

SOFTWARE LICENSE AND SUPPORT AGREEMENT

This Software License and Support Agreement (the "Agreement") is entered into between **EngagePoint, Inc. ("EngagePoint")**, with a principal office at 6700 N. Andrews Avenue, Suite 210, Fort Lauderdale Florida, 33309 and **the State of Minnesota, acting through the Minnesota Insurance Marketplace a/k/a MNsure** ("Licensee" or "State") as of the last date signed below ("Effective Date").

WHEREAS, EngagePoint is an Alliance Partner of Informatica Corporation; and

WHEREAS, Informatica Corporation has authorized EngagePoint to act as an "Authorized Partner" with respect to the Informatica software products, as such products are made generally commercially available by Informatica; and

WHEREAS, EngagePoint as an Alliance Partner of Informatica Corporation may resell or sub-license Informatica Products to end user customers; and

WHEREAS each sale of an Informatica Product shall be pursuant to the License to use Informatica software; and

WHEREAS, EngagePoint may directly sublicense the Informatica Product to the end user customer under terms and conditions that are materially similar to Informatica's standard commercial software license and service agreement; and

WHEREAS, Licensee has paid to EngagePoint a license fee and first year Support Services as set forth in Exhibit A; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. DEFINITIONS

- 1.1 "Documentation" means any user manuals, training materials, bulletins, information sheets, technical information or other documentation pertaining to the Software, both in digital and paper form.
- 1.2 "License" means this Software License and Support Agreement including any attachments where applicable between EngagePoint and Licensee.
- 1.3 "Licensee" means the legal entity that is acquiring the right to use the Software in accordance with the terms of this License as well as any affiliates of the Licensee on whose behalf the Licensee is licensing the Software.
- 1.4 "License Fee" means the fees payable by Licensee for the right to use the Software.

- 1.5 "Professional Services" means services related to Software deployment, configuration, customization, and interface.
- 1.6 "Software" means the software modules listed in Exhibit A for which Licensee has paid the License Fees and otherwise provided to Licensee pursuant to this Agreement. "Software" includes any new releases, upgrades and updates, bug fixes and patches for which Licensee has paid the applicable Support Fees.
- 1.7 "Support Services Fees" means the fees payable on an annual basis by Licensee for Support Services.
- 1.8 "Support Services" means Software maintenance and technical support services excluding training.
- 1.9 "Third Party Software" means any software to which EngagePoint is not the copyright holder.

2. COMPLETE AGREEMENT; SUPERSEDES PRIOR AGREEMENTS

2.1 This Agreement, together with Exhibit A hereto, constitutes the entire understanding and agreement of the parties with respect to the license and use of the Software and supersedes all prior or contemporaneous agreements or understandings, oral or written, between the parties with respect hereto.

3. LICENSE GRANT

3.1 EngagePoint grants to State a non-exclusive, non-transferable (except as provided in this Agreement), non-sublicensable and perpetual (unless terminated as provided herein) license to use, in object code format, Informatica's software ("Software") identified in Exhibit A executed by the parties as from time to time amended and supplemented (hereinafter referred to as "Exhibit A"), subject to the terms, conditions and restrictions set forth herein and therein.

3.2 Use of the Software shall be limited to the internal data processing and computing needs of State and the Software shall be as further described in the Software's *Informatica Product Description* current at the time of licensing, a copy of which appears at <http://www.informatica.com/us/products/> and is incorporated by reference into this Agreement. State shall not make the Software available to unauthorized third parties. The Software may not be used for service bureau purposes or to provide a service directly or indirectly to third parties, including, without limitation, for the creation or manipulation of data to be sent to a third party or for the processing of data provided by a third party. State may not sublicense, rent or lease the Software for third-party training or commercial time-sharing. State shall not distribute, sell, sublicense or otherwise transfer copies of the Software or any portion thereof, and shall not use the Software except as expressly permitted hereunder. No third-party software that is provided with the Software may be used independently from the Informatica Software. Unless otherwise mutually agreed in writing and except to the extent required to obtain interoperability with other independently created software or as specified by law, State further agrees not to adapt, translate, reverse engineer, decompile or otherwise derive the source code for the Software or any of the related features of the Software or to allow third parties to do so.

3.3 For each copy of the Software licensed, State may only install one (1) copy of the Software on equipment located in the country identified in the 'Ship To' address on Exhibit A. State shall inform Informatica in writing in advance of any change in the equipment upon which the Software is installed or the location of such equipment. Additional installations or quantities of the Software, or any relocation of the Software outside the 'Ship To' country shall require additional licenses. Except for a reasonable number of copies of the Software for back-up purposes, State shall have no right to copy the Software. All titles, trademarks and copyright and restricted notices shall be reproduced in such copies.

3.4 State shall have the right to print copies of the softbound version of the documentation provided with the Software ("Documentation") in the form generally available and post the PDF format of the Documentation on State's own intranet solely for State's internal use. State shall not have the right to make copies of the hardbound version of the Documentation.

