SERVICES AGREEMENT FOR A LAW ENFORCEMENT DATA WAREHOUSE

This Services Agreement for a Law Enforcement Data Warehouse (this "Agreement," including all attachments hereto) is entered into as of June 13, 2016 (the "Effective Date"), by and among the Colorado Information Sharing Consortium, a Colorado local government entity (the "CISC"), Numerica Corporation, a Colorado corporation ("Numerica"), and the Member Agencies who have joined this Agreement pursuant to Section 3. The CISC, Numerica, and the Member Agencies who have joined this Agreement may be referred to herein as a "Party" or the "Parties".

Capitalized terms used in this Agreement are defined throughout this Agreement.

RECITALS

A. The purpose of the CISC is to facilitate the sharing of law enforcement and criminal justice data and information by and among the Member Agencies and with other law enforcement agencies.

B. The CISC desires to implement and offer a scalable data warehouse hosting law enforcement and criminal justice data from Member Agencies. The CISC desires: (i) that the data warehouse allow the data contained therein to be shared between the Member Agencies and, at the option of the CISC and Member Agencies, with other law enforcement agencies; and (ii) that any third-party provider of analytical or other data services be able to access and use the data in the data warehouse for the purpose of providing services to the Member Agencies.

C. CISC and Numerica entered into an agreement dated April 13, 2015 (the "Lumen Agreement"), which provides access to the Lumen Client Software Service to Member Agencies who joined the Lumen Agreement. The Lumen Client Software Service is a data analytic software service that enables the searching, analyzing, and sharing of law enforcement and criminal justice data. As part of the Lumen Client Software Service offered under the Lumen Agreement, Member Agencies who joined the Lumen Agreement had their law enforcement and criminal justice data imported into a data warehouse maintained and operated by Numerica.

D. Numerica proposes to expand its existing law enforcement and criminal justice data warehouse and to use the same to provide the data warehouse that the CISC desires.

E. SOW 03 and this Agreement have terms and conditions which are substantially similar to those in the Lumen Agreement. The CISC and Numerica desire that this Agreement eventually supersede the Lumen Agreement, but the Lumen Agreement cannot be terminated until there are no law enforcement agencies receiving services thereunder.

F. Numerica has the expertise and skill to perform the Services described in this Agreement and has the knowledge and capability to comply with the CJIS Security Policy. Numerica has enrolled in, is current with, and complies with the CJIS Vendor Management Program operated by the Colorado Bureau of Investigation ("CBI").

G. The CISC and Member Agencies desire to engage Numerica to implement, expand, maintain, operate, and provide the data warehouse, to provide the Lumen Client Software Service, and to provide additional services in accordance with this Agreement.

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AGREEMENT

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NOW, THEREFORE, in consideration for the recitals, the mutual promises herein, and other good and valuable consideration, the adequacy and receipt of which is acknowledged, the Parties agree as follows:

1.   Services Concerning a Law Enforcement Data Warehouse.

    a.   Subject to the terms and conditions of this Agreement, Numerica may perform programming, consulting, application training, creation of deliverables, integration, implementation, maintenance, operation, provision, analytical, and other professional services or may provide software, software services, hardware, or other deliverables (collectively, the "Services") for the CISC and the Member Agencies as described in one or more statements of work (each, a "Statement of Work" or "SOW").

    b.   SOW 01, SOW 02, and SOW 03 are attached to this Agreement as Exhibit A, Exhibit B, and Exhibit C, respectively, and incorporated by reference. The Services set forth in SOW 01 are generally in the nature of integrating data from Member Agencies into a data warehouse. The Services set forth in SOW 02 are generally in the nature of maintaining and operating the data warehouse and providing the same as a service to Member Agencies. The Services set forth in SOW 03 are generally in the nature of providing the Lumen Client Software Service to Member Agencies who elect to be provided with the same.

    c.   Other than SOW 01, SOW 02, and SOW 03, any additional Statements of Work shall only be binding on the Parties if executed by the Parties. Changes to the scope of the Services set forth in a Statement of Work may only be made in a writing executed by the Parties to whom the Statement of Work applies.

2.   Compensation and Payment Terms.

    a.   Each Statement of Work shall contain payment terms and conditions applicable to that Statement of Work and shall contain all fees and other compensation (the "Project Fee") payable to Numerica for the Services to be performed under that Statement of Work. The CISC or a Member Agency may withhold from payment any amounts that it disputes in good faith pending resolution of such dispute, provided that any amounts which are not in dispute shall be paid timely. Upon the resolution of the dispute, the CISC or the Member Agency, as appropriate, shall pay the amount set forth in the resolution of the dispute, if applicable.

    b.   Unless otherwise stated in a Statement of Work, the CISC shall pay the Project Fee to Numerica pursuant to the terms and conditions stated in the Statements of Work. A Statement of Work may indicate that the CISC is passing the Project Fee on to the Member Agencies. If the Project Fees are being passed on to the Member Agencies, the CISC shall take reasonable actions to collect the Project Fee from the Member Agencies and remit the amounts collected to Numerica. In such a situation, the CISC's obligation to pay Numerica is contingent upon the CISC collecting such amounts from the Member Agencies. Notwithstanding anything to the contrary, Numerica is not obligated to provide Services to a Member Agency that is not current with its payment obligations hereunder (except for amounts withheld by a Member Agency pending the resolution of a good faith dispute concerning the same).

    c.   Each Member Agency shall pay to the CISC its portion of a Project Fee as indicated on a Statement of Work. Neither Numerica nor the CISC has the authority to create any obligation on behalf of any Member Agency to pay all or any portion of a Project Fee.

