This Master Software and Professional Services Agreement ("Agreement"), effective as of September 1st, 2019 (the "Effective Date"), is entered into by and between Nuventive, LLC, a Delaware limited liability company with a principal place of business at 9800B McKnight Road, Suite 255, Pittsburgh, PA 15237 ("Nuventive"), and the entity identified in the Order Form attached to this Agreement as Exhibit A ("Licensee"). This Nuventive Master Software and Professional Services Agreement Replaces and Supersedes the TracDat Software License Agreement dated June 1st, 2013, the Amendment to Software License Agreement (the "SLA"), dated October 30th, 2014 and the Amendment to the Software License Agreement signed on December 7th, 2016.

Nuventive and its Third-Party Providers have developed certain Software and Software Services (defined below) for use by Licensee and certain designated users affiliated with Licensee as administrators, faculty or students (the "Users"). Any Software or Software Services licensed or made available to Licensee or its Users by Nuventive under this Agreement are referred to in this Agreement as the "Software Products." Use of the Software Products by Licensee and its Users shall be subject to the provisions of this Agreement.

The parties agree as follows:

1. **Definitions.** Terms used in this Agreement are defined as follows:

   1.1 “Beta Software or Services” means Nuventive software or services, or functionality, that may be made available to Licensee, which is clearly designated as beta, pilot, limited release, developer preview, non-production, trial, evaluation, or by a similar description.

   1.2 "Confidential Information" means, with respect to any party to this Agreement, all information or material of that party that is designated by the disclosing party as confidential or, from all the relevant circumstances, reasonably should be assumed to be confidential and proprietary. As between the parties, each party's Confidential Information shall remain the sole and exclusive property of that party. Confidential Information of Nuventive includes, but is not limited to, the Software Products, the Professional Services, Documentation in all forms, and the terms and conditions of this Agreement (including pricing and other terms reflected in all Exhibits and Order Forms). Confidential Information shall not include information or material that (i) is or becomes generally known to the public by any means other than a breach of the obligations of a receiving party; (ii) was previously known to the receiving party or rightly received by the receiving party from a third party; (iii) is independently developed by the receiving party; (iv) subject to disclosure under court order or other lawful process, provided that the receiving party gives the disclosing party sufficient prior notice to contest such order or process; or (v) that is required to be disclosed or made public under any applicable public records or similar law, or any requirements of any applicable government authority.

   1.3 “Deliverable” means any work product resulting from the Services delivered to Licensee by Nuventive, including but not limited to software programs, source and object code, specifications, designs, processes, techniques, concepts, improvements, and related Documentation.

   1.4 "Disclaiming Parties" means Nuventive and its subsidiaries, affiliates, vendors, licensors, and contractors.

   1.5 "Documentation" means Nuventive-provided specifications and user documentation, in all forms, relating to the Software Products or the Professional Services (e.g., user manuals, on-line help files, service descriptions, etc.).

   1.6 "Exhibit" means any exhibit attached to this Agreement or any exhibit attached to any Order Form.

   1.7 "Fee or Fees" means the fees charged by Nuventive to Licensee for use of the Software Products or for other services during the applicable contract term described in an Order Form or Work Order.

   1.8 "Intellectual Property Rights" means all rights in or relating to any inventions (whether or not protected under patent laws), works of authorship, information fixed in any tangible medium of expression (whether or not protected under copyright laws), moral rights, mask works, trademarks, trade names, trade dress, trade secrets, know-how, and all other subject matter protected under patent, copyright, moral right, mask work, trademark, trade secret or other laws, including without limitation all new or useful art, combinations, discoveries, formulae, business methodologies, technical developments, artwork, software, programming, applets, scripts and designs.

   1.9 “Licensee Data" means data provided by Licensee and/or the Users for use in connection with the Software Services or the Professional Services.
1.10 "Material Defect" means any reported malfunction, error or other defect in a Software Product that: (i) can be reproduced by Nuventive and Licensee; and (ii) constitutes a substantial nonconformity with the Documentation for the Software Product.

1.11 "Nuventive's Network" means the hosting environment provided by Nuventive or its Third-Party Providers to host and provide access to the Software Services.

1.12 "Order Form" means the ordering documents for Licensee's licensing or purchase of Software Products, Services or other products and services from Nuventive that are executed by the parties from time to time. The terms and conditions of this Agreement shall be deemed incorporated into each Order Form.

1.13 "Personal Data" means any personally identifiable information relating to any Users of the Software Products or other individuals that is transferred to or stored in Nuventive's Network, to which Nuventive or its Third Party Providers has or may have access in connection with its administration or management of the Software Services or otherwise in connection with its performance of its obligations under this Agreement.

1.14 "Professional Services" or "Services" means certain services provided by Nuventive and/or Third-Party Providers under this Agreement, as more fully described in the applicable Order Form and as otherwise agreed upon by the parties from time to time as specified in an applicable Work Order.

1.15 "Software" means the object code version of any software Nuventive may make available to Licensee for use at a designated site or through any Software Services, as identified in an applicable Order Form.

1.16 "Software Services" means certain hosted application services, including without limitation the use of any Software, provided by Nuventive and/or Third-Party Providers under an applicable Order Form, subject to the terms and conditions of this Agreement, and as otherwise agreed upon by the parties from time to time.

1.17 "Support and Maintenance" means the support and maintenance services provided by Nuventive for a Software Product, as described in the applicable Order Form or the service description for a Software Service. Support and Maintenance may be included in annual license or subscription Fees, or may be offered on an annual subscription basis to Licensee. If offered on an annual subscription basis, Support and Maintenance Fees may be adjusted by Nuventive annually as set forth in the applicable Order Form. Unless otherwise provided in an applicable Order Form or service description, Support and Maintenance does not include (a) visits to Licensee's site; (b) work with or relating to any third-party equipment or software; (c) configuration, setup or installation of Software Products; (d) training or consultation with Users; (e) Professional Services associated with the implementation, installation, configuration or customization of Software Products, or development of templates or models; or (f) other services associated with the Software Products, including without limitation custom development, knowledge transfer, or other services that may be covered in any service agreement with Nuventive or any third party. If Licensee requests additional support or maintenance services from Nuventive, Nuventive may provide such support and maintenance on terms mutually agreed by the parties.

1.18 "Term" means, with respect to this Agreement the term set forth in Section 16 of this Agreement, and with respect to each Order Form, the initial term and any renewals applicable to any Software Product or Support and Maintenance included in such Order Form.

1.19 "Third-Party Provider" means any third party vendor, supplier or service provider that provides, or assists Nuventive in providing, development, implementation, installation or training services pertaining to the Software Products or any other products or services to Nuventive's licensees, or provides or assists Nuventive with consulting or other Professional Services to be provided to Nuventive's licensees.

1.20 "Third-Party Software" means non-embedded products and program code delivered as part of Professional Services that are provided by third parties which may interoperate with or be used in connection with the Software Products. These products and services include Microsoft applications (e.g., SharePoint applications and the Azure cloud platform) and other applications available from third parties, including through links made available through the Software Services. Nuventive makes no warranties or representations regarding Third-Party Software. Licensee may be required to enter into separate agreements with the third parties licensing or providing these products or services, and Licensee's use thereof will be subject to such agreements and Licensee's payment of any fees or charges (whether to Nuventive pursuant to an Order Form or directly to the Third-Party Provider thereof) for such products or services.

1.21 "Users" means individuals who are authorized by Licensee to use the Software Products, and who have been supplied user identification and passwords by Licensee (or by Nuventive at Licensee's request). With respect to any Software Services provided by Nuventive in the form of an individual User subscription, Users shall include those individuals, affiliated with Licensee, for whom subscriptions to the Software Services have been purchased, either by such individuals or by Licensee.

1.22 "Work Order" means any written statement of work executed by the parties specifically referencing this Agreement, generally in the form attached hereto as Exhibit B. In the event of any inconsistencies between the terms of this Agreement and the terms as set out in a Work Order, the terms of the Work Order shall prevail.

2. LIMITED LICENSE
2.1 **Provision of License.** Nuventive shall make the licensed Software Products available to Licensee and its authorized Users as described in an applicable Order Form. Nuventive grants to Licensee a limited, nontransferable, nonexclusive right to access and use such Software Products subject to the limitations and use restrictions set forth or referenced in this Agreement and in any applicable Documentation or service description. The Term of the foregoing license shall be defined in the applicable Order Form with regard to any items of the Software or any subscriptions for Software Services. The Software Products are being licensed to Licensee, not sold; therefore, except as specifically provided in an applicable Order Form or Work Order, Licensee will have no ownership rights in the Software Products. Licensee shall only use the Software Products in the form provided by Nuventive, and for Licensee’s internal use.

2.2 **No Access to Third Parties.** Licensee shall not rent, sell, assign, lease, sublicense, transfer or encumber any of the Software Products or otherwise allow any third party (including, without limitation, any third-party vendor or outsourced service provider) to access or use the Software Products, other than as permitted by the Documentation. Third party vendors or outsourced service providers engaged by Licensee may access or use Software installed at Licensee’s on-site location for the sole purpose of providing Licensee with system support and maintenance, subject to such third parties being bound by confidentiality restrictions that are at least as restrictive as the confidentiality restrictions imposed on Licensee and Users under this Agreement.

2.3 **Limitation of Reverse Engineering and Modification.** Licensee and its representatives shall not derive or attempt to derive the source code, source files or structure of all or any portion of the Software Products by any form of reverse engineering, disassembly or decompilation (except to the extent permitted by law) and shall not access the Software Products in order to (a) build a product or service that is directly or indirectly competitive with the Software Products, or (b) copy or misappropriate any features, functions or graphics of the Software Products.

2.4 **Enhancement; Feedback.** Nuventive reserves the right to upgrade, enhance, change or modify the Software Products at any time in its sole discretion (“Enhancements”). Enhancements that add functionality or features to the Software Products may be provided at an additional Fee. Enhancements that are generally made available to licensees without charge will be made available to Licensee without charge. Any enhancement made available to Licensee will be subject to the terms of this Agreement and any applicable Order Form and will be deemed part of the applicable Software Product. Licensee agrees that its license of any Software Product is neither contingent upon the delivery of any Enhancements, future functionality or features nor dependent upon any oral or written public or private comments made by Nuventive with respect to enhancements, future functionality or features. If Licensee provides any request, suggestion or feedback (collectively, “Feedback”) to Nuventive regarding the functionality and performance of a Software Product (including identifying potential errors and improvements), Licensee hereby assigns to Nuventive all right, title and interest in and to such Feedback, and Nuventive shall have the right to disclose, use, implement and modify such Feedback without any payment or restriction.

