

MASTER AGREEMENT (CUSTOMER)

This Master Agreement ("Master Agreement") is entered into as of February 1, 2019 ("Effective Date"), by and between Innovu, LLC, a Delaware limited liability corporation ("Innovu") with its principal office located at 1250 Penn Avenue, Suite 300, Pittsburgh, PA 15222 and Capital Area Intermediate Unit ("Customer") with its principal office located at 55 Miller Street, Enola, PA 17025.

In consideration of the mutual promises contained herein, the parties, intending to be legally bound, agree as follows:

Section 1 - SERVICES

1.1 Innovu will provide to Customer access to Innovu cloud offerings and/or services (collectively "Solutions") specified in one or more order forms ("Order Form(s)"), which shall be signed by the parties or by Innovu and Customer's designated agent ("Advisor") and are hereby incorporated into this Master Agreement. The parties agree that this Master Agreement shall govern access to and use of the Solutions.

1.2 Any additional terms that apply to any specific type of Solutions are detailed in any attached Addenda to this Master Agreement (referred hereupon "Addendum" in the singular, and "Addenda" in the plural). Any Addenda shall be governed by and is hereby incorporated into this Master Agreement. Addenda may also contain website links to Innovu policies. Any such policies are also incorporated into this Agreement, and may be updated by Innovu at any time.

1.3 Innovu is a Business Associate as defined within the Health Insurance Portability and Accountability Act ("HIPAA"). As such Innovu agrees to provide Solutions in accordance with the HIPAA regulations or any updates to those regulations in the future. Innovu will periodically audit its internal processes to verify compliance with HIPAA regulations and shall make the resulting reports available to Customer.

1.4 This Master Agreement, any attached Addenda, Business Associate Agreement, and any Order Forms are collectively referred to herein as the "Agreement".

Section 2 - FEES AND PAYMENT

2.1 Customer shall pay Innovu, or ensure that its Advisor pays Innovu, all Fees and applicable Taxes, as described below:

2.1.1 "Fees" means the amounts set forth in each Order Form payable to Innovu as full compensation for the Solutions to be provided by Innovu pursuant to the Agreement.

2.1.2 "Taxes" means all federal, state or local sales, use, excise, or other taxes imposed by any jurisdiction relating to the Solutions provided to Customer by Innovu under the Agreement, exclusive of taxes based on Innovu's net income. If Innovu is legally obligated to collect and remit any such Taxes, Innovu will invoice Customer, or its Advisor, as applicable, for such Taxes. Each party shall comply with all applicable tax laws and regulations.

2.1.3 Innovu shall invoice Customer or its Advisor at the address specified in the applicable Order Form for the Fees and any applicable Taxes according to the schedule set forth in the Order Form, or, if there is no invoice schedule in the Order Form, then upon execution of the Order Form. Customer shall pay, or shall ensure that its Advisor pays, all invoices within thirty (30) days from the date of the invoice in U.S. dollars from a U.S. location.

2.2 If Customer arranges for payment through its Advisor, and the Advisor fails to make payment in accordance with the Agreement, then Customer agrees that Customer shall guarantee and be responsible for such payment.

Section 3 - OWNERSHIP AND ACCESS TO SOLUTIONS

3.1 Innovu or its third party licensors own and retain any and all rights, title and interest in and to: (a) the Solutions, (b) any programs, software, documentation, models, templates, user interfaces, scripts, programming languages, libraries, screen designs, data, information and other work product developed by Innovu or its licensors independently or together with Customer or third parties in connection with Innovu's provision of the Solutions; (c) any and all copyrights, trademarks, trade secrets, patent rights, and any other intellectual property rights associated with everything listed in the foregoing sections (a) and (b); and, (d) modifications to and derivatives of everything listed in the foregoing sections (a), (b) and (c) (all of (a) (b) (c) and (d) collectively referred to as "Innovu IP"). Customer is granted only the limited non-exclusive rights to access and/or use the Solutions as expressly set forth in the Agreement. This Agreement does not transfer from Innovu any proprietary right or interest in the Solutions or any Innovu IP. All rights not expressly granted in the Agreement are reserved by Innovu.

3.2 Customer will be responsible for the acts and omissions of its employees, Advisors, and contractors to whom Customer grants access to the Solutions and any other Innovu IP ("Customer Users") as if they were the acts and omissions of Customer. Customer will not, and will not permit its Customer Users to: (a) reproduce, modify, alter, transfer, assign, reverse engineer, decompile, disclose, license, sublicense, sell, resell, lease, rent, distribute, or provide any third party with access to any Innovu IP except as expressly permitted by the Agreement; (b) access or use the Innovu IP except for Customer's own internal business purposes or as otherwise expressly stated in the Agreement; (c) access and/or use any Solution in any manner that violates any applicable law or regulation, or violates the rights of any party.