3.5 State acknowledges that Informatica owns all proprietary rights, including patent, copyright, trade secret, trademark and other proprietary rights, in and to the Software and any corrections, bug fixes, enhancements, updates or other modifications, including custom modifications, to the Software. Any references to "sale" or "purchase" of the Software shall be deemed to mean "license" in accordance with the terms contained in this Agreement. State agrees not to remove from view any copyright legend, trademark or confidentiality notice appearing on the Software or Software output. Informatica reserves all rights not expressly granted to State in this Agreement.

4. SUPPORT SERVICES

4.1 Subject to payment of the applicable annual Support Services fee ("Support Fees"), EngagePoint agrees to provide the following support services ("Support Services") for the Software, with such Support Services to commence upon delivery of the Software:

(a) Error Correction. Upon receipt from State of notice of a problem with the Software (which problem can be reproduced at an Informatica support facility or via remote access to State's facility), Informatica shall use reasonable efforts to correct or circumvent the problem.

(b) Updates. EngagePoint shall notify State of all new Informatica maintenance releases (collectively "Updates") for the Software. EngagePoint shall make available to State, at no additional charge, all currently supported Updates that are developed or published by Informatica and made generally commercially available to Informatica Support Services customers at no additional charge. Updates shall not include any option or future products which Informatica licenses separately.

(c) Product Lifespan. A product release of the Software shall be supported for a period of eighteen (18) months from the date of general availability of a subsequent major product release. For example, release 8.x shall only be supported for a period of eighteen (18) months after the general availability of release 9.0.

(d) Assistance. EngagePoint shall provide State with access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Software problems. The hours for such assistance depend on the level of Support Services purchased by State and are posted for State's reference on the customer Support Services portal.

4.2 If State cancels Support Services for the Software, State may continue to use the Software pursuant to the license granted hereunder, but will not be entitled to receive Support Services for such Software. To reinstate Support Services, State must pay to Informatica all accumulated Support Fees for the period during which State did not purchase Support Services and the Support Fees for the annual term in which State re-enrolls the Software licenses under Support Services. State must also upgrade the Software to a Software release supported by Informatica pursuant to Section 2.1(c) above.

4.3 If State chooses to install Updates made available pursuant to this Agreement, State must uninstall and cease use of all previous versions of the Software so that State's use of the Software corresponds to the number of licenses purchased for the Software.

5. FEES, CHARGES, TAXES AND DELIVERY

5.1 The total license and initial annual Support Fees shall be invoiced upon delivery of the Software. The Support Fees for subsequent years will be invoiced annually following State's acknowledgement of EngagePoint's quote for Informatica Support Services which quote will be issued approximately sixty (60) days prior to the start of each such annual Support Services term.

5.2 The initial annual Support Fees for the first year of Support Services shall be as specified on Exhibit A. After the first year of Support Services, the annual Support Services renewal fee shall be the annualized fee paid in the prior year, plus an increase or decrease based on the most recently available percentage change in the Consumer Price Index-All Urban Consumers (1982-1984 = 100) for the prior twelve (12) month period.

5.3 All invoices for Software and any services rendered under this Agreement shall be due and payable within thirty (30) days of receipt. A late charge equal to the lesser of (a) one percent (1%) per month or (b) the maximum amount permitted by law will be assessed for all invoices over thirty (30) days past due, in addition to any costs incurred in collecting such late fees.

5.4 EngagePoint shall have the right, on at least thirty (30) days' prior written notice and not more than once every twelve (12) months, to conduct a software audit during State's normal business hours to verify State's use of the Software, compliance with the terms of this Agreement and payments made to EngagePoint hereunder. State agrees to immediately remit to Informatica any shortfall in payment disclosed by such software audit including any late charges applicable thereto. In addition, if any such examination discloses a shortfall in payment to EngagePoint of more than five percent (5%) for any year, State agrees to pay or reimburse EngagePoint for that software auditing expense upon written request by EngagePoint.

5.5 State shall pay, in addition to the license fee, Support Fees, and Consulting Fees, all taxes (excluding taxes based on EngagePoint's net income) however designated, levied or based on the prices, terms or performance of this Agreement, including, without limitation, state and local sales and use taxes, duties and privileges and excise taxes, unless State furnishes appropriate evidence of exemption.

5.6 Unless requested otherwise as set forth below, the Software, Documentation and all Updates furnished under Support Services shall be shipped via electronic delivery. State acknowledges that such electronic transfer shall satisfy EngagePoint's Software delivery requirements under the Agreement, and EngagePoint shall have no obligation to deliver the Software on tangible media to State. Nothing contained in this section shall relieve State of its obligation to pay any applicable sales or use taxes which may ultimately be imposed on its license of the Software or purchase of Support Services. In the event that State elects to receive the Software and Documentation physically, the Software shall be shipped FOB Origin. All freight, handling and similar charges or costs incurred in connection with delivery shall be borne by Informatica. Informatica will replace the Software if it is damaged or lost while in transit to State. If State loses or damages the media containing the Software licensed hereunder, following receipt of State's written notice, EngagePoint shall provide a replacement copy.