2.5 **Return of Licensee Data.** With respect to Licensee Data held in a hosted environment provided by Nuventive, upon written request by Licensee made within 30 days after the effective date of termination of this Agreement and all Order Forms, Nuventive will allow Licensee or its Users to download Licensee Data in the possession of Nuventive for a period of 30 days. After such 30-day period, Nuventive shall have no obligation to maintain or provide any Licensee Data and may, unless legally prohibited, delete all Licensee Data in its systems or otherwise in its possession or under its control. Licensee shall maintain, backup or archive the Licensee Data in a manner that Licensee deems necessary or appropriate.

2.6 **Hosting, Installation On-Site and Other Related Limitations.**

2.6.1 **Hosting.** Except as provided in an applicable Order Form, all Software used in the Software Services will be hosted as part of the Software Services, and no copy of the Software will be delivered to Licensee for installation on its systems.

2.6.2 **Installation On-Site.** If an Order Form identifies any Software that will be delivered to Licensee for installation on its system, Licensee, in addition to the other limitations set forth in this Section 2, (a) shall not copy or distribute such Software except to the extent copying is necessary to use the Software for purposes set forth in this Agreement or the Order Form; (b) may make a single copy of such Software for backup and archival purposes; (c) may only install such Software on the number of computers licensed in the Order Form and at any location(s) specified in the Order Form; and (d) will return or destroy all copies of the Software (including modifications or derivative works thereof), the Documentation and any Nuventive Confidential Information if the license for the Software terminates at any time for any reason.

2.6.3 **Conversion of Licenses to Hosted or On-Site.** If Licensee has a license for Software installed on Licensee’s system, Licensee may elect, by notice to Nuventive, to convert such license to a Software Services license with access to the licensed Software through an off-site platform hosted by Nuventive or its Third-Party Provider. If Licensee makes such election and is in compliance with its duties and obligations under this Agreement and any applicable Order Form, Nuventive will provide the Software to Licensee as a Software Service, subject to Licensee’s payment of the applicable hosting and subscription Fees, and further subject to the acceptance by Licensee and its Users of the service description terms and any applicable “click-through” agreement necessary to access and use such Software Service. Any perpetual license held by Licensee will remain effective, and may be reinstated without payment of any
license fee (unless such license, as a new version or upgrade, is subject to a an additional license fee charged generally to other license holders) if Licensee should later elect to convert back to an on-site license for use of the applicable Software on Licensee's system.

2.7 Beta Software or Services. From time to time, Nuventive may make Beta Software or Services available to Licensee. Licensee may choose to try such Beta Software or Services (or not) in its sole discretion. Beta Software or Services will be designated as beta, pilot, limited release, developer preview, non-production, trial, evaluation or similar descriptive term. Beta Software or Services are intended for evaluation purposes and not for production use, are not supported (except as may be provided otherwise in any Documentation delivered by Nuventive), and may be subject to additional terms. Beta Software or Services are not considered “Software Products” under this Agreement; however, all restrictions, Nuventive reservation of rights, Licensee obligations concerning the Software Products, and use of any related third-party applications or content, shall apply equally to Licensee’s use of Beta Software or Services. Unless otherwise stated, any Beta Software or Services trial period will expire upon the earlier of (i) one year from the trial start date; (ii) any earlier expiration date provided by Nuventive to Licensee; (iii) the date of expiration or earlier termination of any Software Product license or subscription necessary for such Beta Software or Services to operate or be used as intended; or (iv) the date that a version of the Beta Software or Services becomes generally available without the applicable Beta Software or Services designation. Nuventive may discontinue Beta Software or Services at any time in its sole discretion and may never make them generally available. Nuventive will have no liability for any harm or damage arising out of or in connection with Beta Software or Services.

3. USE OF SOFTWARE PRODUCTS.

3.1 Nuventive Responsibility. Nuventive shall (a) provide the Software Products licensed or purchased under the applicable Order Form in accordance with the material requirements of the Documentation; and (b) during the period for which Licensee or the User pays for Support and Maintenance, or pays for a subscription to use the Software Services, provide Support and Maintenance as set forth in the applicable service description or Order Form.

3.2 Licensee Responsibility.

3.2.1 Use Restrictions. Licensee may not use, or knowingly allow any other person to use the Software Products or Nuventive's Network either directly or indirectly, to make, create, solicit, transmit, upload, disclose, use or publish any information or other communication which: (a) is or is likely to be perceived as obscene or indecent (outside of academic discourse), or is intended to abuse, threaten or harass another person; (b) violates any rights of others, including but not limited to, infringement of any Intellectual Property Rights or other proprietary rights; (c) libels, defames or slanders any person, or infringes upon any person's privacy rights; (d) contains or embodies any computer virus, malware, harmful component or corrupted data; (e) adversely affects the performance or availability of Nuventive's Network or any user thereof; (f) violates any applicable local, state, national or foreign law, regulations, rules or governmental requirements (“Applicable Law”); (g) involves sending unsolicited advertising or promotional materials (including, without limitation, “spam” or bulk email); or (h) violates any agreement Licensee has with any person or entity. Without limiting the generality of the foregoing, Licensee and its Users shall at all times use the Software Products in accordance with all applicable privacy laws and regulations, and shall ensure that all necessary consents have been obtained in accordance with such laws and regulations in order to transfer or disclose any Personal Data to third parties, or to Nuventive, its affiliates, contractors, agents, successors and/or assigns.

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3.2.3 Inherently Dangerous Applications. Licensee acknowledges and understands that the Software Products are not specifically developed or licensed for use in any nuclear, aviation, mass transit or medical application or in any other inherently dangerous application, except as otherwise may be indicated on the Order Form.

3.2.4 Licensee Responsible for Equipment and Connectivity. All costs of providing equipment and connectivity necessary for Licensee or its Users to access the internet and the Software Services shall be the sole responsibility of Licensee or the applicable Users, and not Nuventive. It is the responsibility of Licensee to acquire and maintain any Third-Party Software (unless acquired by Licensee from Nuventive), computer system or equipment, and connectivity in accordance with the Documentation that is sufficient for purposes of running Software delivered to Licensee for installation on its systems, and sufficient to enable Licensee to access and use the Software Services in accordance with any Licensee license or subscription for such Software Services.

3.2.5 Responsibility for Licensee Data. Licensee shall (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability and appropriateness of all Licensee Data; (b) obtain all rights it needs to receive, store or use Licensee Data; (c) have sole responsibility for the review of any information or other output the Licensee intends to rely on as a result of use of the Software Products; (d) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Software

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3.5 Service Bureau Activities.

3.5.1 Restrictions on Service Bureau Use. In its utilization of the Software Products pursuant to this Agreement, Licensee shall not (a) act as a service bureau to third parties, including the provision or re-sale of the Software Products to third parties; (b) act as an outsource agent or outsource provider of the Software Products to third parties, including, but not limited to, offering or making available the Software Products or components thereof; or (c) utilize the Software Products for the benefit of any other educational institution or students or faculty not directly affiliated with Licensee (each, a “Service Bureau Activity”).

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3.8 **Export Controls.** Licensee acknowledges that the export, import, and use of certain software and technological data provided under this Agreement is regulated by the United States and other governments and agrees to comply with all applicable laws and regulations, including the U.S. Export Administration Act, the regulations promulgated thereunder by the U.S. Department of Commerce, and any other applicable laws or regulations such as those that prohibit the Software Products from being used in or accessed by a national of Cuba, Iran, North Korea, Sudan, Syria or any other sanctioned or embargoed country. If Licensee chooses to access or use the Software Services or any website or portal maintained by Nuventive from prohibited locations outside the United States, Licensee does so on its own initiative and will be solely responsible for compliance with all applicable local use controls, laws and regulations, including those relating to the transmission of technical data exported from or imported to the United States or the country in which Licensee is accessing or using the Software Services or such website or portal. Licensee acknowledges that Nuventive has made no representations concerning the appropriateness or availability of the content on any website or portal maintained by Nuventive when accessed in locations outside the United States, and accessing same from locations where their contents are illegal is prohibited.

4. **SUPPORT AND MAINTENANCE.** Nuventive only will provide Licensee with Support and Maintenance for the Software Products as described in an applicable Order Form or service description. Nuventive shall not be responsible for providing Support and Maintenance for items of software and hardware that Nuventive does not provide under this Agreement or any Order Form. Licensee shall receive access to any enhancements or new versions of the Software Products that Nuventive makes generally available without charge to its other similarly situated licensees.

5. **FEES.**

5.1 **General.** Licensee shall pay to Nuventive the Fees set forth in each respective Order Form. Except as otherwise stated in this Agreement or the applicable Order Form, all payment obligations shall be non-cancelable and Fees paid shall be non-refundable. Fees paid for any subscription to the Software Services are based on the Software Services purchased and not actual usage. Fees for the Professional Services, including setup fees, implementation, training, consulting and support fees, are billed and payable as set forth in the respective Order Form. Additional fees incurred by Licensee will be billed as set forth in the respective Order Form or service description.

5.2 **Invoicing & Payment.** Fees for the Software Products and the Professional Services will be invoiced in advance or as otherwise stated in the relevant Order Form. All amounts payable under this Agreement or any Order Form are payable in United States dollars.

5.3 **Overdue Payments.** All invoices shall be paid by Licensee within thirty (30) days of invoice date. Payments not made within such time period shall be subject to late charges equal to the lesser of (a) one and one-half percent (1.5%) per month of the overdue amount or (b) the maximum amount permitted under Applicable Law. Licensee will reimburse Nuventive for any costs or expenses (including, but not limited to, reasonable attorney fees) incurred by Nuventive to collect any amount that is not paid by Licensee when due.

5.4 **Taxes.** In addition to any other payments due under this Agreement, Licensee agrees to pay any sales, use, transfer, privilege, tariffs, excise and all other taxes and all duties, whether international, national, state or local, however designated, which are levied or imposed by reason of the
delivery of the Software, or performance of the Software Services or the Professional Services, excluding Nuventive’s income taxes. If Nuventive has the legal obligation to pay or collect taxes for which Licensee is responsible under this Section, the appropriate amount shall be invoiced to and paid by Licensee, unless Licensee provides Nuventive with a valid tax exemption certificate.

5.5 Adjustments.

5.5.1 Adjustments on Fees and Terms. Except as otherwise provided in any Order Form, Fees and applicable terms and conditions for renewal of any Software Product license or subscription, or Support and Maintenance, may be adjusted by Nuventive, at its discretion, upon notice to Licensee or any User subscriber of not less than sixty (60) days prior to the end of the then current applicable license or subscription initial or renewal Term. Nuventive may adjust its Fees for Services as to hourly rates at any time, and from time to time, except that contracted Services under any Order Form shall be charged at the rates set forth in such Order Form. Licensee may terminate the renewal of any license or subscription under any Order Form upon written notice to Nuventive within thirty (30) days of its receipt of the 60-day notice from Nuventive to adjust Fees or terms and conditions as to any Software Product license or subscription, or Support and Maintenance; provided, however, that, if Licensee fails to object to such adjustment in writing within such thirty (30) day period, Licensee shall be deemed to have agreed to the adjustment. Adjustments of Fees, terms and conditions also may be made by Nuventive, at any time and from time to time, in circumstances where Licensee has or will exceed the scope of its existing license or elects to increase or add capacity, integrations, functionality or features regarding its then existing licenses.