3.   **Joining this Agreement.**

    a.   **Definition of Member Agency.** "Member Agency" means a law enforcement agency who has executed the CISC's founding intergovernmental agreement (the "CISC's IGA") and has joined this Agreement. A law enforcement agency that has joined this Agreement but has not executed the CISC's founding intergovernmental agreement may be considered a Member Agency, subject to the limitations specified herein.

    b.   The CISC's executive director is authorized to sign the Joinder Agreement on behalf of the CISC.

    c.   **Joinder by Member Agencies.** A law enforcement agency (or its parent government) that executed the CISC's IGA may join this Agreement at any time by executing a joinder agreement substantially in the form attached hereto as Exhibit D (a "Joinder Agreement") and delivering the same to the CISC and to Numerica. If a Joinder Agreement does not modify or add to the terms and conditions of this Agreement, then the CISC and Numerica shall execute the Joinder Agreement.

    d.   **Joinder by Non-Member Agencies.** With the written consent of the CISC, a law enforcement agency (or its parent government) that has not executed the CISC's IGA may join this Agreement by executing a Joinder Agreement and delivering the same to the CISC and to Numerica. If the CISC gave written consent and if the Joinder Agreement does not modify or add to the terms and conditions of this Agreement, then the CISC and Numerica shall execute the Joinder Agreement. Numerica may only provide the Services set forth on SOW 01 to a law enforcement agency that joins this Agreement but has not signed the CISC's IGA until that agency has executed the CISC's IGA (unless the CISC gives its written approval otherwise).

    e.   **Joinder Agreement with Modified or Additional Terms.** If a Joinder Agreement modifies or adds to the terms and conditions of this Agreement, then the CISC and Numerica are not obligated to execute the Joinder Agreement. A Joinder Agreement which modifies or adds to the terms and conditions of this Agreement will only be binding on the Parties who have executed it.

4.   **CISC Project Manager.** The CISC shall identify a primary point of contact (a "Project Manager") concerning this Agreement and all Services to be provided hereunder. In matters concerning the day-to-day implementation and maintenance of the Services, Numerica may communicate directly with Member Agencies as needed. Project Manager shall diligently work to promote the efficient performance of the Parties' obligations under this Agreement. Numerica will seek the timely involvement of the Project Manager when events, problems, concerns, or requests affecting Services or this Agreement cannot effectively be addressed with the Member Agencies. Numerica shall permit the Project Manager to access Member Agencies search query history and records of the Member Agency's use of and transactions in the Services.

5.   **Independent Contractor Status.** This Agreement shall not render Numerica or any of Numerica's agents an employee, partner, agent of, or joint venturer with the CISC or any

Member Agency for any purpose. Numerica is and will remain an independent contractor in its relationship to the CISC and each Member Agency and Numerica's agents are not and will not become the CISC's or any Member Agency's employees.

a. TAXES.

i. NEITHER THE CISC NOR ANY MEMBER AGENCY SHALL BE RESPONSIBLE FOR WITHHOLDING TAXES WITH RESPECT TO NUMERICA'S COMPENSATION HEREUNDER. IF REQUIRED BY LAW, THE CISC SHALL REPORT ALL PAYMENTS MADE TO NUMERICA ON A CALENDAR YEAR BASIS USING IRS FORM 1099. NEITHER THE CISC NOR ANY MEMBER AGENCY HAS ANY OBLIGATION TO (1) WITHHOLD FICA (SOCIAL SECURITY AND MEDICARE TAXES) FROM NUMERICA'S PAYMENTS OR MAKE FICA PAYMENTS ON NUMERICA'S BEHALF, (2) MAKE STATE OR FEDERAL UNEMPLOYMENT COMPENSATION CONTRIBUTIONS OR PAYMENTS ON NUMERICA'S BEHALF, OR (3) WITHHOLD STATE OR FEDERAL INCOME TAX FROM NUMERICA'S PAYMENTS. NEITHER THE CISC NOR ANY MEMBER AGENCY WILL PAY TAXES ON NUMERICA'S INCOME DERIVED FROM THIS AGREEMENT.

ii. THE PROJECT FEES UNDER THIS AGREEMENT DO NOT INCLUDE ANY CHARGE FOR TAXES AND THE CISC AND THE MEMBER AGENCIES ARE SOLELY RESPONSIBLE FOR PAYING ANY AND ALL FEDERAL, STATE, AND LOCAL SALES, USE, AND IMPORT/EXPORT TAXES AND CUSTOMS DUTIES ATTRIBUTABLE TO THIS AGREEMENT.

b. INSURANCE. NEITHER THE CISC NOR ANY MEMBER AGENCY SHALL HAVE ANY OBLIGATION TO, AND SHALL NOT, OBTAIN WORKERS' COMPENSATION OR UNEMPLOYMENT INSURANCE OR ANY OTHER INSURANCE COVERAGE OF ANY KIND ON BEHALF OF NUMERICA.

c. **Method of Performing Services; Results.** In accordance with this Agreement, Numerica will determine the method, details, and means of performing the Services. Neither the CISC nor any Member Agency shall control the manner or determine the method of performing the Services.

d. **Workplace, Hours, and Instrumentalities.** Numerica may perform the Services at any place or location and at such times as Numerica shall determine. With the exception of any tools or instrumentalities explicitly identified elsewhere in this Agreement as being supplied by the CISC, Member Agencies, or other third parties, Numerica agrees to provide all tools and instrumentalities, if any, required to perform the Services.

e. **Limitations on Authority.** No Party shall have the right, power, or authority to bind any other Party to the fulfillment of any condition, contract, or obligation or to create any liability binding on any other Party.

f. **Nonexclusive Services.** In its sole discretion, Numerica may render services on its own account or for any other person during the term of this Agreement.

g. **Requisite Skills.** Numerica has the requisite knowledge, expertise, experience, and training to perform the Services, and neither the CISC nor any Member Agency will provide Numerica with any training concerning the manner or methods of performance of the Services.