6. CONFIDENTIALITY

6.1 For purposes of this Agreement, (a) the term "Receiving Party" shall mean EngagePoint with respect to Confidential Information (as defined below) supplied to EngagePoint by State, and State with respect to Confidential Information supplied to State by EngagePoint; and (b) the term "Disclosing Party" shall mean EngagePoint with respect to Confidential Information supplied to State by EngagePoint, and State with respect to Confidential Information supplied to EngagePoint by State. "Confidential Information" means information that is protected from disclosure under the Minnesota Data Practices Act and also means the Software (both object and source code), the accompanying Documentation and all related technical and financial information (including the terms of this Agreement) and any information, technical data or know-how, including, without limitation, that which relates to computer software programs or documentation, specifications, source code, object code, research, inventions, processes, designs, drawings, engineering, products, services, customers, markets or finances of the Disclosing Party which (i) has been marked as confidential or proprietary; (ii) is identified as confidential at the time of disclosure either orally or in writing; or (iii) due to its character and nature, a reasonable person under like circumstances would understand to be confidential.

6.2 Confidential Information shall not include information which (a) Receiving Party can demonstrate was rightfully in its possession, without confidentiality obligations, before receipt; (b) is or subsequently becomes publicly available without Receiving Party's breach of any obligation owed the Disclosing Party; (c) is disclosed to Receiving Party, without confidentiality obligations, by a third party who has the right to disclose such information; or (d) Receiving Party can demonstrate was independently developed without reliance on any Confidential Information of the Disclosing Party.

6.3 The parties hereby agree that: (a) Receiving Party may use Confidential Information solely for the purposes of this Agreement; (b) Receiving Party shall instruct and require all of its employees, agents, and contractors who have access to the Confidential Information of the Disclosing Party to maintain the confidentiality of the Confidential Information; (c) Receiving Party shall exercise at least the same degree of care, but not less than reasonable care, to safeguard the confidentiality of the Confidential Information as Receiving Party would exercise to safeguard the confidentiality of Receiving Party's own confidential property; (d) Receiving Party shall not disclose the Confidential Information, or any part or parts thereof, except on a "need to know" basis to those of its employees, agents, and contractors who are bound to confidentiality obligations at least as protective of the Confidential Information as those set forth herein; and (e) Receiving Party may disclose the Disclosing Party's Confidential Information to the extent required by a valid order by a court or other governmental body or by applicable law, provided, however, that Receiving Party will use all reasonable efforts to notify Disclosing Party of the obligation to make such disclosure in advance of the disclosure so that Disclosing Party will have a reasonable opportunity to object to such disclosure. Receiving Party agrees to undertake whatever action is reasonably necessary to remedy any breach of Receiving Party confidentiality obligations set forth herein or any other unauthorized disclosure or use of the Confidential Information by Receiving Party, its employees, its agents, or contractors.

7. WARRANTY

7.1 EngagePoint warrants that the Software will operate in conformity with the then current standard Documentation (except for minor defects or errors which are not material to Licensee) for a period of ninety (90) days from the date of initial delivery of the Software ("Warranty Period"), but Warranty Period is exclusive of any time when the Software is rendered unusable by Licensee because of a defect or error.

7.2 If the Software does not perform in accordance with the warranty set forth in Section 8.1 during the Warranty Period, upon written notice by Licensee during the Warranty Period, EngagePoint will use reasonable efforts to correct any deficiencies in the Software so that it will perform in accordance with such warranty. Licensee's sole and exclusive remedy, and EngagePoint's sole obligation, in the event of nonconformity of the Software with the foregoing warranty will be the correction of the condition making it nonconforming. Licensee shall provide all information reasonably requested to enable EngagePoint to cure the non-conformity.

7.3 THESE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE.

8. INTELLECTUAL PROPERTY INDEMNIFICATION

8.1 EngagePoint agrees to indemnify, defend with the approval of the Minnesota Attorney General's Office and hold Licensee harmless from any claim of United States patent, trade secret or copyright infringement asserted against Licensee by virtue of

Licensee's licensed use of the Software, provided that: (a) EngagePoint is given prompt written notice of any such claim; (b) EngagePoint has the right to control and direct the defense of such claim; and (c) Licensee shall reasonably cooperate with EngagePoint in such defense.

8.2 EngagePoint shall have no liability for any claim of infringement that results from: (a) any modification of the Software by Licensee; (b) any failure by Licensee to implement Updates to the Software as supplied by EngagePoint; or (c) the combination, operation, or use of the Software with non-EngagePoint programs, data or documentation, if such infringement would have been avoided by the use of the Software without such combination, operation or use.

8.3 In the event the Software, in EngagePoint's opinion, is likely to or does become the subject of a claim of infringement, EngagePoint shall have the right at its sole option and expense to: (a) modify the Software to be noninfringing while preserving substantially equivalent functionality; (b) obtain for Licensee a license to continue using the Software; or (c) terminate this Agreement and the license granted hereunder, accept return of the Software and refund to Licensee a pro rata portion of the License Fee paid to EngagePoint hereunder for that portion of the Software which is the subject of such infringement, such refund based on a straight line amortization over a five (5) year term beginning on the Effective Date.