5.5.2 Effect of Merger or Acquisition. Licensee shall notify Nuventive if Licensee, during the license Term or subscription Term for any Software Product, merges with, is acquired by, or acquires another entity (each of the foregoing, collectively, a “Transaction”), which changes the number of Users or scope of use of any Software Product. Nuventive may adjust Licensee’s Fees set forth in any Order Form applicable to any Software Product license or subscription, or to Support and Maintenance, retroactive to the date of the Transaction, if Licensee is subject to a Transaction. Any such adjustment will be consistent with Fees charged by Nuventive to other Nuventive licensees with a similar number of Users or scope of use.

6. RELATIONSHIP. During the term of this Agreement, Licensee and Nuventive shall be independent contractors (and neither party shall act as an agent or representative of the other party) in performance of this Agreement. This Agreement and any Exhibit or Order Form will not be interpreted or construed as (a) creating or evidencing any association, joint venture, partnership or franchise between the parties; (b) imposing any partnership or franchise obligation or liability on either party; or (c) prohibiting or restricting Nuventive from performing any services for any third party or providing any products to any third party.

7. CONFIDENTIALITY.

7.1 Treatment of Confidential Information. Each party agrees that (a) it will hold any and all Confidential Information it obtains from the other party in strict confidence and will use and permit use of such Confidential Information solely as permitted under this Agreement; (b) it may disclose the other party's Confidential Information only to such party's employees and agents with a need to know such information or as otherwise permitted under this Agreement or an applicable Order Form; and (c) it may make copies of the other party's Confidential Information only to the extent permitted under this Agreement or any Order Form.

7.2 Non-Exclusive Equitable Remedy. Each party acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for any breach of such party's obligations under this Section 7, and therefore, that upon any such breach or threatened breach, the non-breaching party will be entitled to appropriate equitable relief from a court of competent jurisdiction, without the necessity of posting bond or other security or proving it has sustained any actual damage. This remedy will be in addition to any other remedy available to the non-breaching party under this Agreement.

7.3 Security and Data Breach.

7.3.1 Data Center Security. At Licensee's request, Nuventive shall provide Licensee with the name of any data center(s) or hosting location(s) used by Nuventive or its Third-Party Providers to host or store Licensee Data, including Personal Data, received from Licensee or its Users. All Licensee Data stored or at rest in any data centers or hosting locations used by Nuventive, or in transport, will be encrypted and will not be transferred (except with Licensee's prior consent) to any data center or hosting location outside of the United States. Nuventive has implemented or will implement the Data Safeguards set forth in this Section 7, and Nuventive will further implement, or cause to be implemented by its Third-Party Providers, reasonable security standards that it determines are necessary, but in no event less than industry standards, to protect (i) the physical security of the data centers and hosting locations used to maintain Licensee Data; and (ii) Nuventive's Network, all operating systems, software applications, and all data storage systems and media provided by Nuventive or its Third-Party Providers, from being subject to any viruses, malware or other harmful code.

7.3.2 Data Safeguards. To the extent Nuventive receives or has access to Licensee Data, or stores or holds any Licensee Data, Nuventive agrees to:

(i) access and use the Licensee Data solely for the purpose of performing its obligations in accordance with
the terms and conditions of this Agreement, Nuventive’s applicable Privacy Policies, and the service description(s) applicable to the relevant Software Services licensed by Licensee;

(ii) maintain physical, technical, and administrative safeguards (including but not limited to those set forth in this Section, and in any event no less than industry standards in the online services industry) to protect the Licensee Data against unauthorized access, use, or disclosure while it is accessible to or held by Nuventive or its Third-Party Providers (“Data Safeguards”); and

(iii) not disclose the Licensee Data to any third party, except: (x) to its employees, consultants or Third-Party Providers for purposes of administering the Software Products and providing Professional Services, provided that such recipients are bound by confidentiality provisions no less restrictive than those set out in this Agreement; (y) to the extent required by a judicial order or other legal obligation; or (z) as expressly permitted by this Agreement, Nuventive’s applicable Privacy Policies and the service description(s) or other terms and conditions made available to Licensee and its Users.

7.3.3 Data Breach. If Nuventive becomes aware of any security or data breach affecting Nuventive’s Network or the Software Products, and that as a result thereof any unauthorized person has obtained access to any Licensee Data held or stored by Nuventive under this Agreement or in connection with the management or administration of Nuventive’s Network or website(s) (“Data Breach”), Nuventive shall promptly notify Licensee in writing and shall fully cooperate with Licensee to prevent or stop such Data Breach. In the event of such Data Breach, Nuventive shall comply with applicable laws, and shall take appropriate steps to remedy such Data Breach.

7.3.4 Personal Data. All Personal Data to which Nuventive has access under this Agreement, will remain the property of (or subject to the rights of) the data subject, and will be subject to the limitations on use and disclosure set forth in this Agreement. Licensee hereby consents to the use, processing and/or disclosure of Personal Data only for the purposes described herein and to the extent such use or processing is necessary for Nuventive to carry out its duties and responsibilities under this Agreement or as required by law.

8. ELECTRONIC AGREEMENTS. Licensee acknowledges that, in order to access and use the Software Services, Users may be required to agree to certain terms of use established by Nuventive or Third-Party Providers, which will be provided to Licensee or such Users as part of the process of accessing and using Software Services, or prior to such access being made available.

9. LIST OF AUTHORIZED USERS. Licensee will maintain a written list of Users who are authorized to access or use the Software Services on behalf of Licensee and will make such lists available to Nuventive on request. User log-in information shall be maintained in strict confidence and Users are not permitted to share such User log-in information with any third party. Licensee shall be solely responsible for all use of the Software Services by its Users and the compliance by its Users with this Agreement and any Exhibit or Order Form. Licensee agrees to immediately notify Nuventive if Licensee becomes aware of any loss or theft of any User log-in information or becomes aware of any unauthorized use or acquisition of its access to the Software Services.

10. NUVENTIVE WARRANTIES. Nuventive represents and warrants that (a) it has legal power to enter into this Agreement; (b) with respect to Software delivered by Nuventive to Licensee for installation on Licensee’s system, for a period of ninety (90) days following the initial delivery the Software shall not be subject to a Material Defect (but no new warranty period will apply for any later updates or new versions of the Software provided without charge to Licensee); and (c) with respect to any subscription for Software Services, the Software Products shall materially perform without a Material Defect and substantially in accordance with the Documentation, as such Documentation may be modified or updated from time to time. Licensee’s sole and exclusive remedy and Nuventive’s sole and exclusive liability for breach of the foregoing warranty in clause (b) or clause (c), as applicable, shall be for Nuventive to repair or replace the defective element of the Software Product or, if repair or replacement cannot be provided within a reasonable time, Licensee may terminate the license for such Software Product and upon notice of such termination Nuventive will refund the Fees paid for any Software delivered by Nuventive to Licensee for installation on Licensee’s system, or refund any pre-paid subscription Fees relating to such terminated subscription for Software Services. Nuventive shall not have an obligation under the warranties set forth above if any error or defect in operation of the applicable Software Product is caused by malfunction of hardware or software not provided by Nuventive or malfunction of any Third-Party Provider platform or hosting environment, by modification of any Software not performed or authorized by Nuventive, by operator error, or by use of the Software Product not in accordance with the Documentation or operating instructions provided by Nuventive.

11. LICENSEE WARRANTIES. Licensee represents and warrants that (a) it has full power, capacity and authority to enter into this Agreement and any applicable Order Form, and to perform its obligations under this Agreement; (b) any Licensee Data or other information provided to Nuventive for use in connection with the Software Services and the Professional Services does not infringe the Intellectual Property Rights, publicity or privacy rights of any person and is not defamatory, obscene or in violation of any Applicable Law (including but not limited to applicable policies and laws related to spamming, privacy and consumer protection); and (c) its use of the Software Products and the Professional Services will be in compliance with all Applicable Law.

12. DISCLAIMER OF WARRANTIES. EXCEPT AS PROVIDED IN SECTION 10 (NUVENTIVE WARRANTIES), THE SOFTWARE PRODUCTS AND THE PROFESSIONAL SERVICES
ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITH ALL
FAULTS AND WITHOUT WARRANTY OF ANY KIND. THE
DISCLAIMING PARTIES DISCLAIM ALL OTHER WARRANTIES,
EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO,
THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS
FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, QUALITY
OF INFORMATION, TITLE AND NON-INFRINGEMENT. THE
DISCLAIMING PARTIES ALSO DISCLAIM ANY WARRANTY
REGARDING NON-INTERRUPTION OF USE, FREEDOM FROM
BUGS, AND THAT USE OF THE SOFTWARE PRODUCTS AND
THE PROFESSIONAL SERVICES ARE ERROR-FREE. LICENSEE
EXPressLY AGREES AND ACKNOWLEDGES THAT ANY USE OF
THE SOFTWARE PRODUCTS OR THE PROFESSIONAL
SERVICES IS AT LICENSEE’S SOLE RISK. NO ORAL OR
WRITTEN INFORMATION OR ADVICE GIVEN BY NUVENTIVE
OR ITS AUTHORIZED REPRESENTATIVES SHALL CREATE A
WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF
NUVENTIVE’S OBLIGATIONS UNDER THIS AGREEMENT OR
ANY EXHIBIT OR ORDER FORM.

LICENSEE AGREES THE SOFTWARE PRODUCTS AND THE
PROFESSIONAL SERVICES ARE NOT INTENDED TO REPLACE
LICENSEE’S PROFESSIONAL SKILL AND JUDGMENT. LICENSEE
IS SOLELY RESPONSIBLE FOR COMPLIANCE WITH ALL
APPLICABLE LAW.