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6. Representations and Warranties.

a. **Numerica's Representations and Warranties.** Numerica represents and warrants that the following are true as of the Effective Date and will be true throughout the term or period in which Numerica provides Services hereunder.

i. Numerica and its subcontractors, if any, have the capacity and the professional experience and skill to perform the Services. The Services will be performed in accordance with this Agreement and standards of care, skill, and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. The Services shall be provided in a good and workman like manner.

ii. To Numerica's knowledge, the information supplied by Numerica in the performance of the Services is truthful and accurate in all material respects.

iii. The Services provided under this Agreement shall be adequate and sufficient for their intended purposes.

iv. Numerica has complied and will comply with all federal, state, and local laws, rules, regulations, ordinances and/or similar directives regarding business permits, certificates, and licenses that are required to provide the Services.

v. During the period or term that Services in the nature of software or software services are provided, such Services will conform to Numerica's applicable documentation.

vi. Any software Services that Numerica installs on the Member Agency's computers, network systems, and Data Sources (collectively, the "Member Agency's Systems") will not have a material adverse effect on that Member Agency's Systems.

b. **Numerica's Disclaimers.**

i. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT: (1) THE SERVICES ARE PROVIDED BY NUMERICA "AS-IS" AND NUMERICA MAKE NO EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO THE FOREGOING, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE; (2) NUMERICA EXPRESSLY DISCLAIMS ANY AND ALL SUCH WARRANTIES; AND (3) NUMERICA DOES NOT WARRANT THAT ALL ERRORS CAN OR WILL BE CORRECTED OR THAT THE SERVICES WILL BE WITHOUT ERROR OR INTERRUPTION.

ii. IN ADDITION TO ANY OTHER WARRANTY DISCLAIMERS IN THIS AGREEMENT, NUMERICA DOES NOT MAKE ANY REPRESENTATION OR WARRANTY AS TO THE RESULTS OR OUTPUT THAT MAY BE OBTAINED FROM THE MEMBER AGENCY'S USE OF THE SERVICES.

iii. The representations and warranties set forth in Section 6.a do not apply to errors, interruptions, problems, defects, or issues (collectively, "Errors") that result from (1) factors outside of Numerica's reasonable control, including without limitation any actions or inactions by third parties other than Numerica's subcontractors; (2) failure by the CISC or a Member Agency to comply with this Agreement; (3) failure by the CISC or a Member Agency to use the Services in accordance with the documentation or other

appropriate instructions of Numerica; (4) the improper use or misuse by the CISC or a Member Agency of the Services; (5) Errors in a Member Agency's data not caused by Numerica; and (6) the fault or negligence of the CISC or a Member Agency.

      iv.   **Exclusive Remedy.** In the event of a breach of Numerica's representations and warranties set forth in Section 6.a as they apply to any Services in the nature of software or software services, and as the CISC's and as each Member Agency's sole and exclusive remedy, Numerica will repair or replace the applicable software Services, or any portion thereof, with conforming Services. Repair or replacement may include the following: (1) corrected items; (2) corrected documentation; or (3) instructions or procedures to bypass the problem until a more permanent correction can be implemented.

      c.   **Representations and Warranties of the CISC and Member Agencies.** Each Member Agency represents and warrants to Numerica and the CISC (i) that it has the lawful right and authority to provide any and all data that it furnishes under this Agreement or which it otherwise places into the data warehouse and (ii) that Numerica's use of such data in accordance with this Agreement will not violate or infringe the rights of any third party or any law or agreement.

      d.   **Other Terms.**

      i.   If performance of the Services by Numerica is delayed due to factors beyond Numerica's reasonable control, or if conditions of the scope or type of Services are expected to change, Numerica shall give timely notice to the CISC and the affected Member Agencies of such delay or change unless, under the circumstances, the CISC or the Member Agency are already aware or should reasonably be aware of the foregoing.

      ii.   Review, acceptance, or approval by the CISC or any Member Agency of the Services performed or delivered will not relieve Numerica of any responsibility for deficiencies, omissions, or Errors in said Services or deliverables, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of Numerica's performance under this Agreement.

7.   **Security of Law Enforcement and Criminal Justice Records.**

      a.   **Standard of Care.** Numerica shall use reasonable efforts consistent with prevailing industry standards, but not less than due care, to ensure the security and confidentiality of any law enforcement or criminal justice records held, stored, or maintained by Numerica. All law enforcement or criminal justice records of the Member Agencies are Confidential Information.

      b.   **CJIS Security Policy.** Numerica represents and warrants (i) that it has the knowledge, expertise, experience, and training to comply with the Criminal Justice Information Services Security Policy, including the Security Addendum thereto (the "CJIS Security Policy") and (ii) that all Services will be performed in compliance with the CJIS Security Policy (as applicable). Numerica shall execute the certification to the Security Addendum of the CJIS Security Policy, which is incorporated by reference, before performaing of any Services. Numerica shall comply with the terms and conditions of the CJIS Security Policy to the extent applicable at all times.

c. **CBI | CJIS Vendor Management Program.** Numerica shall maintain its enrollment and participation in the CJIS Vendor Management Program operated by CBI.