8.4 THE FOREGOING STATES THE ENTIRE LIABILITY AND OBLIGATION OF ENGAGEPOINT, AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO ANY INFRINGEMENT OR CLAIMS OF INFRINGEMENT BY THE SOFTWARE, OR ANY PART THEREOF, OF ANY PATENT, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHT.

9. TERMINATION; EFFECTS OF TERMINATION

9.1 Either party has the right to terminate this Agreement and the license granted hereunder upon written notice to the other party if the other party: (a) is in default of any material obligation hereunder which default is incapable of being cured, or which, being capable of being cured, has not been cured within thirty(30) days after receipt of written notice of such default; or (b) becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or has been liquidated, voluntarily or otherwise.

9.2 Immediately upon termination, the licenses granted hereunder shall terminate, and Licensee shall cease all use of the Software. Within five (5) days after termination, Licensee will de-install the Software and all copies thereof and (a) return to EngagePoint the Software in the form provided by EngagePoint and all copies in whole or in part made by Licensee; or (b) upon request by EngagePoint destroy the Software and all copies, and certify in writing that they have been destroyed.

9.3 Termination shall not relieve Licensee from paying all fees accruing prior to termination for Support received and shall not limit either party from pursuing any other available remedies.

10. LIMITATION OF LIABILITY

10.1 THE LIABILITY OF ENGAGEPOINT TO LICENSEE OR ANY THIRD PARTY ARISING FROM THE LICENSE OR USE OF THE SOFTWARE, OR THE PROVISION OF SUPPORT SERVICES, INSTALLATION, TRAINING OR OTHER SERVICES IN CONNECTION THEREWITH, HOWEVER CAUSED, AND ON ANY THEORY OF LIABILITY, INCLUDING CONTRACT, STRICT LIABILITY, NEGLIGENCE OR OTHER TORT, SHALL NOT EXCEED THE AMOUNT PAID FOR THE RELATED LICENSE.

10.2 IN NO EVENT WILL ENGAGEPOINT BE LIABLE FOR ANY OF THE FOLLOWING ARISING OUT OF OR RELATED TO THIS AGREEMENT AND/OR SERVICES: INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR DATA USE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.3 THESE LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT ENGAGEPOINT WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THE LIMITATIONS OF LIABILITY SET FORTH HEREIN.

11. AFFIRMATIVE ACTION (WHEN APPLICABLE).

11.1 EngagePoint certifies it has received a certificate of compliance from the Commissioner of Human Rights pursuant to Minn. Stat. § 363A.36 or, if appropriate, has certified that it is in compliance with federal affirmative action requirements. The Licensee intends to carry out its responsibility for requiring affirmative action by EngagePoint.

11.2 **Covered Contracts and Contractors.** If the contract exceeds \$100,000 and EngagePoint employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then EngagePoint must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. parts 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363.A because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

11.3 **Minn. Stat. § 363A.36.** Minn. Stat. § 363A.36 requires EngagePoint to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by the certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

11.4 **Minn. R. 5000.3400-5000.3600.** (A) General. Minn. R. 5000.3400-5000.3600 implements Minn. Stat. §363A.36. These rules include, but are not limited to, criteria for contents; approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining EngagePoint's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

11.5 **Disabled Workers.** EngagePoint must comply with the following affirmative action requirements for disabled workers.

- (1) EngagePoint must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. EngagePoint agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (2) EngagePoint agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (3) In the event of EngagePoint's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with Minn. Stat. § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (4) EngagePoint agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state EngagePoint's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
- (5) EngagePoint must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that EngagePoint is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

11.6 Consequences. The consequences for EngagePoint's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the State.

11.7 Certification. EngagePoint hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for non-compliance.

12. Employee Status.

12.1 E-Verify Certification (In accordance with Minn. Stat. § 16C.075). For services valued in excess of \$50,000, EngagePoint certifies that as of the date of services performed on behalf of the Licensee, EngagePoint and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the Licensee. EngagePoint is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/VerifySubCertForm.doc>. All subcontractor certifications must be kept on file with EngagePoint and made available to the Licensee upon request.

13. Insurance Requirements.

13.1 EngagePoint, and/or their authorized distributor, manufacturer's representative, dealer, reseller, subcontractor (Subcontractor), shall maintain insurance to cover claims which may arise from operations under this Contract, whether such operations are by the EngagePoint, their Subcontractor, or by anyone directly or indirectly employed under this Contract. The State will determine whether the EngagePoint or EngagePoint's Subcontractor insurance will be filed with the State.

13.2 EngagePoint, or their Subcontractor, shall not commence work under the Contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. EngagePoint, or their Subcontractor, shall maintain such insurance in force and effect throughout the term of the Contract. EngagePoint, or their Subcontractor, under this Contract can provide applicable services to the State of Minnesota, hereinafter sometimes referred to as Owner.