THE SOFTWARE PRODUCTS AND THE PROFESSIONAL
SERVICES MAY BE USED TO ACCESS AND TRANSFER
INFORMATION OVER THE INTERNET. LICENSEE
ACKNOWLEDGES AND AGREES THAT THE DISCLAIMING
PARTIES DO NOT OPERATE OR CONTROL THE INTERNET AND
THAT (a) VIRUSES, WORMS, TROJAN HORSES OR OTHER
UNDESIRABLE DATA OR SOFTWARE AND (b) UNAUTHORIZED
USERS - MAY ATTEMPT TO OBTAIN ACCESS TO AND DAMAGE
THE LICENSEE DATA AND LICENSEE'S WEBSITES,
COMPUTERS OR NETWORKS. THE DISCLAIMING PARTIES
SHALL NOT BE RESPONSIBLE OR LIABLE FOR SUCH
ACTIVITIES, UNLESS CAUSED BY THE GROSS NEGLIGENCE OR
WILLFUL MISCONDUCT OF THE DISCLAIMING PARTIES.

13. INDEMNIFICATION BY NUVENTIVE. Nuventive shall
defend, indemnify and hold Licensee harmless against any loss,
damage or cost (including reasonable attorneys’ fees) awarded
against Licensee by a court of competent jurisdiction in
connection with claims made or brought against Licensee by a
third party that allege that Licensee’s use of a Software Product
in accordance with the Documentation and as contemplated
under this Agreement infringes the Intellectual Property Rights
of such third party; provided, however, that the foregoing
indemnification shall not apply to any such loss, damage or cost
that is attributable to (a) Licensee’s use of the Software Product
in violation of or outside the scope of this Agreement or an
Order Form; (b) the use by Licensee of a superseded or altered
(other than by Nuventive or its contractors or agents) release
of the Software Product; (c) the combination, operation or use
of the Software Product with any third-party platform,
operating system, service, software, hardware or other
materials; (d) any modification to the Software Product not
made or authorized by Nuventive; or (e) Nuventive’s
compliance with any instructions, designs or specifications
provided by Licensee to Nuventive. As a condition to the right
of Licensee to receive the foregoing indemnification, Licensee
shall (i) promptly provide written notice of the claim to
Nuventive, (ii) provide Nuventive sole control of the defense
and settlement of the claim (provided that Nuventive may not
settle any claim unless Licensee is released of all liability to the
third party, other than an obligation to cease use of any
allegedly infringing Software Product or component thereof),
and (iii) provide to Nuventive, at Nuventive’s cost, all
reasonable assistance with respect to the defense of such
claim.

14. SUSPENSION OF SERVICES AND REMOVAL OF
CONTENT. Nuventive may, in its sole discretion, suspend
Licensee’s or any User’s license or subscription to access the
Software Services or the Professional Services or reject or
remove from the Software Services or the Professional Services
any Licensee Data (a) to prevent damages to, or degradation
of, Nuventive’s Network, the Software, the Software Services
or the Professional Services; (b) to comply with any Applicable
Law, court order or other governmental request; (c) to
otherwise protect Nuventive from potential legal liability; or (d)
if an invoice remains unpaid for forty-five (45) or more days
from the invoice due date. Nuventive shall use reasonable
efforts to provide Licensee with notice prior to or promptly
following any suspension of the Software Services or the
Professional Services or removal of any Licensee Data.
Nuventive will restore access to the Software Services and the
Professional Services after the event giving rise to suspension
has been resolved to the satisfaction of Nuventive. This Section
shall not be construed as imposing any obligation or duty on
Nuventive to monitor Licensee's or any other person’s use of
the Software Products or the Professional Services.

15. DISCLAIMER AND LIMITATION OF LIABILITY AND
DAMAGES.

15.1 Disclaimer and Limitation of Liability
and Damages. NONE OF THE DISCLAIMING PARTIES SHALL
HAVE ANY LIABILITY TO LICENSEE OR ANY OTHER
INDIVIDUAL OR ENTITY FOR ANY LOSS OF PROFITS, SALES,
BUSINESS, DATA OR OTHER INCIDENTAL, CONSEQUENTIAL
OR SPECIAL LOSS OR DAMAGE OF ANY KIND OR NATURE,
INCLUDING EXEMPLARY AND PUNITIVE DAMAGES,
RESULTING FROM OR ARISING OUT OF THIS AGREEMENT OR
ANY EXHIBIT OR ORDER FORM, INCLUDING USE OF THE
SOFTWARE PRODUCTS OR THE PROFESSIONAL
SERVICES. THE TOTAL LIABILITY OF THE DISCLAIMING PARTIES TO
LICENSEE OR ANY THIRD PARTY ARISING OUT OF THIS
AGREEMENT OR ANY EXHIBIT OR ORDER FORM OR USE OF THE
SOFTWARE PRODUCTS OR THE PROFESSIONAL
SERVICES SHALL NOT EXCEED TWICE THE TOTAL FEES PAID
TO NUVENTIVE BY LICENSEE DURING THE TWELVE (12)
MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE
TO THE LIABILITY. THIS LIMITATION OF LIABILITY SHALL
APPLY EVEN IF THE EXPRESS WARRANTIES SET FORTH IN
THIS AGREEMENT FAIL IN THEIR ESSENTIAL PURPOSE. IN
ADDITION, THOSE REPRESENTATIONS, WARRANTIES,
COVENANTS OR AGREEMENTS OF NUVENTIVE WHICH
SURVIVE TERMINATION OR EXPIRATION OF THIS
AGREEMENT SHALL SURVIVE ONLY FOR A PERIOD OF ONE
YEAR AFTER SUCH TERMINATION OR EXPIRATION, AND

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LICENSEE MAY BRING AN ACTION AGAINST NUVENTIVE FOR BREACH OF ANY SUCH REPRESENTATION, WARRANTY, COVENANT OR AGREEMENT ONLY IF WRITTEN NOTICE OF SUCH CLAIMED BREACH IS PROVIDED TO NUVENTIVE WITHIN SUCH ONE YEAR PERIOD AND ANY ACTION IS COMMENCED WITHIN SUCH ONE YEAR PERIOD.

15.2 Independent Allocations of Risk. The purpose of each provision of this Agreement and any exhibit or order form that provides for a limitation of liability, disclaimer of warranties or exclusion of damages is to allocate the risks of this Agreement and such exhibit or order form between the parties. This allocation is reflected in the pricing offered by Nuventive to Licensee and is an essential element of the basis of the bargain between the parties. Each of these provisions is severable and independent of all other provisions of this Agreement or any exhibit or order form. The limitations in this Section 15 will apply notwithstanding the failure of essential purpose of any limited remedy in this Agreement or any exhibit or order form.

16. TERM. The Term of this Agreement shall begin on the Effective Date and shall continue for a period of three (3) years. For as long as any Software Service subscription pursuant to any Order Form shall remain in effect, this Agreement shall automatically renew for successive one-year terms, unless either party gives notice to the other party of its intent not to renew at least ninety (90) days prior to the expiration of the then-current Term (subject to Licensee’s rights of termination set forth in Section 5.5). Notwithstanding this Section 16, the terms and conditions of this Agreement shall remain in full force and effect (i) with respect to any perpetual license for as long as such license remains in effect; (ii) with respect to any license for a fixed or renewable term, or a subscription for Software Services, until the earlier of (a) the termination of such license or subscription or (b) the termination of this Agreement and all Exhibits and Order Forms. If this Agreement terminates for any reason, the parties may reinstate this Agreement by entering into an Order Form for any Software Product(s), which Order Form references that the Order Form shall be subject to this Agreement.

17. TERMINATION. This Agreement and all Exhibits and Order Forms shall terminate (a) on the ninetieth (90th) day after Nuventive gives Licensee notice of Nuventive’s intent to terminate for any reason or no reason; (b) on the thirtieth (30th) day after either party gives the other party written notice of a breach by the other party of any material term or condition of this Agreement, any Exhibit, any Order Form or any other agreement between Nuventive and Licensee, unless the breach is cured before that 30th day; (c) upon written notice by either party, immediately, if (i) a receiver is appointed for the other party or its property, (ii) the other party becomes insolvent or (iii) any proceedings (whether voluntary or involuntary) are commenced against the other party under any bankruptcy or similar law and such proceedings are not vacated or set aside within sixty (60) days from the date of commencement thereof; or (d) on sixty (60) days’ notice from Nuventive in the event Nuventive generally ceases providing the Software Products to its customers. If Nuventive terminates this Agreement under clause (a) or (d) of this Section, or Licensee terminates this Agreement under clause (b) or (c) of this Section, Nuventive shall promptly refund to Licensee any related prepaid but unused Fees as of the effective date of the termination.

If use of a Software Product or any portion thereof becomes, or in Nuventive’s sole opinion is likely to become, the subject of an Intellectual Property Rights infringement claim, Nuventive may, in its discretion, (i) procure the right for Licensee to continue to use the Software Product, (ii) replace or modify the Software Product with software of comparable quality and performance capabilities, or (iii) terminate this Agreement and any applicable Exhibit or Order Form and refund any related prepaid but unused Fees.

Any right or license granted under this Agreement, any Exhibit, or any Order Form, shall terminate on termination of this Agreement and the applicable Exhibit or Order Form.

18. PUBLICITY; ANNOUNCEMENTS. During the Term and thereafter neither party will make any media release or other public announcement relating to or referring to this Agreement or any Exhibit or Order Form without the other party’s prior written consent. Notwithstanding the foregoing, Nuventive may use Licensee’s name, trade name, trademarks, service marks and logo designs in identifying Licensee as a client in Nuventive, and Licensee may inform Users of its relationship with Nuventive and the Software Products it will be obtaining from Nuventive.

Except as set forth above in this Section 18, neither party shall acquire any right to use, and shall not use, without the other party’s prior written consent, the names, trade names, trademarks, service marks, artwork, designs or copyrighted materials of the other party or its affiliates, employees, directors, shareholders, assigns, successors or licensees (a) in any advertising, publicity, press release, or presentation; (b) to express or to imply any endorsement by the other party; or (c) in any manner other than expressly in accordance with this Agreement or any Exhibit or Order Form.

19. PROFESSIONAL SERVICES.

19.1 Services.

19.1.1 Nuventive Obligations. During the Term of this Agreement, Nuventive shall use commercially reasonable efforts to perform the Services, including if applicable, the provision of any Deliverables set forth on any applicable Work Order, in a timely manner with qualified resources and in accordance with the specifications and schedule set forth in the Work Order. Nuventive shall use commercially reasonable and industry standard methods to prevent the Services from introducing any viruses, malware or harmful code into any Licensee computer system or network. Nuventive’s indemnification obligations in this Agreement relating to
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infringement claims shall apply with respect to any Deliverables provided to Licensee by Nuventive under this Agreement.

19.1.2 Licensee Obligations. Nuventive’s ability to perform the Services depends upon, among other things, Licensee providing, in a timely manner, technical data, computer facilities, programs, files, documentation, test data, sample output, and such other relevant information and data, resources, assistance and cooperation reasonably required by Nuventive for the performance of the Services. Nuventive will not be responsible for any deficiency in performance that results from Licensee’s failure to cooperate with Nuventive. Licensee is responsible for the content, accuracy, completeness and consistency of all such data, materials and information supplied by it.