d. **CJIS Audit.** At the request of the CISC, Numerica shall submit to an audit by CBI or the Federal Bureau of Investigation of Numerica's compliance with the CJIS Security Policy. The CISC may request up to one audit every two years, which may be in addition to any other audits of Numerica's compliance with the CJIS Security Policy required by law.

e. **Security Notification.** Numerica shall notify the CISC in writing and in a timely manner in the event of any security incidents related to the Services, regardless of whether the incident violated or potentially involved the CJIS Security Policy. Numerica's notice of a security incident shall include, at minimum, (i) a description of the incident, (ii) the harm or potential harm resulting therefrom, and, (iii) if the incident involved any data, the name of the Member Agency (or other person) that owned or was responsible for that data.

f. **State Law Requirements.** The Parties shall comply with C.R.S. §§ 24-72-301, *et seq.*, concerning the treatment of criminal justice records. Numerica shall not be considered a "custodian" of any criminal justice records as defined in C.R.S. § 24-72-302(5).

g. **Changes in Law.** If there are changes or updates to law or best practices involving the storage, transmission, transcription, or use of law enforcement or criminal justice information or data, then the Parties shall comply with the changed or updated law or best practices; *provided, however,* that if the changed or updated law or best practices would have a material adverse effect on the legitimate expectations of a Party, on the reasonable performance of a Party's obligations hereunder, or on the purposes of this Agreement, the Parties will negotiate in good faith to address the situation in a manner that is acceptable to all Parties.

8. **Insurance.** Numerica must purchase and maintain insurance of the kind and in the minimum amounts specified below.

a. **Mandatory Insurance.** Numerica agrees to procure and maintain, at its own expense, the following policies of insurance before performing any Services:

i. **Workers Compensation Insurance.** Worker's compensation insurance to cover obligations imposed by applicable laws for any employer engaged in the performance of Services under this Agreement:

Worker's Compensation Insurance	
Each Accident	Statutory
Each Employee for Disease	Statutory

Numerica shall comply with the requirements of the Worker's Compensation Act of Colorado and shall provide worker's compensation insurance to protect Numerica from and against any and all worker's compensation claims arising from the performance of services under this Agreement.

ii. **Commercial General Liability Insurance.** Commercial general liability insurance with minimum combined single limits of two million dollars ($2,000,000) each occurrence and three million dollars ($3,000,000) aggregate. The policy shall be

applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractor and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage must be on an "occurrence" basis as opposed to a "claims made" basis. This insurance must pay on behalf of Numerica all sums which Numerica shall become legally obligated to pay as damages because of bodily injury or property damage caused by an occurrence up to the specified limits of liability for each occurrence.

   iii. **Data Breach Insurance.** Data Breach insurance with first party coverage of one hundred thousand dollars ($100,000) and third party coverage of five hundred thousand dollars ($500,000). Coverage shall insure against information theft, damage to or destruction of electronic information, negligent release of private information by Numerica or its subcontractors, and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties. This insurance must pay on behalf of Numerica sums which Numerica shall become legally obligated to pay as damages because of bodily injury or property damage caused by an occurrence up to the specified limits of liability for each occurrence.

   iv. **Commercial Automobile Liability Insurance.** Commercial automobile liability insurance with minimum combined single limits for bodily injury and property damages of not less than one million dollars ($1,000,000) each occurrence with respect to each of Numerica's owned, hired, and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interests provision. Commercial automobile liability insurance must cover Numerica for all sums which Numerica shall become legally obligated to pay as damages because of bodily injury or property damage caused by the occurrence up to the specified limits of liability for each occurrence.

   v. **Professional Liability Insurance.** Errors and omissions or professional liability insurance with a minimum coverage amount of two million dollars ($2,000,000) per occurrence or claim and two million dollars ($2,000,000) aggregate and for two years beyond the completion of all Services.

b. **Other Insurance Terms.**

   i. The above-mentioned coverages shall be procured and maintained with insurers with an A- or better rating, as determined by Best's Key Rating Guide. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by Numerica.

   ii. The policies required above shall be primary insurance, and any insurance carried by the CISC or any Member Agency, their officers, or their employees shall be excess and not contributory insurance to that provided by Numerica. No additional insured endorsement to the policies required above shall contain any exclusion for bodily injury or property damage arising from completed operations. Numerica shall be solely responsible for any deductible losses under any policy required herein.

iii. The required commercial general liability, data breach, and commercial automobile liability policies shall be endorsed to name the CISC as certificate holder and name the CISC, each Member Agency, and their elected officials, officers, employees, and agents as additional insureds. The required worker's compensation and errors and omissions or professional liability policies shall be endorsed to include the CISC as a certificate holder. The policies shall provide that the CISC will receive notice no less than 30 days prior to cancellation, termination, or a material change to the policies.

iv. Numerica shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

v. Failure on the part of Numerica to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the CISC may immediately terminate this Agreement, or, at the CISC's discretion, the CISC may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the CISC shall be repaid by Contractor to the CISC upon demand, or the CISC may offset the cost of the premiums against any monies due to Numerica from the CISC.

vi. The CISC has the right to request and receive a certified copy of any policy and any endorsement thereto.

c. **Insurance Certificates.** If requested by the CISC, Numerica shall deliver to the CISC certificates of insurance as evidence that policies providing any and all required coverages and limits are in full force and effect. These certificates will serve as an indication to the CISC that Numerica has acquired all necessary insurance; however, the CISC may require that certified copies of the insurance policies be submitted and may withhold payment for Services until the applicable insurance policies are received and found to be in accordance with the Agreement. Insurance limits must be indicated on each certificate of insurance.