3.3 Innovu shall, at its sole expense, defend Customer against any claims that Customer's use of the Solutions violates, infringes or misappropriates any third party intellectual property right, U.S. patent, copyright or trade secret. Innovu shall (i) indemnify and save Customer harmless from and against any loss, damage, claim or expense arising in connection with any breach of the representation set forth in Section 3.1 above; and (ii) pay any damages finally awarded to such third party, or any amount specified in a settlement between Innovu and such third party to settle the claim, in addition to reasonable attorneys' fees and other costs of defense. In the event that Customer is enjoined from using the Solutions as a result of such claim, Innovu shall (i) modify the Solution so as to make it non-infringing while preserving equivalent or better functionality; (ii) replace the Solution with mutually agreeable functionality; or, (iii) terminate Customer's subscription to the Solution, and refund any portion of the Fees prepaid by Customer or its Advisor for the Solution for the time period subsequent to such termination. Innovu's obligations described in this section are conditioned upon: (a) Customer providing Innovu of timely notice of such claim; (b) Customer permitting Innovu sole control of the defense of such claim; and, (c) Customer reasonably cooperating with Innovu and Innovu counsel in the defense of such claim. Innovu shall not have any obligations pursuant this section to the extent that such claim is caused by Customer's non-compliance with this Agreement, modification of the Solutions not authorized by Innovu, Customer's use of the Solutions in combination with third party products not authorized by Innovu, and/or Customer's continued use of the Solutions after Innovu has notified Customer to cease use and provided Customer with replacement functionality (in compliance with the foregoing) at no additional charge. THE PROVISIONS OF THIS SECTION STATE INNOVU'S ENTIRE OBLIGATION AND CUSTOMER'S SOLE REMEDY FOR THIRD PARTY INTELLECTUAL PROPERTY CLAIMS.

3.4 The terms of this Section 3 shall survive any expiration or termination of the Agreement.

Section 4 - CONFIDENTIAL INFORMATION

4.1 The term "Confidential Information" shall mean any Personally Identifiable Information ("PII"), any Protected Health Information ("PHI"), any Innovu IP, Innovu or Customer's trade secrets, existing or contemplated products, services, designs, technology, processes, technical data, engineering, techniques, methodologies and concepts and any information related thereto, and information relating to business plans, sales or marketing methods and customer lists or requirements.

4.2 The parties shall each (i) hold the Confidential Information of the other in trust and confidence and prevent the disclosure or release thereof to any other person or entity by using the same degree of care as it uses to prevent unauthorized use, disclosure, or dissemination of its own Confidential Information of a similar nature, but not less than reasonable care, and (ii) not use the Confidential Information of the other party for any purpose whatsoever

except as expressly contemplated under the Agreement. Each party shall disclose the Confidential Information of the other only to those of its employees having a need to know such Confidential Information, and to such other recipients as the other party may approve in writing; provided, that all such persons and entities have signed a non-disclosure agreement containing provisions no less restrictive than those contained in this [Section 4](#). In addition, each party may disclose the Confidential Information to any entity that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with such party (collectively, the "Affiliates") and to contractors of each party and its Affiliates under an obligation to maintain the confidentiality of the Confidential Information. Neither party nor any recipient may alter or remove from any materials or documentation owned or provided by the other party any proprietary copyright, trademark or trade secret legend.

4.3 The obligations of either party under this [Section 4](#) will not apply to information or materials that the receiving party can demonstrate (i) was in its possession at the time of disclosure and without restriction as to confidentiality, (ii) at the time of disclosure is generally available to the public or after disclosure becomes generally available to the public through no breach of agreement or other wrongful act by the receiving party, (iii) has been received from a third party without restriction on disclosure and without breach of agreement or other wrongful act by the receiving party, or (iv) is independently developed by the receiving party without reference to the Confidential Information of the other party. The obligation of non-disclosure shall not apply to the extent that such disclosure is required by law or order of a court of competent jurisdiction or regulatory authority, provided that the receiving party shall (unless otherwise prohibited by applicable law) furnish prompt written notice of such required disclosure and reasonably cooperate with the disclosing party, at the disclosing party's cost and expense, in the disclosing party's lawful attempts to seek a protective order or other appropriate protection of its Confidential Information.