19.1.3 Change Orders. Any material change in the Services or any Deliverables will be confirmed by a mutually agreed written amendment to the Work Order. Either party may at any time during the progress of the Services propose changes, and the parties will negotiate in good faith regarding any adjustment to the specifications, Deliverables, timetables and Fees, if applicable.

19.1.4 Later Software Product Releases and Support. Nuventive is not responsible for the migration or re-implementation of the Services for later releases of any Software Product, unless Licensee enters into a separate Work Order for such migration or re-implementation. If Licensee desires to receive support for any Deliverables, Licensee may enter into a separate agreement for such services pursuant to mutually agreed support terms and conditions.

19.1.5 Fees Based on Estimates. Unless a Work Order specifies a fixed price, cost or Fee estimates in a Work Order are only for Licensee’s budgeting and Nuventive’s resource scheduling purposes. Such estimates do not include applicable taxes. Nuventive will invoice Licensee for actual time spent and expenses incurred in performing the Services; such invoice may exceed amounts estimated in the applicable Work Order.

19.1.6 No Employment Relationship. The parties acknowledge and agree that this Agreement does not create an employment relationship between Nuventive or its personnel and Licensee. Nuventive shall have sole control of the manner and means of performing the Services. Neither Nuventive nor its personnel shall be entitled to any Licensee benefits, including, without limitation, life insurance, death benefits, accident or health insurance, qualified pension or retirement plans or other employee benefits.

19.2 Fees and Payment.

19.2.1 Payment. Licensee will pay Nuventive the Fees in the applicable Work Order on a time and materials basis (unless otherwise provided in the Work Order), and such Fees are payable net thirty (30) days from delivery of an invoice. Licensee will reimburse reasonable and necessary business travel expenses incurred by Nuventive in connection with the performance of the Services.

19.2.2 Charges for Working Hours. For Services provided on a time and materials basis a minimum of one (1) hour per day will be charged for remote Services and a minimum of four (4) hours a day for onsite Services. Regular working hours are between 8:00 am and 6:00 pm, Eastern Time; such working hours may be adjusted in a Work Order for Services performed in other time zones. For Services required to be performed outside of regular working hours, a surcharge may apply. Hourly rates set forth in the Work Order may be adjusted from time to time by Nuventive, but not more frequently than once in any twelve-month period.

19.2.3 Taxes. All amounts as set out in a Work Order are exclusive of any sales, value-added, or other similar taxes imposed by applicable law. Licensee shall pay or reimburse Nuventive for all such relevant taxes, except for taxes based on Nuventive’s income.

19.3 Term and Termination.

19.3.1 Effective Term of Work Orders. Work Orders will take effect on the date signed by both parties and will remain in effect until the Services have been completed, unless earlier terminated in accordance with the provisions of the Work Order or this Agreement.

19.3.2 Termination of Work Orders. Either party may terminate any Work Order(s) if the other party commits a breach of this Agreement, which breach, if capable of being cured, is not cured within thirty (30) days following its receipt of a written notice of such breach from the non-breaching party.

19.4 Ownership of Deliverables.

19.4.1 Non-Exclusive. Nuventive is in the business of providing services, similar to the Services, to a variety of licensees. Licensee and Nuventive agree that the relationship established between Licensee and Nuventive by this Agreement is non-exclusive.

19.4.2 Ownership of Program Code. Nuventive shall own (i) pre-existing program code authored or created by Nuventive, (ii) any modifications to any Nuventive Software Products, which code shall be and remain the property of Nuventive, and (iii) all right, title and interest (including all Intellectual Property Rights) in and to Nuventive branding elements and the Deliverables (excluding any Licensee branding elements, or any other content, information or materials embedded therein provided and owned by Licensee). Upon receipt of payment in full for all Services, Nuventive grants to Licensee, with respect to program code owned by Nuventive as set forth in clauses (i) and (iii) above (including program code embedded in any Deliverable), a worldwide, nonexclusive, nontransferable limited right and license (without right to sublicense) to use such program code for its own internal purposes, and not for commercial resale, distribution or otherwise, subject to any other rights or restrictions set forth in the applicable Work Order. Such license shall remain in effect for as long as Licensee continues to license or subscribe to any Software Product with which the licensed code or Deliverables may be used. Licensee
shall not sell, disclose or otherwise make any such program code or the Deliverables available to any third party without the prior written consent of Nuventive. Except for the limited rights and licenses expressly granted hereunder, no other license is granted in nor is any other use permitted with respect to any program code owned by Nuventive and which constitutes part of the Deliverables. Nuventive is the sole and exclusive owner of all right, title and interest in any and all any know-how, expertise, knowledge or experience possessed by Nuventive prior to the Effective Date or developed or learned by Nuventive in connection with providing the Services. Licensee grants to Nuventive, with respect to any Licensee branding elements, or any other Licensee content, information or materials, a worldwide, nonexclusive, nontransferable limited right and license to use such content, information and materials for the purposes of performing the Services and its other obligations under this Agreement, and for no other purpose. Except as expressly set forth herein, no license is granted by either party to or the other with respect to any technical or business information or Intellectual Property Rights.

19.5 Warranties and Limitation of Liability.

19.5.1 Nuventive Warranty as to Services. Nuventive warrants that it will perform the Services in a professional and workmanlike manner, in accordance with performance standards generally prevailing in the industry, and substantially in accordance with the terms of the applicable Work Order.

19.5.2 Disclaimer. Except as specifically stated in Section 19.5.1 above, Nuventive makes no other warranties, express, implied, or statutory, regarding or relating to any deliverables, materials or services furnished or provided to Licensee under this Agreement. Nuventive disclaims all implied warranties of merchantability and fitness for a particular purpose, except to the extent that any warranties implied by law cannot be validly waived.

19.5.3 Consequential Damages. Neither Nuventive, nor its managers, partners, members, directors, officers, employees, licensors or agents, will be liable to Licensee for any incidental, consequential, or special damages (including damages for loss of profits, business interruption, loss of information, and the like) arising out of this Agreement, even if Nuventive or its agents have been advised of the possibility of such damages.

19.5.4 Remedies. Licensee’s sole remedy in the event of any breach of warranty or covenant in this Agreement shall be Nuventive’s reperformance of the deficient services, or if such reperformance does not cure the deficiency, Licensee shall be entitled to receive a refund of any amounts paid by Licensee for the deficient services. Except for Nuventive’s gross negligence or willful misconduct, in no event shall Nuventive’s total aggregate liability pursuant to this Agreement for deficient services exceed twice the fees paid by Licensee under the work order giving rise to the claim.


20.1 Assignment. Neither party may assign any of its rights or obligations under this Agreement or any Exhibit or Order Form, whether by operation of law or otherwise, without the prior written consent of the non-assigning party. Any attempt by a party to assign its rights or obligations under this Agreement or any Exhibit or Order Form in breach of this Section shall be void and of no effect. Notwithstanding the foregoing, Nuventive may assign this Agreement, and any Exhibit or Order Form, to any entity succeeding to all or substantially all of the business or assets of any Nuventive line of business by merger, combination, consolidation, reorganization or the sale or acquisition of assets. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

20.2 Non-solicitation. During the term of this Agreement and for a period of one year thereafter, neither party will, directly or indirectly, knowingly employ or solicit the employment or services of any employee or independent contractor of the other party without the prior written consent of the non-soliciting party. The term "solicit the employment or services" specifically excludes any effort by a party to attract applicants (e.g., by general recruitment through advertisements, internet job postings, etc.) if not specifically targeted to or specifically designed to attract the other party’s employees or contractors.

20.3 Force Majeure. Except for the payment of money as described in Section 5, neither party shall be liable for any failure or delay in performance under this Agreement or any Exhibit or Order Form that is due to any event beyond the reasonable control of such party, including without limitation, fire, explosion, unavailability of utilities or raw materials, internet delays and failures, telecommunications failures, unavailability of components, labor difficulties, war, riot, act of God, export control regulation, laws, judgments or government instructions.

20.4 Arbitration. Except with regard to actions for enforcement or protection of Nuventive's Intellectual Property Rights, equitable relief or any action necessary to enforce the award of an arbitrator, any dispute or controversy arising out of or relating to this Agreement, any Exhibit, any Order Form, the Software Products or the Professional Services shall be resolved by final and binding arbitration administered by JAMS and conducted in accordance with and subject to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. Any arbitration conducted pursuant to this Section 20.4 will take place in the jurisdiction in which the respondent party is located. For those matters involving enforcement or protection of Nuventive's Intellectual Property Rights, equitable relief, or any action necessary to enforce the award of the arbitrator, a party shall have the right to institute an action in a court of proper jurisdiction. With regard to
discovery, the parties agree that no requests for admissions will be permitted and interrogatories will be limited to identifying (a) persons with knowledge of relevant facts and (b) expert witnesses and their opinions and the bases therefor. In any arbitration arising out of or related to this Agreement, the arbitrator(s) may not award any incidental, indirect or consequential damages, including damages for lost profits. Judgment upon the award rendered in any such arbitration may be entered in any court having jurisdiction thereof. Other than those matters involving enforcement or protection of Nuventive’s Intellectual Property Rights, equitable relief, or any action necessary to enforce an arbitration award, the parties agree that the provisions of this Section 20.4 are a complete defense to any suit, action or other proceeding instituted in any court or before any administrative tribunal. Any award entered by the arbitrator(s) shall be final and judgment thereon may be entered in any court having jurisdiction. The prevailing party shall be entitled to recovery of costs, fees (including reasonable attorneys’ fees) and/or taxes paid or incurred in obtaining the award. No action or proceeding, regardless of form, arising out of this Agreement, may be brought or commenced by either party more than one (1) year after the cause of action has arisen.

20.5 Governing Law. The interpretation and enforcement of this Agreement and any Exhibit or Order Form shall be governed by the law of the state of Michigan without reference to its choice of law rules. The parties acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding the foregoing with respect to applicable substantive law, any arbitration conducted pursuant to the terms of this Agreement shall be governed by the Federal Arbitration Act (9 U.S.C., Secs. 1-16).

20.6 Waiver of Jury Trial. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY EXHIBIT OR ORDER FORM, ANY TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY EXHIBIT OR ORDER FORM IF SUCH LEGAL PROCEEDING IS SOLELY BETWEEN THE PARTIES TO THIS AGREEMENT.

20.7 Interpretation. The parties have had an equal opportunity to participate in the drafting of this Agreement and any Exhibit or Order Form. No ambiguity will be construed against any party based upon a claim that that party drafted the ambiguous language. The headings appearing at the beginning of several sections contained in this Agreement have been inserted for identification and reference purposes only and must not be used to construe or interpret this Agreement. Whenever required by context, a singular number will include the plural, the plural number will include the singular, and the gender of any pronoun will include all genders. The term “including” means “including, without limitation.”