9. Indemnification and Hold Harmless.

a. Numerica shall hold harmless, defend, and indemnify the CISC, each Member Agency, and all of their respective officers, officials, employees, and volunteers from and against any and all liability, loss, damage, expense, and cost (including without limitation reasonable attorneys fees, costs, and fees of litigation) of every nature arising out of or in connection with any third-party claim, action, suit, or proceeding (a "Claim") proximately caused by Numerica's acts or omissions, except to the extent that such Claims were caused by the breach, negligence, error, violation of law or willful or other act or misconduct of the CISC or a Member Agency.

b. Each Party shall be liable for all liability, loss, damage, expense, and costs proximately caused by its own acts or omissions.

10. Intellectual Property Indemnification.

a. **Definition.** "Intellectual Property" means copyrights, trademarks, trademark applications (including intent-to-use applications), trade names, moral rights, trade secrets,

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patents, patent applications, inventions, invention disclosures, know-how, designs, and other items commonly recognized as intellectual property under the laws of the United States or any other country.

b.   Indemnification. In the event of a Claim against the CISC or any Member Agency asserting or involving an allegation that the Services infringe upon or violate any Intellectual Property right of any person or entity, Numerica shall hold harmless, defend, and indemnify the CISC, each Member Agency, and all of their respective officers, officials, employees, and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation attorneys fees, costs, and fees of litigation) of every nature arising out of or in connection with such Claim, whether or not such Claim is successful.

c.   Remedies for an Infringement Claim.

i.   Notwithstanding and in addition to Numerica's indemnification obligation set forth in Section 10.b, in the event of a Claim against the CISC or any Member Agency asserting or involving an allegation that the Services infringe upon or violate any Intellectual Property right of any person or entity, or if in Numerica's reasonable opinion the Services are likely to become the subject of such a Claim of infringement, Numerica will (1) procure for the CISC and each Member Agency the right to continue using the Services; (2) replace or modify the Services so that they become non-infringing (such a modification or replacement shall be materially similar to the original); or, (3) if neither (1) nor (2) is achieved despite Numerica's reasonable efforts, terminate a particular Statement of Work or this Agreement. Numerica's indemnification obligation set forth in Section 10.b will survive termination pursuant to this Section 10.c.

ii.   If Numerica terminates a Statement of Work or this Agreement pursuant to this Section 10.c: (1) within six months after the Effective Date hereof, then Numerica shall refund to the CISC and to each Member Agency all fees paid under the terminated Statement of Work or under this Agreement; (2) between six and 12 months after the Effective Date hereof, then Numerica shall refund to the CISC and to each Member Agency one half of all fees paid under the terminated Statement of Work or under this Agreement; and (3) 12 months or after the Effective Date hereof, then Numerica shall refund to the CISC and to each Member Agency a pro-rated portion of the fees paid that reflect the remaining portion of the applicable period or term that Services are to be provided at the time of termination.

d.   Exclusive Remedy. This Section 10 sets forth the CISC's and each Member Agency's sole and exclusive remedy for any Claim of Intellectual Property infringement.

11.   LIMITATIONS OF LIABILITY.

a.   IN NO EVENT WILL ANY PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b.   LIMITATION OF NUMERICA'S LIABILITY. THE CUMULATIVE LIABILITY OF NUMERICA IN CONNECTION WITH, ARISING UNDER, OR IN RELATION TO THIS AGREEMENT, HOWEVER CAUSED, AND REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE), IS

LIMITED TO THE GREATER OF (I) THE AMOUNT OF INSURANCE COVERAGE REQUIRED UNDER SECTION 8 APPLICABLE TO THE EVENT(S) GIVING RISE TO NUMERICA'S LIABILITY (REGARDLESS OF WHETHER NUMERICA ACTUALLY PURCHASED CONFORMING INSURANCE) AND (II) THE TOTAL AMOUNT OF FEES ACTUALLY PAID TO NUMERICA UNDER THIS AGREEMENT IN THE SIX MONTH PERIOD PRIOR TO THE EVENT(S) GIVING RISE TO NUMERICA'S LIABILITY. THIS LIMITATION OF LIABILITY WILL NOT APPLY TO NUMERICA'S INTELLECTUAL PROPERTY INDEMNIFICATION OBLIGATION UNDER SECTION 10.

 c. **LIMITATION OF THE CISC'S AND MEMBER AGENCIES' LIABILITY.**

  i. THE AGGREGATE CUMULATIVE LIABILITY OF THE CISC AND THE MEMBER AGENCIES IN CONNECTION WITH, ARISING UNDER, OR IN RELATION TO THIS AGREEMENT, HOWEVER CAUSED, AND REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE), IS LIMITED TO THE TOTAL AMOUNT OF FEES ACTUALLY PAID TO NUMERICA UNDER THIS AGREEMENT IN THE SIX MONTH PERIOD PRIOR TO THE EVENT(S) GIVING RISE TO THE CISC'S OR THE MEMBER AGENCY'S LIABILITY.

  ii. EACH MEMBER AGENCY'S LIABILITY IN CONNECTION WITH, ARISING UNDER, OR IN RELATION TO THIS AGREEMENT, HOWEVER CAUSED, AND REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE), IS FURTHER LIMITED TO THE TOTAL AMOUNT OF FEES ACTUALLY PAID BY THE MEMBER AGENCY UNDER THIS AGREEMENT IN THE SIX MONTH PERIOD PRIOR TO THE EVENT(S) GIVING RISE TO THE MEMBER AGENCY'S LIABILITY.

  iii. THESE LIMITATIONS OF LIABILITY DO NOT LIMIT THE CISC'S AND THE MEMBER AGENCIES' OBLIGATION TO PAY ANY PROJECT FEES TO NUMERICA WHEN DUE.