13.3 All coverages and limits shall remain in force and effect throughout the term of the Contract.

NOTICE TO ENGAGEPOINT OR ITS SUBCONTRACTOR: The failure of the State of Minnesota to obtain a Certificate of Insurance, for the policies required under this Contract or renewals thereof or failure of the insurance company to notify the State of the cancellation of policies required under this Contract shall not constitute a waiver by the Owner to the EngagePoint, or their Subcontractor, to provide such insurance.

The Owner reserves the right to immediately terminate the Contract if EngagePoint, or their Subcontractor, is not in compliance with the insurance requirements and the Owner retains all rights to pursue any legal remedies against the EngagePoint or their Subcontractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's authorized agent upon written request.

NOTICE TO INSURER: EngagePoint's insurance company (ies), or their Subcontractor's insurance company (ies), waives its right to assert the immunity of the State as a defense to any claims made under said insurance.

13.4 Requirements for EngagePoint or their Subcontractor.

(A) EngagePoint's policy(ies), or their Subcontractor's policy(ies), shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of EngagePoint's, or their Subcontractor's, performance under this Contract.

(B) If EngagePoint receives a cancellation notice from an insurance carrier affording coverage herein, EngagePoint agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless EngagePoint's policy (ies) contain a provision that coverage afforded under the policy (ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota.

(C) EngagePoint, or their Subcontractor, is responsible for payment of Contract related insurance premiums and deductibles.

(D) If EngagePoint, or their Subcontractor, is self-insured, a Certificate of Self-Insurance must be attached.

(E) EngagePoint, or their Subcontractor, shall obtain insurance policy (ies) from insurance company (ies) that either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the MN Department of Commerce if they are not rated by AM Best.

(F) EngagePoint's, or their Subcontractor's, Umbrella or Excess Liability insurance policy may be used to supplement EngagePoint's, or their Subcontractor's, policy limits to satisfy the full policy limits required by the Contract.

(G) POLICY REQUIREMENTS:

1. Workers' Compensation Insurance: Except as provided below, EngagePoint, or their Subcontractor, must provide Workers' Compensation insurance for all their employees in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Minimum limits of liability:

- Coverage B - Employer's Liability
- \$100,000 Bodily Injury by Disease per Employee
- \$500,000 Bodily Injury by Disease Aggregate
- \$100,000 Bodily Injury by Accident

If Minn. Stat. § 176.041 exempts EngagePoint, or their Subcontractor, from Workers' Compensation insurance or if EngagePoint, or their Subcontractor, has no employees in the State of Minnesota, EngagePoint, or their Subcontractor, must provide a written statement, signed by the authorized signer of the Contract, stating the qualifying exemption that excludes EngagePoint, or their Subcontractor, from MN Workers' Compensation requirements.

If during the course of the Contract EngagePoint, or their Subcontractor, becomes eligible for Workers' Compensation, EngagePoint, or their Subcontractor, must comply with the Workers' Compensation Insurance requirements included herein and provide the State of Minnesota with a certificate of insurance.

Evidence of Subcontractor insurance shall be filed with EngagePoint or as directed by the State.

2. Automobile Liability or Garage Liability Insurance:

EngagePoint, or their Subcontractor, shall maintain insurance to cover liability arising out of the ownership, operation, use, or maintenance of all owned, non-owned and hired automobiles.

Auto Liability insurance is required for EngagePoint, or their Subcontractor, performing warranty or service work on mobile equipment.

Garage Liability insurance is required for EngagePoint, or their Subcontractor, performing warranty or service work on autos or equipment attached to autos, including vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the State of Minnesota.

A. Minimum Limits of Liability:

\$2,000,000 - Per Occurrence – Bodily Injury and Property Damage Combined Single Limit

B. Coverages:

X Owned Automobile

X Non-owned Automobile

X Hired Automobile

Evidence of Subcontractor insurance shall be filed with ENGAGEPOINT or as directed by the State.

3. General Liability or Garage Liability Insurance:

EngagePoint, or their Subcontractor, shall maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract.

General Liability insurance is required for EngagePoint, or their Subcontractor, performing warranty or service work on mobile equipment.

Garage Liability insurance is required for EngagePoint, or their Subcontractor, performing warranty or service work on autos or equipment attached to autos, including vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the State of Minnesota.

A. Minimum Limits of Liability:

\$2,000,000 - Per Occurrence

\$2,000,000 - Annual Aggregate

\$2,000,000 - Annual Aggregate applying to Products/Completed Operations

- B. Coverages
- X Premises and Operations Bodily Injury and Property Damage
 - X Personal & Advertising Injury
 - X Blanket Contractual
 - X Products and Completed Operations
 - X State of Minnesota named as an Additional Insured

4. Network Security and Privacy Liability Insurance (or equivalent)

EngagePoint shall maintain insurance to cover claims which may arise from failure of EngagePoint's security resulting in, but not limited to, computer attacks, unauthorized access, and disclosure of confidential or private information, transmission of a computer virus or denial of service.