20.8 Counterparts. This Agreement and any Exhibit or Order Form may be executed in any number of identical counterparts, notwithstanding that the parties have not signed the same counterpart, with the same effect as if the parties had signed the same document. All counterparts will be construed as and constitute the same agreement. This Agreement and any Exhibit or Order Form may also be executed and delivered by facsimile or PDF and such execution and delivery will have the same force and effect of an original document with original signatures.

20.9 Entire Agreement; Amendment. This Agreement and any Exhibit or Order Form constitutes the entire agreement between the parties with regard to the subject matter of this Agreement and such Exhibit or Order Form. No other agreements, representations, or warranties have been made by either party to the other with respect to the subject matter of this Agreement, except as referenced herein. No modification, amendment or waiver of any provision of this Agreement or any Exhibit or Order Form shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. To the extent of any conflict or inconsistency between the provisions in the body of this Agreement, any Exhibit or Order Form, the terms of such Exhibit or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in a contract, purchase order or in any other order documentation (excluding any Exhibit, Order Form or Nuventive service description) shall be incorporated into or form any part of this Agreement or any Exhibit or Order Form, and all such terms or conditions shall be null and void.

20.10 Severability. If any provision of this Agreement or any Exhibit or Order Form is found or deemed by a court to be invalid or unenforceable, such provision shall be severable from the remainder of this Agreement or such Exhibit or Order Form and shall not cause the invalidity or unenforceability of the remainder of this Agreement or such Exhibit or Order Form. If any material limitation or restriction on the use of any Software Product or the Professional Services under this Agreement or any Exhibit or Order Form is found to be illegal, unenforceable or invalid, Licensee's right to use the Software Product or Professional Services will immediately terminate.

20.11 Waiver. Neither party shall by mere lapse of time without giving notice or taking other action under this Agreement be deemed to have waived any breach by the other party of any of the provisions of this Agreement or any Exhibit or Order Form. Further, the waiver by either party of a particular breach of this Agreement or any Exhibit or Order Form by the other party shall not be construed as, or constitute, a continuing waiver of such breach, or of other breaches of the same or other provisions of this Agreement or such Exhibit or Order Form.

20.12 Survival. The following sections of this Agreement shall survive termination or expiration of this Agreement: 2.2 through 2.5; 3.2.1 through 3.2.5; 3.3 through 3.6; 3.8; 5; 7; 9 through 15; 17; 18; 19.2; 19.4; 19.5.2 through 19.5.4; 20.2; 20.4 through 20.13.

20.13 Notices.
20.13.1 Delivery of Notices. All notices under this Agreement or any Exhibit or Order Form shall be in writing and shall be deemed to have been given upon (a) personal delivery; (b) the second business day after deposit with a reputable overnight courier service for next-day delivery; (c) the second business day after mailing by first class mail; (c) the second business day after sending by confirmed facsimile; or (d) the second business day after sending by email (subject to confirmation or actual receipt, and the provisions of Section 20.13.2 below). Notices to Nuventive shall be addressed to the attention of Christopher W. Sheppard with a copy to its Chief Executive Officer. Notices to Licensee shall be addressed to Licensee’s signatory of this Agreement unless otherwise designated below or in any Exhibit or Order Form. Any party may change the address at which it receives notices by giving written notice to the other party in the manner prescribed by this section.

20.13.2 Electronic Notices. Notices or other communications under this Agreement or regarding use of the Software Products or any services (“Communications”) may be provided to Licensee and its Users electronically. Licensee agrees that such Communications may be in electronic form. Electronic Communications may be delivered to any email address provided by Licensee or its Users for such purpose, or Communications may be posted on the pages within Nuventive’s website. Communications may be printed and retained, and Nuventive recommends that Licensee print and retain copies of all Communications. All Communications in either electronic or paper format will be considered to be in “writing”. Nuventive reserves the right but assumes no obligation to provide Communications in paper format. Notwithstanding the foregoing, Nuventive will send a copy of any notice of Licensee default or termination of this Agreement or any license or subscription to Licensee by first class mail at the Licensee’s address set forth on Exhibit A, or any other address communicated to Nuventive by Licensee for the receipt of any notices under this Agreement. Licensee may revoke its consent to receive electronic Communications by notifying Nuventive of its decision to do so, by sending an e-mail message to Nuventive at support@nuventive.com or by telephoning Nuventive support at 877-427-4768 in the United States. If Licensee revokes its consent to receive Communications electronically, Nuventive may terminate Licensee’s right to use the Software Services.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have executed this Agreement as of the Effective Date first written above.

Nuventive, LLC

By: Christopher W. Sheppard

Name:

Title: Chief Business Officer

Riverside Community College District:

By (Print): Aaron S. Brown

Name (Sign): 

Title: Vice Chancellor, Business & Financial Services

Nuventive MSA
Page 14 of 28
Exhibit A

Nuventive Software: Nuventive Improvement Platform Premier Edition

Licensee: Riverside Community College District Office
On behalf of the District Office and
Riverside City College
Norco College
Moreno Valley College

This Agreement entitles each of the above entities to one (1) instance of the software.

Designated Contact: Mr. Christopher Blackmore
Assoc. Vice Chancellor, Information Technology and Learning Systems

Contract Term: Three Years
License Type: Subscription Service License for Software Component
Subscription/ Software: Nuventive Improvement Platform Premier Edition

Annual Subscription Fees: $178,464

Nuventive Improvement Platform Premier Edition
Including New Software & Managed Service:

- Managed Services for Nuventive Improvement Platform Premier Edition, see Attachment A
- Nuventive Improve Analytics for the Nuventive Improvement Platform Premier Edition, see Attachment B
- Nuventive Connect for the Nuventive Improvement Platform Premier Edition– LMS, see Attachment C

Payments by Renewal Year
1st Renewal Subscription Fees $174,873 Due September 1st, 2019
Applied Pro-rated Fees for the Amendment to Software License Agreement, dated October 30th, 2014
Applied Pro-rated Fees for the Amendment to Software License Agreement, dated December 7th, 2016

2nd Renewal Subscription Fees $178,464 Due September 1st, 2020

3rd Renewal Subscription Fees $178,464 Due September 1st, 2021

TOTAL Subscription Fees: $534,801

Special Terms:
Upon the expiration of this initial three-year commitment, this Agreement for Nuventive Software (Nuventive Improvement Platform Premier Edition) shall automatically renew for consecutive additional one-year terms unless either party provides written notification to the contrary at least sixty days prior to the expiration date of the then current term. Any renewal is conditioned on Licensee having a fully paid up subscription for the applicable software for the applicable renewal term. After year three pricing shall be at the then current pricing for the applicable software Package, as specified by Nuventive and noticed to Licensee, or as otherwise agreed to by Nuventive and Licensee by separate amendment of this Agreement.

Licensee’s prior licenses granted under the TracDat Software License Agreement dated June 1st, 2013, the Amendment to Software License Agreement, dated October 30th, 2014, and the Amendment to Software License Agreement, dated December 7th, 2016 shall continue in full force until such time when Nuventive
has migrated Licensee to the Nuventive Improvement Platform-Premier Edition as noted in this Exhibit A, and Licensee is no longer using the prior licensed software or Licensee otherwise acknowledges and accepts the migration is complete. Licensee can provide such acknowledgment and acceptance via email to the Managed Services or Success Team members assigned to Licensee’s account. At such time, all prior licenses granted under the TracDat Software License Agreement, dated June 1st, 2013, the Amendment to Software License Agreement, dated October 30th, 2014, and the Amendment to Software License Agreement, dated December 7th, 2016 shall be terminated.

For the express purpose of migrating Licensee from the initially subscribed or licensed software to the licenses granted for the Nuventive Improvement Platform-Premier Edition under this Exhibit A, Licensee shall not incur any Professional Services fees. In the event that Licensee desires any other Professional Services from Nuventive related to the Nuventive Software, including but not limited to Implementation Services, Nuventive and Licensee shall separately agree to the provision of such additional Professional Services and the pricing thereof and document such agreement in a separate statement of work.

**SUPPORT AND MAINTENANCE**

**Support.** NUVENTIVE, at its sole option, at any time, may modify the Application, issue new versions of the Application, or establish rules relating to use of the Application, or after the end of Term or any renewal thereof cancel or discontinue the Application. Upon activation of Licensee’s subscription, NUVENTIVE shall provide to Licensee Support Services for the NUVENTIVE Software. NUVENTIVE will provide on-going Support Services to Licensee’s Designated Users until the earlier of (i) the termination or expiration of this Agreement or (ii) such time as Licensee notifies NUVENTIVE that it is no longer authorizing users to use the Application. Support services shall include: (i) diagnosis and response to Material Defects via telephone or email; and (ii) providing telephone and email support and providing qualified personnel to aid in the diagnosis and response to Material Defects. NUVENTIVE shall provide telephone consultation within two (2) business days of NUVENTIVE's receipt of a telephone request from a Designated Contact for Support Services during Nuventive Business Hours (Monday-Friday, 9 a.m.-5 p.m. Eastern Time). For calls received after Nuventive Business Hours, NUVENTIVE shall provide a means whereby requests for consultation can be recorded outside of Nuventive Business Hours. Training on how to use the Application, if offered by NUVENTIVE to Licensee pursuant to Exhibit A, will be provided to Licensee at the rates set forth on Exhibit B.
### Specifications and Requirements: Nuventive Improvement Platform Premier Edition

<table>
<thead>
<tr>
<th>Platform</th>
<th>Minimum Requirements</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delivery</td>
<td>100% Cloud based SaaS.</td>
<td>Nuventive Platform is a SaaS (Software as a Service), running completely in Microsoft Azure. No local server, or end user installation required. No interaction or maintenance needed from Institution’s IT after initial configuration*. Site and data managed and maintained by Nuventive.**</td>
</tr>
<tr>
<td>Office 365 / Authentication</td>
<td>User email address must match domain.</td>
<td>Platform is an Azure Active Directory Application and is authorized for the institution by the school’s AAD Administrator. Users will authenticate to Platform with their school issued Office 365 email address.</td>
</tr>
<tr>
<td>Client Browser</td>
<td>Microsoft IE 11.0 or Edge Mozilla Firefox Chrome Safari</td>
<td>Nuventive supports selected versions of Microsoft Internet Explorer / Edge, Mozilla Firefox, Chrome and Safari. Nuventive generally works to be compatible with new versions of these browsers following their release but in advance cannot make any guarantees regarding timing or specific versions. Users will connect to Platform by opening an Internet browser and connecting to the address. Site runs fully over https.</td>
</tr>
<tr>
<td>Data</td>
<td>Azure SQL hosted and managed by Nuventive. Database hosted by location with automatic geographic redundancy.***</td>
<td>Database backups can be restored down to the minute, for previous 35 days.</td>
</tr>
<tr>
<td>Storage</td>
<td>No local / server storage required.</td>
<td>All data is stored in Microsoft Azure, eliminating the need for local storage.</td>
</tr>
</tbody>
</table>