4.4 The obligations imposed by this Section 4 shall survive any expiration or termination of this Agreement.

Section 5 - CUSTOMER DATA

5.1 Customer shall own and be solely responsible for the data that Customer enters into Innovu Solutions and/or otherwise provides to Innovu ("Customer Data"), subject to the limited rights granted to Innovu in the Agreement, and except to the extent such Customer Data is transformed into Aggregated Data as described below.

5.2 Customer hereby grants Innovu the limited and non-exclusive right and license to use, process, reproduce, distribute and disclose Customer Data during the term of this Agreement solely in the performance of Innovu's obligations under this Agreement, and subject to all terms and conditions set forth in this Agreement. Customer hereby consents to the following Innovu activities in connection with its Customer Data: Aggregation of Customer Data with data provided by other Innovu customers, and cleansing of such aggregated data so that it will not identify any individual member and cannot be associated with any particular Innovu customer (resulting data referred to as "Aggregated Data"). Such Aggregated Data will be deemed part of Innovu IP and may be retained by Innovu for use, disclosure, and reproduction, at Innovu's sole discretion, during and subsequent to expiration or termination of the Agreement.

5.3 At Customer's request or at the termination of this Agreement, Innovu shall delete or return any source data provided to Innovu from Customer. Innovu will only return source data to Customer in a secure manner and with a HIPAA compliant method. However, Innovu may retain a reasonable number of archival copies to perform services under this Agreement.

Section 6 - WARRANTY; DISCLAIMERS; LIMITATION OF LIABILITY

6.1 Innovu warrants that the Solutions will substantially conform to the specifications stated in the Agreement and in the Documentation, and that it will perform all services in a workmanlike and professional manner consistent with generally accepted industry practices. For purposes of this Agreement, Documentation shall mean any and all literature, information, brochures and online sources provided or maintained by Innovu describing the Solutions or the performance thereof. The foregoing warranty shall not apply to the extent the Solution is not being used in accordance with this Agreement, or any non-conformity is caused by Customer or a third party, or by third party products, services, or data. Customer's sole and exclusive remedy, and Innovu's entire liability for breach of the foregoing limited warranty shall be correction of the warranted non-conformity or, if Innovu is unable to correct the non-conformity, then Innovu or Customer may terminate this Agreement and any or all Order Forms governed

hereby. In the event of such termination, Customer (or its Advisor, as applicable, per [Section 2](#) above) shall pay all fees, Taxes and expenses due upon to the date of such termination as applicable only to that portion of the Solution that conforms to the warranty, but shall be relieved from any obligation to pay any fees for any period subsequent to such termination. In order to obtain the remedies described in this section, Customer must notify Innovu of any non-conformity within ninety (90) days of discovery.

6.2 EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN [SECTION 6.1](#) ABOVE, NO WARRANTY IS MADE WITH RESPECT TO THE SOLUTIONS OR ANY PART THEREOF INCLUDING ACCURACY OR RESULTS. NEITHER INNOVU NOR ITS LICENSORS WARRANT THE USE OF THE SOLUTIONS FOR ANY SPECIFIC SITUATION OR FOR ANY SPECIFIC APPLICATION. INNOVU AND ITS LICENSORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE, AND NON-INFRINGEMENT. CUSTOMER ASSUMES ALL LIABILITY RESULTING FROM THE USE OF THE SOLUTIONS AND AGREES TO HOLD INNOVU AND ITS LICENSORS HARMLESS FROM ALL LOSSES OR DAMAGES RESULTING FROM SUCH USE.

6.3 Except for a party's breach of confidentiality obligations hereunder or a material breach of section 3 above, each party's liability under this Agreement or any Order Form for damages, regardless of the form of action, shall not exceed in the aggregate 100% of the total amount paid, due and/or chargeable (or in the case of Customer's liability, 100% of the total amount paid plus any outstanding amounts due) for Solutions under the applicable Order Form. The parties agree that amounts stated herein are fair under the circumstances and that the prices reflect the parties' agreement to the limitations of liability set forth in this [Section 6](#). Neither party shall be liable for any damages arising from or in connection with a breach of a party's confidentiality obligations hereunder in excess of two million dollars in the aggregate.

6.4 EXCEPT FOR DAMAGES ARISING FROM A PARTY'S BREACH OF CONFIDENTIALITY OBLIGATIONS HEREUNDER (SUBJECT TO [SECTION 6.3](#) ABOVE) OR A MATERIAL BREACH OF [SECTION 3](#) ABOVE, NEITHER CUSTOMER NOR INNOVU (OR ITS LICENSORS) SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INCIDENTAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, IRRESPECTIVE OF THE CAUSE OR CAUSES, INCLUDING STRICT LIABILITY, BREACH OF WARRANTY OR NEGLIGENCE OF ANY PARTY.