EngagePoint is required to carry the following minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

5. Professional/Technical, Errors and Omissions, including Network Security and Privacy Liability Insurance (or equivalent Network Security and Privacy Liability coverage endorsed on another form of liability coverage or written as a standalone policy):

This policy will provide coverage for all claims the EngagePoint may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to EngagePoint's professional services required under the contract.

EngagePoint is required to carry the following minimum limits:

\$2,000,000 – per claim or event

\$2,000,000 – annual aggregate

Any deductible will be the sole responsibility of EngagePoint and may not exceed \$50,000 without the written approval of the State. If the EngagePoint desires authority from the State to have a deductible in a higher amount, EngagePoint shall so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that the State can ascertain the ability of the EngagePoint to cover the deductible from its own resources.

The retroactive or prior acts date of such coverage shall not be after the effective date of this Contract and EngagePoint shall maintain such insurance for a period of at least three (3) years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by EngagePoint to fulfill this requirement.

14. GENERAL

14.1 Notwithstanding any provision in this Agreement to the contrary, EngagePoint may include Licensee's name in a public list of current Licensees who use EngagePoint's products, provided that (a) Licensee's name is not highlighted and does not stand out in comparison to the names of EngagePoint's other Licensees; and (b) EngagePoint does not and will not make any representation with respect to Licensee and does not and will not attribute any endorsements to Licensee without Licensee's prior written consent. Within sixty (60) days of the Effective Date of this Agreement, EngagePoint may issue a press release announcing Licensee as a new EngagePoint Licensee. Licensee will have full review and editing authority of the language in such press release prior to distribution.

14.2 This Agreement may not be amended except by a writing signed by an authorized representative of EngagePoint and Licensee. If Licensee issues a Purchase Order or other document regarding the Software or services provided under this Agreement, such instrument will be deemed for Licensee's internal use only, and any provisions contained therein shall have no effect whatsoever upon this Agreement.

14.3 Licensee may not assign or otherwise transfer, by operation of law or otherwise, any of its rights under this Agreement without EngagePoint's prior written consent, which shall not be unreasonably withheld. Notwithstanding this limitation; Licensee may assign or otherwise transfer the license to another governmental entity, a quasi-governmental entity or a private entity to the extent that entity has been delegated responsibility to carry out the governmental functions for which the Licensee has obtained this license at no additional cost. A change in control of a party shall be considered an assignment by such party for purposes of this Agreement. All terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. EngagePoint shall have the right to assign its rights and obligations under this Agreement to an affiliate or incorporate an affiliate as a party to this Agreement.

14.4 This Agreement shall be governed by Minnesota law, without regard to conflict of law provisions and the venue will be Minnesota. The application of Uniform Computer Information Transactions Act (UCITA) or the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. In the event that either party brings an action, proceeding or arbitration to enforce the provisions of this Agreement, the prevailing party shall be entitled to collect all reasonable attorneys' fees and expenses incurred in connection therewith if so ordered by court.

14.5 The waiver or failure of a party to exercise in any respect any rights provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be severed from this Agreement and the other provisions shall remain in full force and effect.

14.6 If Licensee is a branch or agency of the U.S. Government, use, duplication or disclosure of the Software is subject to the restrictions set forth in this Agreement except that this Agreement shall be governed by federal law. Any additional rights or changes desired by the U.S. Government shall be negotiated with EngagePoint consistent with Section 10.2.

14.7 Except as expressly agreed in writing by EngagePoint, Licensee may not export the Software, the Documentation or any copies thereof. In addition, Licensee agrees to comply with all laws and regulations of the United States and other countries ("Export Laws") to assure that neither the Software, nor any direct products thereof are exported, directly or indirectly, in violation of Export Laws, including the Bureau of Export Administration's restrictions on the export of certain encryption security technology, or are used for any purpose prohibited by Export Laws, including, without limitation, nuclear, chemical or biological weapons proliferation. Each party acknowledges its obligation to comply with all applicable anti-corruption legislation and represents that, to the best of its knowledge, no money or other consideration of any kind paid or payable under this Agreement or by separate agreement is, has been or will be used for unlawful purposes, including purposes violating anti-corruption laws, including making or causing to be made payments to any employee of either party or anyone acting on their behalf to assist in obtaining or retaining business with, or directing business to, any person, or securing any improper advantage.

14.8 EngagePoint disclaims all responsibility and liability with respect to any content or data that the Licensee processes with the Software. Licensee acknowledges and agrees that (i) the Software functions only as a tool or vehicle for data processing, which data is not visible to EngagePoint; (ii) EngagePoint cannot control the jurisdiction where the data originates; and (iii) neither EngagePoint nor its Software is a "data controller" or similar under applicable law with respect to any Licensee content or data. Licensee acknowledges and agrees that, as between the parties, it is the sole "data controller" and must ensure that it is in full compliance with applicable data protection and privacy laws, especially with laws that apply to the use or transmission of sensitive information, personal information or personally identifiable information.