* School IT required for initial application authorization.
** Site monitoring included in Azure subscription.
*** Database backup redundancy included in Azure subscription.
# EXHIBIT B

## Professional Services Work Order

### 1. Administration

<table>
<thead>
<tr>
<th>Customer:</th>
<th>Riverside Community College District Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>3801 Market Street</td>
</tr>
<tr>
<td>Customer Contact:</td>
<td>Mr. Christopher Blackmore, Assoc. Vice Chancellor</td>
</tr>
<tr>
<td>Customer Phone:</td>
<td>951.222.8384</td>
</tr>
<tr>
<td>Customer Email:</td>
<td><a href="mailto:christopher.blackmore@rccd.edu">christopher.blackmore@rccd.edu</a></td>
</tr>
</tbody>
</table>

**Customer Purchase Order Number:** Nuventive Professional Services

**Contact:** David Choban  
**Director of Professional Services**  
**Phone:** 724-772-8071

**Nuventive Sales Contact:** Scott Johnson, Vice President  
**Phone:** (650) 455-4011

### 2. Work

**Nuventive Professional Category:**

| Nuventive Improvement Platform Premier Edition Implementation | $34,500 |

Above project is for the Riverside Community College District Office solely.

*Any additional Professional Services or Training will be $220/hour, subject to annual adjustment.

### 3. Work Details

- High level description of work to be provided: Please see Attachment D
- Project assumptions, constraints: Please see Attachment D
- Location(s) where the Services will be rendered: Remote

### 4. Additional Terms & Conditions

*If there is any on-site professional services or training, travel & expenses related to the on-site delivery will be billed at actual expense incurred.*

### 5. Compliance

**Acceptance by authorized Customer representative**

- PLEASE SIGN

Print Name of Authorized Representative: Christopher Blackmore  
Authorized Representative Job Title: Assoc. Vice Chancellor  
Authorized Representative Signature:  
Date: 

---
Managed Services include:

- **On-going Configuration** - Nuventive will perform all on-going configuration required to use the solution for areas initially configured during implementation as well as new areas requested. This includes:
  
  - Unit Management - Adding, modifying and deleting assessment units and reporting units as well as defining Unit Types.
  
  - User Roles – Custom roles will be created to support the specific needs/permissions of users.
  
  - Labels – Terms and labels within the platform will be modified to support the planning and assessment language used at your institution.
  
  - List Values – Drop-down values and multi-select lists will be modified to support your planning and assessment needs.
  
  - Home Page Rules – Flag filters and rules will be managed to support notifying end users of planning areas that are out of compliance.
  
  - Navigation Settings – Features will be turned off/on based on the needs of each of your units.
  
  - Lock Dates and Home Page Rules – Notification flags that appear on each unit's home screen will be based on rules defined by your institution.
  
  - Report Settings – Reports will be turned on/off based on user needs.
- Custom Fields – Custom fields will be added to forms to support and enhance planning and assessment needs.

- Course Management – Course lists will be uploaded and assigned to the various academic units.

- **Ad Hoc Reporting** – Nuventive will assist the client in creating ad hoc reports as needed to support the client’s reporting needs.

- **Outcomes Upload** – Nuventive will perform an upload of new program and/or course outcomes twice a year. Nuventive will provide the client with an Excel template. The Excel template will be filled out by the client with the outcomes to be uploaded into the platform.

- **Dedicated Professional Services Consultant** – A dedicated services consultant will be assigned for on-going questions/consultation while the managed services contract is active.

- **On-going support for client ‘Trainers’** – Nuventive will provide on-going support for client ‘Trainers’ to ensure that they are able to provide training/support to their end users.

- **Scheduled ‘Touch Point’ Webinars** – Nuventive will hold 3 touch point webinars (Fall, Winter, Summer) with the client. During these webinars, Nuventive consultants will:
  
  - Review the platform configuration with the client
  - Discuss any new features that need to be configured
  - Provide the client with an update on new features planned for the platform, and determine if the client wishes to implement those features
  - Review end user training/feedback and make recommended modifications
  - Provide an overview to the client’s executive sponsor during one of the touchpoints each year
ATTACHMENT B
NUVENTIVE IMPROVE ANALYTICS
For
Nuventive Improvement Platform Premier Edition

Nuventive Improve Analytics allows customers using Nuventive Improvement Platform Premier Edition to view Power BI reports and create interactive dashboards that leverage the information their units and courses have reported. Nuventive has created a data model and a set of report templates that facilitate monitoring key indicators governing various processes (e.g. Assessment, Planning, Program Review). Using the report templates, Nuventive will work with customers to create reports that best address their needs.

Service Detail
Nuventive Improve Analytics service package includes the following activities:

1. Planning
   The initial planning stage sets the foundation for a successful project by clearly articulating the project’s scope, timeline, and participants. Nuventive consultants will collect and review necessary information and tailor the project to the customer’s specific situation.

   a. Initial Planning Call: The implementation begins with a conference call that includes the customer and the Nuventive consultant(s). Customer participants should include the project manager, along with other customer leaders or shareholders as desired. The goals of this call are to introduce key players, discuss the project scope, gain an understanding of the customer’s Nuventive Improvement Platform Premier Edition and Power BI usage lay out the schedule for subsequent activities and determine the customer personnel who will participate. Nuventive will provide an overview of the reporting features, explain the implementation process, and address the customer’s product or process questions. Participants will also identify any technical issues that must be resolved prior to commencing implementation efforts.

   b. Power BI Pro Account Creation: To successfully deploy this solution, a minimum of two Power BI Pro accounts are required to be setup in the customer’s Office 365 environment.
      1. Nuventive-administered Power BI Pro account to deploy, maintain, and provide updates to the report dataset.
      2. Customer Power BI Pro Account(s) for viewing and/or distributing reports.
         1. At least one (non- Nuventive-administered) Power BI Pro account is necessary to view and distribute reports from the provided dataset.
         2. Other Power BI Pro accounts are not required but may be desired depending on the desired deployment of the reports and needs of the report consumers.
2. Configuration/Report Creation
During this phase, the Nuventive team will customize the report templates for the various needs discussed during the initial planning call. In addition, new reports may be defined and created if the current library of Nuventive report templates does not fully address the customer’s needs.

a. **Report Customization:** The Nuventive team will customize the report templates and create new reports, based on the needs identified in the initial planning call. This may include removing unwanted/unnecessary report templates, adjusting labels on the reports, and copying additional reports for various Unit Types utilized by the customer in Nuventive Improvement Platform Premier Edition.

b. **Report Publishing:** Using the Nuventive-controlled Power BI Pro account, the Nuventive consultant will publish the standard reports to be included in an App Workspace so that the customer can surface them in their own Power BI Pro account(s).

3. Deployment
During this phase, the Nuventive team will review the delivered reports with the customer and determine how best to deploy those reports for end users to view.

a. **Basic Power BI Report Walkthrough:** The customer will be shown how to use the basic features of Power BI, including how to publish and distribute reports.

4. On-going Support and Touch Points
As long as customer’s subscription is current, Nuventive will support the Improve Analytics reporting capabilities. Nuventive will work with the customer to modify existing reports and/or create new reports as needed. Nuventive will also schedule at least two touch point webinars each year. During these touch point webinars, the current reports will be reviewed to determine if any changes are required. In addition, if new reports are needed, they will be defined and created by Nuventive.
ATTACHMENT C

Service Description for Nuventive Connect – LMS

For

Nuventive Improvement Platform Premier Edition

Based on the DataSense EdTech Platform, Nuventive Connect - LMS will provide direct integration between a one (1) client Learning Management System (LMS) and Nuventive Improvement Platform Premier Edition. Nuventive will provide separately a list of LMS systems compatible with Nuventive Connect – LMS.

Nuventive Responsibility

1. Review implementation roadmap and discuss DataSense connection method
2. Assign actions based on roles/ responsibilities (per Project Plan)
3. Identify target completion dates for integration steps
4. Begin construction of Integration Workbook
5. Answer questions about source field mappings
6. Establish connection to college/university LMS
7. Integration Workbook completed and reviewed by college/university
8. Review available source data
9. Construct data flows in DataSense
10. DataSense acquires all necessary data from source system
11. Identify and resolve issues
12. Job automation scheduled
13. Validate data in EDS
14. Finalize all Integration Workbooks
15. Finalize with client on Import process and Import Options
16. Assist in optimizing data collection process

Client Responsibility

1. Provide integration access to valid use case data on test or production LMS system.
   Areas that may be affected:
   - Courses
   - Rosters
   - Assignments
   - Measures
   - Assignment Submissions
   - Students
   - Demographics
2. Valid Login account / credentials to LMS to view source data.
3. Direct contact information for LMS administrators who are responsible for the integration and working with development team.
4. Customer to work with Nuventive to provide access and mapping to LMS data - Estimated 4-8 hours of “LMS Administrator” time over 4 to 6-week project timeline.
1. OUR UNDERSTANDING OF YOUR NEEDS

Riverside Community College District (RCCD, or the District) is the district office for three community colleges in Riverside County – Moreno Valley College, Norco College, and Riverside City College. Each of the colleges currently use Nuventive Improve and Nuventive Impact to manage their internal program review and outcomes assessment processes and will be migrating to the new Nuventive Improvement Platform. The District would like to implement the Nuventive Improvement Platform to manage the District-level program review process, which will be updated for the coming cycle. Additionally, the District would like to be able to map activities from across the campus and District-level program reviews to the upcoming District-wide strategic plan, allowing consolidated reports to be run showing progress against the plan.

RCCD has a number of information sources used to inform planning, but these are not in a common business intelligence system. As part of the project, Nuventive will work with the District to identify relevant information to surface in the Platform and advise on approaches to prepare that information to be effectively used by end users. It is our understanding that the District would like to move forward with this project as quickly as possible.

