who may have accessed or received such PHI, Protected Information, and/or other data, if known, and any actions that have been taken by Business Associate to mitigate the effects of such Breach Incident.

o. **Reserved.**

p. **Accounting for Disclosures.** Business Associate agrees to document and make available to Covered Entity the information required to provide an accounting of any and all disclosures of such PHI sufficient for Covered Entity to fulfill Covered Entity's obligations in accordance with 45 CFR §164.528 or other provisions of the HIPAA Regulations, including, but not limited to, responding to a request by an individual for an accounting of disclosures of PHI. The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this BAA, nor does Covered Entity's (i) failure to detect or (ii) detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under the Agreement or this BAA. Business Associate shall notify Covered Entity in writing within ten (10) days of learning that Business Associate has become the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office for Civil Rights.

q. **Reserved.**

### 3. Termination

a. **Material Breach.** A breach by Business Associate of a material term of this BAA, as determined by Covered Entity, shall constitute a material breach of the Agreement and shall provide grounds for termination of the Agreement, any provision in the Agreement to the contrary notwithstanding [45 C.F.R. Section 164.504(e)(2)(iii)]. Notwithstanding the foregoing or any other provision of this BAA, no termination shall be effective prior to the permanent withdrawal of all materials stored with Business Associate.

b. **Judicial or Administrative Proceedings.** Covered Entity may terminate the Agreement, effective as

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

described in section 3(a) above , if (i) Business Associate 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 Business Associate 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, Business Associate shall, at the option of Covered Entity, return or destroy all Protected Information that Business Associate 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, as determined by Covered Entity, Business Associate 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 Covered Entity elects destruction of the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

### 4. Indemnification

Business Associate agrees to indemnify and defend Covered Entity from and against any and all claims, including, but not limited to, any claims by individuals or entities who claim damages as arising out of Business Associate's performance of this agreement, any and all enforcement proceedings commenced by the Secretary, and any and all actions brought by a state Attorney General against Covered Entity, fines, or penalties imposed upon, and any and all costs, direct or indirect, incurred by Covered Entity, which proceeding(s) or action(s) arise out of any act or omission by or on behalf of Business Associate which results in a violation of the HIPAA Regulations or constitutes a breach of this BAA ( "Claim" ). Business Associate shall not be obligated to indemnify Covered Entity for any portion of such fines or penalties arising solely out of (i) Covered Entity's violations of the HIPAA Regulations or this BAA, or (ii) the intentional wrongful acts or the sole negligence of Covered Entity. The foregoing indemnity obligation is expressly conditional on Covered Entity granting Business Associate the right, at Business Associate's option and sole expense, and with counsel of its own selection, to participate in the defense of any such Claim, subject to notice to the Covered Entity, provided however, that to the extent any such Claim is part of a larger proceeding or action, Business Associate's right to participate shall be limited to the Claim, and not to the larger proceeding or action.. In the event that Business Associate exercises its option to participate in any such defense, then (i) Business Associate shall not settle any claim requiring any admission of fault or expense or liability on the part of the Covered Entity without Covered Entity's prior written consent in each instance, (ii) the Covered Entity shall have the right to participate, at its own expense, in the claim or suit and (iii) the Covered Entity shall cooperate with the Business Associate as may be reasonably requested, at Business Associate's cost and expense.

### 5. Disclaimer

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

### 6. Reserved.

### 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

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

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, the HIPAA Regulations, and other applicable laws relating to the security or confidentiality of PHI. The Parties understand and agree that Covered Entity must receive satisfactory written assurance from Business Associate that Business Associate 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, the HIPAA Regulations, and/or other applicable laws. Covered Entity may terminate the Agreement upon written notice in the event (i) Business Associate does not promptly, and in no event later than within 10 days, enter into negotiations to amend the Agreement or this BAA when requested by Covered Entity pursuant to this Section 7, or, (ii) within 30 days of such a request by Covered Entity, Business Associate does not enter into such an amendment to the Agreement or this BAA providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

### **8. Assistance in Litigation of Administrative Proceedings**

Business Associate shall make itself, and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Agreement or this BAA, available to Covered Entity, at Covered Entity's reasonable expense, including of legal counsel reasonably needed by Business Associate, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, 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 Business Associate 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 Covered Entity, Business Associate 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 business associate agreements between the Parties and constitutes the final and entire agreement between the parties hereto with respect to the subject matter hereof. Covered Entity and Business Associate 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.

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

13. Obligations of Covered Entity.

a. Covered Entity shall not direct Business Associate to act in a manner that would not be compliant with the HIPAA Regulations.

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

**EXHIBIT E**

**FEDERAL CLAUSES**

Additional Federal Clauses Applicable for Federal Funding under this Agreement: (2 CFR § 200.326; 2 CFR Part 200, Appendix II, Required Contract Clauses)

1. REMEDIES FOR NONCOMPLIANCE

In the event COUNTY determines, in its sole discretion, that CONTRACTOR is not in compliance with the terms and conditions set forth herein, COUNTY may:

- A. Require payments as reimbursements rather than advance payments;
- B. Withhold authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- C. Require additional, more detailed financial reports;
- D. Require additional project monitoring;
- E. Requiring CONTRACTOR to obtain technical or management assistance; or
- F. Establish additional prior approvals.

2. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, CONTRACTOR agrees as follows:

- A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- C. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR'S commitments under this section,

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- D. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

### 3. CLEAN AIR ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. CONTRACTOR agrees to report each violation to the California Environmental Protection Agency and understands and agrees that the California Environmental Protection Agency will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### 4. FEDERAL WATER POLLUTION CONTROL ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. CONTRACTOR agrees to report each violation to the California State Water Resources Control Board and understands and agrees that the California State Water Resources Control Board will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

Management Agency, and the appropriate Environmental Protection Agency Regional Office.

- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### 5. DEBARMENT AND SUSPENSION

- A. CONTRACTOR certifies to COUNTY 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. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.
- B. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the California Governor's Office of Emergency Services and COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- C. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such CONTRACTOR is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- D. CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- E. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### 6. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

CONTRACTOR shall file the required certification attached as Exhibit E, Certification for Contracts, Grants, Loans, and Cooperative Agreement (Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended)), which is incorporated herein by this reference. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

### 7. PROCUREMENT OF RECOVERED MATERIALS

- A. A. In the performance of this Agreement, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - ii. Meeting contract performance requirements; or

## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

iii. At a reasonable price.

B. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

### 8. CHANGES

A. Notice. The primary purpose of this clause is to obtain prompt reporting of COUNTY conduct that CONTRACTOR considers to constitute a change to this contract. Except for changes identified as such in writing and signed by COUNTY, the Contractor shall notify the COUNTY in writing promptly, within five (5) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the CONTRACTOR regards as a change to the specifications, place or time of performance, delivery requirements or contract terms and conditions. Such changes will entitle Contractor to an equitable adjustment in the prices or performance schedule or both, pursuant to Paragraph D, below. On the basis of the most accurate information available to the Contractor, the notice shall state

i. The date, nature, and circumstances of the conduct regarded as a change;

ii. The name, function, and activity of each Government individual and CONTRACTOR official or employee involved in or knowledgeable about such conduct;

iii. The identification of any documents and the substance of any oral communication involved in such conduct;

iv. In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;

v. The particular elements of contract performance for which CONTRACTOR may seek an equitable adjustment under this clause, including:

- What line items have been or may be affected by the alleged change;
- What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
- To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
- What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

vi. CONTRACTOR'S estimate of the time by which COUNTY must respond to CONTRACTOR'S notice to minimize cost, delay or disruption of performance.

B. Continued Performance. Following submission of the required notice, CONTRACTOR shall diligently continue performance of this Agreement to the maximum extent possible in accordance with its terms and conditions as construed by the CONTRACTOR.

C. COUNTY Response. COUNTY shall promptly, within ten (10) calendar days after receipt of notice, respond to the notice in writing. In responding, COUNTY shall either--



## Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

- i. Confirm that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance;
- ii. Countermand any communication regarded as a change;
- iii. Deny that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance. If denied, County and Contractor shall resolve the matter using Section 14.5 in the Omnia Master Agreement; or
- iv. In the event the Contractor's notice information is inadequate to make a decision, advise CONTRACTOR what additional information is required, and establish the date by which it should be furnished and the date thereafter by which COUNTY will respond.

### D. Equitable Adjustments.

- i. If the COUNTY confirms that COUNTY conduct effected a change as alleged by the CONTRACTOR, and the conduct causes an increase or decrease in the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Agreement, whether changed or not changed by such conduct, an equitable adjustment shall be made --
  - In the contract price or delivery schedule or both; and
  - In such other provisions of the Agreement as may be affected.
- ii. The Agreement shall be modified in writing accordingly. The equitable adjustment shall not include increased costs or time extensions for delay resulting from CONTRACTOR'S failure to provide notice or to continue performance as provided herein.

## 9. ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

- A. CONTRACTOR agrees to provide COUNTY, the California Governor's Office of Emergency Services, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

## 10. USE OF U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) LOGO

CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval

## 11. COMPLIANCE WITH FEDERAL LAWS, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund this Agreement. CONTRACTOR will only use FEMA funds as authorized herein. CONTRACTOR will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

12. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the Agreement.

13. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this Agreement.

14. MANDATORY DISCLOSURE

CONTRACTOR must disclose, in a timely manner, in writing to the COUNTY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. CONTRACTOR is required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM) located at [www.sam.gov](http://www.sam.gov). Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321.)

15. DOMESTIC PREFERENCES FOR PROCUREMENTS

- A. As appropriate and to the extent consistent with law, the CONTRACTOR should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontractor agreements.
- B. For purposes of this section:
  - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - ii. "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

STATE ENERGY CONSERVATION PLAN

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

CONTRACTOR shall comply with the requirements of 45 CFR Part 75 which are hereby incorporated by reference in this Agreement. (WHEN FEDERAL FUNDS ARE USED AND FUNDED BY DEPT. OF HEALTH & HUMAN SERVICES)

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

DRUG FREE WORKPLACE

CONTRACTOR must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 382, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707). (WHEN FEDERAL FUNDS ARE USED AND FUNDED BY DEPT. OF HEALTH & HUMAN SERVICES)

FORCE MAJEURE

Contractor is excused from liability if some unforeseen event beyond the control of that party (for example, war, natural disasters, pandemics, or other "Acts of God") prevents it from performing its obligations under the contract.

Services of Independent Contractor

by and between the County of Santa Barbara and Iron Mountain Information Management, LLC

**EXHIBIT F**

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

**(Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))**

The undersigned CONTRACTOR certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

DocuSigned by:  
  
9EB1BE384BC14F3...  
Signature of Contractor's Authorized Official

Sheila Poggi Sr. Manager, Public Sector Contracts  
Name and Title of Contractor's Authorized Official

10/24/2024 | 7:07 PM BST  
Date