 d. NOTHING IN THIS AGREEMENT SHALL BE DEEMED A WAIVER OF THE CISC'S OR ANY MEMBER AGENCY'S PRIVILEGES OR IMMUNITIES PURSUANT TO THE COLORADO GOVERNMENTAL IMMUNITY ACT, C.R.S. §§ 24-10-101, *ET SEQ.*

12. Termination.

 a. **Termination for Breach.** Either Numerica or the CISC may terminate this Agreement if the other commits a material breach of this Agreement, including a breach of a representation or warranty, by giving the breaching Party written notice of termination for breach. The notice of termination for breach must specify the nature of the breach in reasonable detail. This Agreement will automatically terminate if the breach described in the notice is not cured within 14 days after the notice is given. A termination for breach will be without prejudice to the rights any Party may have against another, whether arising in connection with the breach or otherwise.

 b. **Termination of Joinder.** Any Party may terminate a particular Joinder Agreement and the applicable Member Agency's participation in this Agreement if Numerica or the Member Agency commits a material breach of this Agreement, including a breach of a representation or warranty, by giving the breaching Party written notice of termination for breach. The notice of termination for breach must specify the nature of the breach in reasonable detail. The Joinder Agreement will automatically terminate if the breach described in the notice is not cured within 14 days after the notice is given. A termination for breach will be without

prejudice to the rights any Party may have against another, whether arising in connection with the breach or otherwise.

    c.   **Effect of Termination.** Numerica shall provide no further Services in connection with this Agreement (or a terminated Joinder Agreement) after the effective date of termination. The CISC and each Member Agency shall have no liability for any Services performed after the effective date of termination. Numerica shall be entitled to receive compensation in accordance with this Agreement for any Services completed in accordance with this Agreement. Notwithstanding the above, no Party shall be relieved of liability for damages sustained by virtue of any breach of this Agreement or any other liability obligation that survives the termination or expiration of this Agreement. Except as otherwise expressly provided, upon termination of this Agreement, the CISC and the Member Agencies shall cease use of the Services.

13.   **Confidentiality.**

    a.   **Definition of Confidential Information.** As used in this Section 13, the word "information" refers to data or information in any form or medium.

    i.   **Definition.** "Confidential Information" means all information that a Party (a "Disclosing Party") discloses to another Party (a "Receiving Party") that falls within one or more of the following categories: (1) any information marked or identified as Confidential Information; (2) any information which the Receiving Party knows or reasonably should know that the Disclosing Party is required to keep confidential under a binding obligation with a third party; and (3) all information provided to a Receiving Party which the Receiving Party knows or reasonably should know could be detrimental to the interests of the Disclosing Party if disclosed or used without authorization, whether or not such information is identified as confidential.

    ii.   **Exceptions.** Information that falls into any one or more of the following categories will not constitute Confidential Information: (1) information that is or becomes part of the public domain through no fault of the Receiving Party; (2) information that the Receiving Party can show was known by it prior to its receipt from the Disclosing Party; (3) information that the Receiving Party can show was independently developed by or for it without relying on any Confidential Information; (4) information that the Receiving Party can show was rightfully received from a third party who is not under any obligation to maintain the confidentiality of such information, under circumstances not involving a violation of the rights of the Disclosing Party.

    iii.   **Court Order.** The Receiving Party will not be in breach of the obligations hereunder to the extent that, based upon the advice of counsel, it provides Confidential Information under a court order or discloses Confidential Information as required by law. Before the Receiving Party discloses Confidential Information under this Section 13.a.iii, it must immediately notify the Disclosing Party of the court order or legal requirement, must give the Disclosing Party a reasonable opportunity to contest or limit the required disclosure, and must provide reasonable assistance at the Disclosing Party's expense, except to the extent it is illegal to do any of the foregoing.

b. **Protection of Confidential Information.** Except as otherwise provided or permitted in this Agreement, the Receiving Party will not do any of the following, directly or indirectly, without the written consent of the Disclosing Party: (i) disclose, transfer, or otherwise communicate to any third party any Confidential Information; or (ii) use Confidential Information for any purpose. The Receiving Party will not permit any of its respective agents or employees to take any action prohibited by this Section 13.b.

c. **Availability of Injunctive Relief.** The unauthorized use or disclosure of Confidential Information would be highly prejudicial to the interests of the Disclosing Party and would materially damage the Disclosing Party. Therefore, the Disclosing Party will be presumed entitled to injunctive relief to protect its Confidential Information against unauthorized disclosure or use in violation of this Agreement.

d. **Return of Confidential Information.** Upon termination of this Agreement: (i) the Receiving Party will at its option, immediately destroy or deliver to the Disclosing Party the originals and all copies of any and all materials and writings received from, created for, or belonging to the Disclosing Party which relate to or contain any Confidential Information; and (ii) the Receiving Party will permanently delete any and all Confidential Information from all computers and other electronic data storage devices in the Receiving Party's or its agent's or employee's control. If the Receiving Party opts to destroy the Confidential Information, it will provide a written certification of the destruction of the Confidential Information to the Disclosing Party.

14. **Member Agencies' Data.** Each Member Agency grants to Numerica a limited right and license to use that Data (definied in SOW 01) originated by that Member Agency solely for the purposes set forth herein. The foregoing license shall terminate if the Member Agency terminates its Joinder Agreement. All the Data in the Data Warehouse is and shall remain the sole property of the originating Member Agency. Other than the rights granted herein, the Member Agencies reserve all rights in and to the Data. All Data shall be considered Confidential Information. No ownership rights are being conveyed to Numerica hereunder.