2. PROJECT SCOPE AND APPROACH

To help RCCD implement the Nuventive Improvement Platform for program review, we propose a four-phased approach. This approach begins with the Design phase, where the District’s future state processes are defined to a level of detail sufficient to configure the Platform to meet the organization’s needs. In the Configure phase, our team will work with the organization to set up the Platform in accordance with the outcomes of the Design phase. In the Deploy phase, we will support you through the rollout of the Platform to the intended user group. This approach is mapped out in the diagram below. The Project Management ‘phase’ continues throughout the project and coordinates the activities according to a mutually agreed upon plan, and in conjunction with the institution’s project manager.
**Figure 1 - Project Phases and Major Tasks**

<table>
<thead>
<tr>
<th>Task</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Phase 1: Design</strong></td>
<td></td>
</tr>
<tr>
<td>1.1 Document Review</td>
<td>Review existing documentation including strategic plan(s), desired program review process, templates for users to report on processes, and other documents related to the program review process, along with any other relevant documentation provided by customer.</td>
</tr>
<tr>
<td>1.2 Process Review</td>
<td>Work with customer to map out desired future state processes. Identify actions that will need to be taken to move toward the future state processes as well as any updates to templates, policies, etc. that will be required, and agree on responsibility and timing. Determine potential impact to the project schedule.</td>
</tr>
<tr>
<td>1.3 Metric Review</td>
<td>Work with customer to understand what information needs to be pulled into the Nuventive Platform to enable the desired processes. Determine whether the existing plans have defined sets of metrics associated with them, and whether these metrics need to be refined to enable the desired future state. Determine what reporting tool(s) will be used to create the reports that will be used to display information. Determine whether the reports to display this information currently exist, and whether any changes are needed. Test connectivity between the reporting server and the Nuventive Platform. Determine whether the information to populate the reports exists, and whether it is considered up to date and accurate. If any of these areas require work, identify actions that will need to be taken, and agree on responsibility and timing. Determine potential impact to the project schedule.</td>
</tr>
<tr>
<td>1.4 Design Sessions</td>
<td>Hold sessions to review product capabilities; discuss how the Platform’s capabilities will enable the processes, determine units, users and roles; identify menu options for each process, and determine reports needed. Pre-configure the solution for each process, using one unit to test functionality. Conduct up to three iterations of the design with the customer team for each process, making changes to the design as needed. Obtain confirmation of acceptance from customer sponsor before moving to the Configure phase.</td>
</tr>
</tbody>
</table>
### Phase 2: Configure

<table>
<thead>
<tr>
<th>2.1 Configure Solution</th>
<th>Fully configure the Nuventive Improvement Platform to support the process as specified in the Design phase. Review the configuration with the customer team to ensure it encompasses the functionality agreed to in the design.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.2 Reporting</td>
<td>Build the reports and dashboards as specified in the Design phase, using Nuventive’s standard reports, ad hoc reports, and Analytics. Reports will be reviewed with the customer team, and requested changes made as appropriate. This will include both reports to support the Program Review process, and reports that will allow the District to see linkages from the District and College-level program reviews to the District-wide strategic plan.</td>
</tr>
<tr>
<td>2.3 User Setup</td>
<td>Work with customer’s IT staff to configure single sign on through Azure Active Directory. Add users to the system. Work with customer team to set up appropriate user roles within the Nuventive Platform. Guide customer team through assigning users to the right roles within the Nuventive Platform to enable the desired security model for each process.</td>
</tr>
<tr>
<td>2.4 Testing</td>
<td>Work with customer to test the configuration, metric display, entry of analysis into the Platform, functionality of reports, and user permissions. Obtain confirmation of acceptance from customer sponsor before moving to the Deploy phase.</td>
</tr>
</tbody>
</table>

### Phase 3: Deploy

<table>
<thead>
<tr>
<th>3.1 Deployment Planning</th>
<th>Work with the customer on development of deployment materials, including a communications plan, training materials, a training plan, and deployment schedule.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.2 Training</td>
<td>Deliver initial training to District users on executing the program review process within the Nuventive Improvement Platform. Train District power users on tasks they will need to perform, and prepare them to deliver follow-up training in the future.</td>
</tr>
<tr>
<td>3.3 On Call Assistance</td>
<td>Provide remote assistance during the rollout process via telephone, web conference, and/or email, helping to answer questions and guide customer personnel through the process as needed.</td>
</tr>
<tr>
<td>3.4 Independent Progress Assessment</td>
<td>At the end of the first planning cycle for each process, Nuventive consultants will review progress with the customer sponsor, assessing how well the process worked and making process suggestions for improving the next cycle. In addition, Nuventive consultants will review a sampling of the results entered and provide an analysis to the customer sponsor as to the ‘quality’ of the documentation of results, whether they are properly aligned with the customer’s expectations, and what training improvements should be made for upcoming cycles to obtain better entry of results. If this review indicates changes that are needed to the system configuration, Nuventive consultants will work with the customer team to implement the changes.</td>
</tr>
</tbody>
</table>

### Phase 4: Project Management

<table>
<thead>
<tr>
<th>4.1 Project Initiation</th>
<th>Initial project management activities, including scheduling initial meetings, preparing a documentation request, developing a project timeline and customer-specific project plan, and coordinating the technical setup of the Nuventive Platform for the customer.</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.2 Project Management</td>
<td>Ongoing project management and oversight over the course of the project, including participating in regular meetings with the customer's project manager, maintaining the project plan, managing issues and risks, and coordinating overall project activities.</td>
</tr>
</tbody>
</table>
3. ASSUMPTIONS

The following assumptions were made in developing the approach and pricing presented in this proposal. Any changes to these assumptions could result in changes to the fees and/or resources needed to provide the services described.

- **Sponsorship**: The customer will designate an Executive Sponsor or Sponsors for this engagement. The sponsor will have responsibility for ensuring the timely and productive participation of customer staff, participating in periodic status meetings, and signing off on key deliverables. In addition, the Project Sponsor will, or will delegate responsibility to a project manager to coordinate the activities of the project, including locating requested documentation, scheduling meetings, and obtaining workspace.

- **Managed Services**: Nuventive will act as the administrator for the Nuventive products that will be implemented as part of this engagement. Nuventive will make any required changes to the environment to meet the customer’s business needs. The customer is not required to have personnel trained in the administration of the solution, and no such training is included as part of this proposal.

- **Use of Customer-Provided BI**: The Nuventive Improvement Platform is a cloud-based application, and therefore resides outside the customer’s firewall. If the customer would like to consume reports from on-premise business intelligence systems into the Nuventive Platform Premium Edition, it is the customer’s responsibility to make sure these reports can be accessed by its users from the locations they are likely to be working. Likewise, it is the customer’s responsibility to provide appropriate access for its users to the BI tools.

- **Reporting**: As part of this project, Nuventive will create dashboards using our Analytics tools providing the District visibility into initiatives from the College program review processes support the District strategic plan. For this to work, each College will need to have the District strategic plan added to their Nuventive Improvement Platform instance, and have their units map their activities to the District plan.

- **Design Phase**: During the Design phase of the project, customer agrees to make the appropriate personnel available to the Nuventive team in a timely manner, as we work together to gather requirements for the solution. Nuventive will work with the District to iterate through the design for each process, with completion according to a mutually agreed upon timeline. Once the design has been finalized, any substantive changes requested by the customer may impact the project schedule, and may result in additional consulting fees.

- **Customer Processes**: This proposal includes limited business process consulting to review the customer’s desired processes, provide feedback on how those processes compare to leading practices, and show how the Platform can be used to enable these processes. It will be the customer’s responsibility to determine what changes, if any, will be enacted, and to make any changes to existing policies, materials, etc. in time to meet the desired deployment schedule. This proposal does not include business consulting services to advise on the creation / redesign of these processes, though such services are available at additional cost.

- **Performance Indicators**: The pricing in this proposal assumes that the customer will provide reports for the performance indicators identified during the Design Phase of the project, and that the customer will be able to reach these reports via URL from the Nuventive Improvement Platform. Nuventive will review these reports early in the project, and advise the customer on any changes that may be needed. If any such changes are undertaken, they are the customer’s responsibility to complete in accordance with the desired deployment schedule. It is our understanding that these reports may initially come from desktop applications such as Excel or Adobe PDF, as the District has not deployed a common BI tool yet. Consulting to create data visualizations, analytics, or other reports from data outside the Nuventive Platform is not included in this proposal, though such services are available at additional cost.

- **End User Training**: Nuventive will provide initial training for the district’s end users, as well as for power users. Additional training will be the District’s responsibility.

- **Data Conversion**: As both the strategic plan and program review process are new, there are no existing results or unit-level plans to load into the system. The implementation will start fresh with these new plans and processes.
Workspace and Equipment: The customer will provide Nuventive with appropriate workspace to work, conduct meetings, and meet with their personnel while on site. We will require Internet access and use of office equipment such as printers while on-site.

Work Location: It is assumed that the majority of the consultants’ work on this project will take place off-site, in order to minimize travel expenses for the customer. If on-site work is required, it is assumed that the travel location will be to the District office in Riverside, CA.

Travel: Nuventive consultants will utilize any travel discounts made available to us by the customer. Our staff will endeavor to book airfares in advance to save money on travel and will share rental cars where feasible. We will book all tickets in economy class utilizing non-refundable tickets if available. The customer agrees to reimburse Nuventive for any fees associated with cancelled travel that are the result of customer-rescheduled meetings. Nuventive will reapply any credits received for these expenses to further travel for the customer if possible. The customer agrees that economy plus (extra legroom) seats may be purchased when available, as these tickets allow our consultants to work while on flights.

Availability of Key Personnel: Nuventive must have timely access to appropriate customer staff in order to keep the project on schedule.

Status Reports: It is assumed that regular status reporting meetings (in person or by telephone) will be scheduled between the customer’s Project Sponsor and Nuventive’s project director. These meetings are essential for providing feedback, answering questions, and addressing issues.

Response Time: The customer will respond to ad hoc requests for clarification or assistance in a timely manner.

Deliverable Approval: Nuventive will obtain written (e-mail) approval from the customer’s project sponsor or their approved delegate for all interim and final deliverables described in this document in a timely manner.

Change Requests: Any material deviation from the scope, timeline, or deliverables documented in this proposal must be approved in writing by both the customer and Nuventive.

4. PROJECT FEES

Nuventive has provided a fixed price of $34,500 to assist the Riverside Community College District Office with the design, configuration, and deployment of the Nuventive Improvement Platform to support your program review process and the alignment of the District and College program review activities to your strategic plan, based on our understanding of your needs and the tasks and assumptions outlined in this statement of work. Should any additional work be requested, it will be quoted separately. Written change orders will need to be executed before any additional work is performed as part of this project.

Travel and other expenses, including airfares, meals, mileage, etc. are not included in the fees, and will be billed as incurred. We will work to keep costs down by limiting on-site work, grouping meetings together to reduce travel, and taking advantage of advance purchase airfares where available. We would be glad to utilize any negotiated travel rates available to the customer if made available to our team.

Nuventive’s project fees will be billed in advance of the project. Actual expenses incurred will be invoiced monthly through the end of the project.