14.9 Licensee acknowledges that it has not relied on the availability of any future version of the Software or any future product in executing this Agreement. This Agreement may be executed in one (1) or more counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument. This Agreement may be executed via facsimile or other electronic copy signature. Neither party shall be liable for non-performance or delays caused by acts of God, wars, riots, strikes, fires, shortage of labor or materials, labor disputes, government restrictions or other causes beyond its control. Each Party represents and warrants that it has all necessary corporate power and authority to enter into this Agreement.

14.10 State Audit. The books, records, documents and accounting practices and procedures of EngagePoint relevant to this Agreement shall be subject to examination by the Licensee, and either the Minnesota Legislative Auditor or State Auditor as appropriate for a minimum of six years.

14.11 Lack of Appropriation. Continuation of this Agreement is contingent upon continued availability of funds for the purpose of this Agreement. Licensee may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the Services covered here. Licensee shall not be assessed any penalty if the Agreement is terminated based on this provision. Notwithstanding the foregoing, Licensee may continue to use the Software for such uses as Licensee has been granted a license pursuant to the terms of section 3 of this Agreement, but without any Support Services or modifications or updates to the Software.

14.12 Taxpayer Identification. EngagePoint is required by Minn. Stat. § 270C.65 to provide its Minnesota Tax Identification Number or Federal Employer I.D. No. if EngagePoint does business with the State of Minnesota. This information may be used in the enforcement of federal and State tax laws. Supplying these numbers could result in action to require EngagePoint to file state tax returns and pay delinquent state tax liabilities. This Agreement will not be approved unless these numbers are provided. These numbers will be available to federal and state tax authorities and state personnel involved in the payment of state obligations.

Minnesota Tax I.D. No. _____
Federal Employer I.D. No. 60599591

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by its duly authorized representative.

1. STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minn. Stat. §§16A.15 and 16C.05.

Signed: See Attach PD R1301-30003723

Date: 5-21-2013

CFMS Contract No. A- _____ Object Code: _____

2. CONTRACTOR

The Contractor certifies that the appropriate person(s) have executed the contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: Bradley Case

Title: CEO, ENGAGEPOINT

Date: 5/23/13

3. STATE AGENCY

Individual certifies the applicable provisions of Minn. Stat. §16C.08, subdivisions 2 and 3 are reaffirmed.

By: D. Niv
(with delegated authority)

Title: CEO

Date: 5/23/13

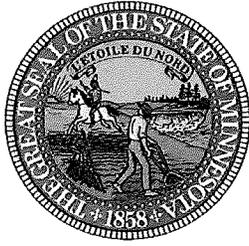
Distribution: Agency
Contractor
State's Authorized Representative - Photo Copy

EXHIBIT A

| Part Number | Description | Qty | Unit Price | Total List Price | Year 1 Maintenance Unit Price | Total Year 1 Maintenance |
|-------------------|---|-----|------------|------------------|-------------------------------|--------------------------|
| 0000007840-0001 | PowerCenter SE (4-7) per CPU-cores Multi-color Multi-OS Production License | 4 | \$28,968 | \$115,872 | \$0 | \$0 |
| 0000007840-0001 | PowerCenter SE (4-7) per CPU-cores Multi-color Multi-OS Production License Maintenance | 4 | \$0 | \$0 | \$5,964 | \$23,856 |
| 0000008648-0001 | PowerExchange for DB2 for Linux UNIX Windows data types (per Environment) Production License | 1 | \$0 | \$0 | \$0 | \$0 |
| 0000008242-0001 | PowerExchange for Oracle data type (per Environment) Production License | 1 | \$0 | \$0 | \$0 | \$0 |
| 0000012622-0001 | Proactive Monitoring for PowerCenter Operations Multi-core Multi-OS Production License | 1 | \$92,695 | \$92,695 | \$0 | \$0 |
| 0000012622-0001 | Proactive Monitoring for PowerCenter Operations Multi-core Multi-OS Production License Maintenance | 1 | \$0 | \$0 | \$19,083 | \$19,083 |
| 0000012815-0001 | Data Quality Governance edition (4-7) per CPU-core Multi-core Multi-OS Production License | 4 | \$108,338 | \$433,352 | \$0 | \$0 |
| 0000012815-0001 | Data Quality Governance edition (4-7) per CPU-core Multi-core Multi-OS Production License Maintenance | 4 | \$0 | \$0 | \$22,444 | \$89,776 |
| 0000008413-0001 | DQIRCountry Population USA Production License | 1 | \$0 | \$0 | \$0 | \$0 |
| 0000010637-0001 | Proactive Monitoring for Data Quality Production License | 1 | \$61,998 | \$61,998 | \$0 | \$0 |
| 0000010637-0001 | Proactive Monitoring for Data Quality Production License Maintenance | 1 | \$0 | \$0 | \$12,722 | \$12,722 |
| 000000008457-0001 | PowerExchange for SQL Server Data types (per Environment) Production License | 1 | \$23,249 | \$23,249 | \$0 | \$0 |
| 000000008457-0001 | PowerExchange for SQL Server Data types (per Environment) Production License Maintenance | 1 | \$0 | \$0 | \$4,771 | \$4,771 |
| 0000008459-0001 | PowerExchange for Teradata data types (per Environment) Production License | 1 | \$23,249 | \$23,249 | \$0 | \$0 |
| 0000008459-0001 | PowerExchange for Teradata data types (per Environment) Production License Maintenance | 1 | \$0 | \$0 | \$4,771 | \$4,771 |
| 0000008581-0001 | PowerExchange for ADABAS CDC (4-7) CPU-cores per PowerCenter CPU-core Production License | 4 | \$36,836 | \$147,344 | \$0 | \$0 |