15. **Ownership of Numerica's Proprietary Rights.** Except as otherwise expressly stated in this Agreement and to the extent applicable, all Services are licensed or provided as a service to the CISC and the Member Agencies and not sold (notwithstanding the use of the term "purchase", if used herein). Except as otherwise expressly stated, all Intellectual Property rights associated with the Services are the exclusive property of Numerica or its licensors. All rights in and to the Services and Numerica's other Intellectual Property not expressly granted to the CISC or the Member Agencies are reserved by Numerica. No ownership rights are being conveyed to the CISC or to a Member Agency hereunder.

16. **Restrictions.**

a. Except to the extent expressly provided otherwise in this Agreement, the CISC and each Member Agency will not (and will not allow any third party to): (i) reverse engineer or attempt to discover any source code or underlying ideas or algorithms of any part of the Services; (ii) provide, lease, lend, or otherwise use or allow person not a Party to this Agreement to access or use the Lumen Client Software Service; (iii) list or otherwise display or copy any object code of any part of the Services; (iv) develop any improvement, modification, or derivative work to

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any Services or include a portion thereof in any other equipment or item; (v) allow the transfer, transmission, export, or re-export of any Services (or any portion thereof) or of Numerica's technical data; or (vi) perform benchmark tests without the prior written consent of Numerica (any results of such permitted benchmark testing shall be deemed Numerica's Confidential Information). Notwithstanding these restrictions, nothing herein shall prevent a Member Agency or any third party from developing software that interfaces with the API or Numerica's public application programming interfaces, if any.

   b.   Notwithstanding the foregoing or any statement to the contrary in this Agreement, nothing herein alters any provision of an open source software license that applies to those portions of the Services that constitutes or incorporates open source software. Except to the extent it constitutes open source software or as otherwise expressly provided for herein, all source code and algorithms associated with the Services is considered Numerica's Confidential Information.

17.   Export Control. The Services may be subject to export controls under U.S. and foreign laws and regulations. The CISC and Member Agencies are solely responsible for ensuring compliance with U.S. and foreign export control laws and regulations. Neither the CISC nor any Member Agency shall transfer, export, or re-export, directly or indirectly, any Services to any country outside the United States or to any prohibited person, entity, or end-user as specified by U.S. export controls including, but not limited to, anyone on the United States Treasury Department's list of Specifically Designated Nationals, the U.S. Commerce Department's Denied Persons List, or the U.S. State Department's List of Statutorily Debarred Parties.

18.   Lumen Agreement | SOW 03.

   a.   The CISC and Numerica shall not permit any Member Agencies who have not joined the Lumen Agreement as of the Effective Date hereof to join the Lumen Agreement. Going forward, all Member Agencies who have not joined the Lumen Agreement and who desire to use the Lumen Client Software Services may do so through SOW 03 to this Agreement.

   b.   When the term or subscription period applicable to a Member Agency who joined the Lumen Agreement expires, Numerica and the CISC shall not permit the Member Agency to renew for continued Lumen Client Software Service under the Lumen Agreement.

   c.   A Member Agency may terminate its joinder to the Lumen Agreement if it elects to receive the Lumen Client Software Services pursuant to SOW 03. When all the joinders for the parties who joined Lumen Agreement have terminated or expired and Lumen is not obligated to provide services under the Lumen Agreement, the Lumen Agreement shall terminate without any further action required.

19.   Notices. Notices to be provided under this Agreement shall be given in writing and delivered in person, by email, or by U.S. Mail. The notice information set forth below may be changed by giving notice to the other Party.

Colorado Information Sharing Consortium (CISC)	With a copy to (CISC):
Attn: Mr. David Shipley, Executive Director	Fairfield and Woods, P.C.
15001 East Alameda Parkway	Attn: Mr. Ryan Tharp

Aurora, CO 80012 dshipley@adcogov.org	1801 California St. Ste. 2600 Denver, CO 80202 rtharp@fwlaw.com
Numerica Corporation Attn: Mr. Jeff Poore 5042 Technology Parkway, Ste. 100 Fort Collins, CO 80528 jeff.poore@numerica.us	

20. General Terms.

a. **Further Assurances.** Each Party shall execute all further documents and take all further acts reasonably necessary or appropriate to carry out this Agreement.

b. **Amendments.** Amendments to this Agreement must be in writing and signed by all affected Parties. An amendment which alters the rights of a Member Agency shall only be binding on that Member Agency if it is signed by that Member Agency.

c. **Entire Agreement.** This Agreement is the complete and exclusive statement of all agreements between the Parties, and this Agreement supersedes all prior proposals and understandings, oral and written, relating to the subject matter hereof.

d. **Assignment.** Numerica may not assign this Agreement nor delegate any obligation, in whole or in part, to any third party without the CISC's prior written consent; *provided, however,* that Numerica may assign this Agreement and all of its rights and obligations hereunder, without the prior written consent of the CISC, in connection with the sale, transfer, or other disposition by Numerica of all or substantially all of its assets or a controlling interest in Numerica. Any assignment or attempted assignment of this Agreement not permitted by this Section 20.d will be void.

e. **Governing Law and Forum.** This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Colorado, without reference to conflict of laws principals. Venue for any civil action relating to this Agreement shall be in state or federal court located in Denver, Colorado.

f. **JURY TRIAL WAIVER.** EACH PARTY AND EACH MEMBER AGENCY HEREBY WAIVES ANY RIGHT IT HAS OR MAY HAVE TO A JURY TRIAL IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

g. **Dispute Resolution.** If any claim, disagreement, issue, or dispute arising out of or in connection with this Agreement (a "Dispute") between any combination of Parties cannot be resolved by those Parties, one or more of the Parties to the Dispute shall notify the CISC of the Dispute by delivering a written statement to the CISC's Project Manager specifying the nature of the Dispute (each Party to the Dispute may, if desired, submit a written statement). Each of the Parties to the Dispute shall appoint a senior level representative. The CISC's Project Manager shall schedule a time for the authorized representatives to meet in-person. Beginning on the date of the meeting and ending no less than 10 days thereafter (the "Resolution Period"), the Parties to the Dispute shall attempt in good faith to resolve the Dispute. The CISC's Project Manager may be the CISC's authorized representative. NO PARTY MAY INITIATE ANY COURT OR

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ADMINISTRATIVE ACTION, SUIT, OR PROCEEDING AGAINST ANY OTHER PARTY UNDER THIS AGREEMENT UNTIL THE END OF THE RESOLUTION PERIOD.

h. **Authority; Non-Contravention.** Each Party has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. Numerica represents and warrants that neither the execution and delivery of this Agreement nor the performance or delivery of the Services will conflict with, result in a breach of, or constitute a default under any agreement, contract, or other arrangement to which Numerica is a party or by which it is bound.

i. **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the Parties and their respective successors and permitted assigns. Nothing in this Agreement confers any rights or remedies on any persons other than the Parties and their respective successors and permitted assigns.

j. **Audit.** Each Party or any of their duly authorized representatives shall have reasonable access to any books, documents, papers, and records of the other which are pertinent to such Party's performance under this Agreement for the purpose of making an audit, examination, or excerpts. Each Party shall provide any documentation necessary to prepare all reporting reasonably required by another Party, and shall keep all books, documents, papers, and records which are pertinent to its performance for a minimum period of two years.

k. **Severability.** If any term or condition of this Agreement is held to be invalid or unenforceable, then the term or condition may be modified or amended by the court to render it enforceable to the maximum extent permitted. If modification or amendment is not practicable, then the term or condition shall be severed from this Agreement with no effect upon the remaining terms and conditions of this Agreement.

l. **Force Majeure.** No Party shall be liable for any delay in or failure of performance of any obligation, nor shall any delay or failure constitute default or give rise to any liability, if and only to the extent that such delay or failure is caused by a "force majeure" event. "Force majeure" means acts of God, acts of the public enemy, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, or other causes that are not within such Party's control, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed Party.

m. **LIENS AND ENCUMBRANCES.** NUMERICA SHALL NOT HAVE ANY RIGHT OR INTEREST IN ANY OF THE CISC'S OR ANY MEMBER AGENCY'S ASSETS, NOR ANY CLAIM OR LIEN WITH RESPECT THERETO, ARISING OUT OF THIS AGREEMENT OR THE PERFORMANCE OF THE SERVICES.

n. **Waiver.** No covenant or term of this Agreement shall be deemed to be waived by any Party except in a writing signed by a person authorized by such Party, and any waiver of a right shall not be construed to be a waiver of any other right or to be a continuing waiver.

o. **Non-Appropriation.** Pursuant to C.R.S. § 29-1-110, as amended, the financial obligations of the CISC and each Member Agency beyond the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise available. This Agreement is automatically terminated on January 1 of the first fiscal year for which funds are not appropriated.

p.   **Public Trust.** Numerica shall not offer or provide anything of benefit to any Authority official or employee that would place the official or employee in a position of violating the public trust in violation of C.R.S. § 24-18-109, as amended.

q.   **Equal Employment Opportunity.** While performing this Agreement, Numerica shall not discriminate against any employee, subcontractor, or applicant for employment because of race, creed, color, national origin, religion, sex, sexual orientation, mental or physical disability, or age.

r.   **Illegal Aliens.** Numerica certifies, represents, and warrantes that it does not knowingly and will not knowingly (i) employ or contract with any illegal aliens to perform work or (ii) contract with a subcontractor who knowingly employs or contracts with any illegal aliens to perform work. Numerica shall use the E-Verify program to confirm the employment eligibility for all employees who are newly hired to perform Services. The provisions of C.R.S. § 8-17.5-102(2) are incorporated by reference.

s.   **Open Records.** The Parties understand that certain material provided or produced under this Agreement may be subject to the Colorado Open Records Act, C.R.S. § 24-72-202, *et seq.*

t.   **Pecuniary Gain.** In accordance with C.R.S. § 24-72-305.5, Numerica represents, warrants, and affirms that it will not use any records of official actions, any criminal justice records, or any information contained therein for the purpose of soliciting business for pecuniary gain.

u.   **Survival of Terms and Conditions.** Notwithstanding anything herein to the contrary, the Parties understand and agree that all terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

v.   **Headings.** Descriptive headings in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement.

w.   **Counterparts.** This Agreement may be executed and delivered in counterparts (including by means of electronic signatures), all of which taken together will constitute one and the same agreement.

[signature page follows]

[signature page]

IN WITNESS WHEREOF, the Parties are executing this Agreement to signify their acceptance of all the terms and conditions stated above, to be effective as of the Effective Date, regardless of the date of actual signature.

<table>
<tr><td>COLORADO INFORMATION SHARING CONSORTIUM</td><td>NUMERICA CORPORATION</td></tr>
<tr><td>*Vince Line*
Vince Line (Jul 25, 2016)
By: ....</td><td>*Jeff Poore*
By: ....</td></tr>
<tr><td>Name: Vince Line
Title: Board Chair</td><td>Name: Jeff Poore
Title: President</td></tr>
<tr><td>Date: Jul 25, 2016</td><td>Date: Jul 23, 2016</td></tr>
</table>

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