| | | | | | | |
|---|---|---|--------------------------------------|-------------|---------|----------|
| 0000008581-0001 | PowerExchange for ADABAS CDC (4-7) CPU-cores per PowerCenter CPU-core Production License Maintenance | 4 | \$0 | \$0 | \$7,554 | \$30,216 |
| 000000013419-0001 | PowerExchange for DB2 for z/OS Batch Unlimited MSU Production License | 1 | \$0 | \$0 | \$0 | \$0 |
| 0000008211-0021 | Informatica Multi-Product (4-7) per CPU-cores Multi-core Multi-OS Development Lab License | 4 | \$24,262 | \$97,048 | \$0 | \$0 |
| 0000008211-0021 | Informatica Multi-Product (4-7) per CPU-cores Multi-core Multi-OS Development Lab License Maintenance | 4 | \$0 | \$0 | \$3,976 | \$15,904 |
| 0000012246-0000 | United States Premium Address Cleansing Subscription | 1 | \$5,320 | \$5,320 | \$0 | \$0 |
| | | | Software License Fees: | \$1,000,127 | | |
| | | | Year 1 Maintenance Fees: | \$201,099 | | |
| | | | Total amount payable upon execution: | \$1,201,226 | | |
| <p>State shall have the right to exchange the "Power Exchange" software licenses listed for other generally available Informatica versions, provided it exercises such right prior to installation of the Power Exchange software and provided further that there are no more than minimal differences in the price or features of functionality of the versions exchanged. At no time may the number in use exceed the quantity licensed in the Exhibit A.</p> | | | | | | |

THIS DOCUMENT CONTAINS PROPRIETARY AND CONFIDENTIAL INFORMATION OF ENGAGEPOINT AND IS NOT TO BE DISCLOSED OR DISTRIBUTED
IN THE PUBLIC DOMAIN.



Purchase Order



**Department of Commerce
Commerce**

CHANGE ORDER

Dispatch Via Email

| | | | |
|---|--|-----------------------------------|-------------------------|
| Purchase Order B1301-3000003283 | Date 05/21/2013 | Revision 2 - 05/22/2013 | Page 1 of 1 |
| Payment Terms Net 30 | Freight Terms FOB Destination, Prepd & Allow | Ship Via Ground | Event ID |
| Buyer Jennifer Sue Hornstien | Phone 651/296-3409 | Currency USD | Agency Reference |

Vendor:
0000843356
ENGAGEPOINT
6700 N ANDREWS AVE #210
FT LAUDERDALE FL 33309
United States

Ship To:
DEPARTMENT OF COMMERCE
5TH FL/GOLDEN RULE BLDG
STE 500 85 E 7TH PLACE
ST PAUL MN 55101-2198
United States

Attention:
Not Specified

Bill To:
DEPARTMENT OF COMMERCE
5TH FL/GOLDEN RULE BLDG
STE 500 85 E 7TH PLACE
ST PAUL MN 55101-2198
United States

| Line - Sch | Item/Description | Tax Exempt? | Tax Exempt ID: | Quantity | UOM | PO Price | Replenishment Option: Standard | Extended Amt | Due Date |
|------------|---|-------------|----------------|----------|-----|--------------|--------------------------------|--------------|------------|
| 1 - 1 | Informatica License and Support Costs For HIX | | Mfg ID | 1.0000 | LO | 1201226.0000 | | 1201226.00 | 05/21/2013 |

| | |
|------------------------|------------|
| Schedule Total | 1201226.00 |
| Item Total | 1201226.00 |
| Total PO Amount | 1201226.00 |

1. Show the purchase order number on invoice and all tags, packages and correspondence.
2. This purchase order incorporates by reference all terms, conditions and specifications of the Contract, the RFP/RFB and vendor's response. In case of a conflict in terms, the order of precedence shall be: First, this P.O., second the contract, third the RFP/RFB, and fourth the vendor's response.
3. All deliveries hereunder shall comply with all applicable State of Minnesota and Federal laws.
4. Invoicing must match line items on the purchased order.
5. The state of MN holds direct Pay Permit 1114, issued July 1, 1995 and pays tax directly to Revenue. DO NOT CHARGE SALES TAX unless otherwise instructed to do so on this purchase Order or the solicitation document.
6. Payment terms are Net 30 unless a discount is offered for early payment.

Issuer certifies that funds have been encumbered and appropriate approvals have been obtained.

Issued By:
Jennifer Sue Hornstien