6.5 In the event either party is delayed or prevented from performing this Agreement due to any cause beyond its reasonable control, including but not limited to, strike, labor or civil unrest or dispute, embargo, blockage, work stoppage, protest, acts of terrorism, or acts of God, such delay shall be excused during the continuance of such delay, and the period of performance shall be extended to such extent as may be reasonable to perform after the cause of delay has been removed. In the event any such delay continues for a period of more than ninety (90) days, either party may terminate any Order Form under which performance is delayed upon written notice to the other party. In the event of any such termination, Customer shall pay Innovu for work performed through the effective date of termination.

Section 7 - TERM AND TERMINATION

7.1 The term of this Agreement shall begin on the Effective Date written above and will remain in effect until either party terminates the Agreement as set forth in this [Section 7](#). This Agreement shall remain in effect until all Solutions and/or services have expired or are cancelled with such termination effective with a ninety (90) day, written notice to the other party.

7.2 Any Order Form(s) hereunder may be terminated by either party (the "non-defaulting party") if the other party (the "defaulting party") commits a material breach of any of its obligations hereunder or in any Order Form and such breach remains uncured for thirty (30) days following receipt of written notice from the other party.

7.3 Innovu may suspend Customer's access to the Solution(s) and stop related services if: (a) Customer or its Advisor, as applicable, fails to pay any invoice issued by Innovu in accordance with the Agreement within ten (10) business days after the due date; or (b) such suspension is necessary to stop or prevent illegal activity on the Solution by Customer or Customer Users. In the case of such suspension, Innovu will (unless otherwise prevented by applicable law or court order) restore Customer's access and resume provision of Solutions promptly upon: (i)

receipt of payment, or, as applicable, (ii) cessation of illegal activity and reasonable assurance from Customer that such illegal activity will not resume.

7.4 All provisions of this Agreement that, by their nature and content, should survive the completion, rescission, termination or expiration of this Agreement in order to achieve the fundamental purposes of this Agreement shall so survive and continue to bind the parties.

Section 8 - INSURANCE

8.1 Innovu shall, at its sole cost and expense, secure and maintain the following coverage, at all times during the term of this Agreement, with one or more insurance companies:

- 8.1.1 Automobile Liability insurance with One Million Dollars (\$1,000,000) Combined Single Limit for bodily injury per person/per accident and property damage per event;
- 8.1.2 Worker's Compensation/Employer's Liability insurance as required by law but not less than Five Hundred Thousand Dollars (\$500,000) each accident, each employee and policy limit;
- 8.1.3 General Liability insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate insuring against loss, damage or injury to property or persons that might arise out of Innovu's activities in connection with this Agreement;
- 8.1.4 Errors & Omissions, Network Security and Privacy Liability (Cyber) coverage in an amount of not less than Five Million Dollars (\$5,000,000) per occurrence and aggregate; and
- 8.1.5 Excess Liability Policy (Umbrella policy) in an amount not less than Four Million Dollars (\$4,000,000) to be excess over the underlying General Liability, Automobile Liability and Employers Liability as it relates to Workers Compensation.

Section 9 - EMPLOYEES

9.1 Innovu's personnel are not and shall not be deemed to be employees of Customer. Innovu shall be solely responsible for the payment of all compensation to its personnel, including provisions for employment taxes, workmen's compensation and any similar taxes associated with employment of Innovu's personnel. Innovu's personnel shall not be entitled to any benefits paid or made available by Customer to its employees.

Section 10 - MISCELLANEOUS

10.1 No failure or delay by any party in exercising any of its rights or remedies hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. Except as otherwise expressly stated in the Agreement, the rights and remedies of the parties provided in this Agreement are cumulative and not exclusive of any rights or remedies provided under this Agreement, by law, in equity or otherwise.

10.2 Innovu and Customer are not partners or joint ventures'; neither party is the agent, representative or employee of the other party; and nothing in this Agreement will be construed to create any relationship between them other than an independent contractor relationship.

10.3 All notices, consents and other communications required or that may be given under this Agreement will be deemed to have been given (a) when delivered by hand; (b) three (3) days after being mailed by registered or certified mail, return receipt requested; or (c) when received by the addressee, if sent by facsimile transmission or by Federal Express or other express delivery service (receipt requested), at the address set forth at the beginning of this Agreement, (or to such other person or address as such party may hereafter designate by notice to the other party hereto).

10.4 Neither this Agreement nor any right, interest or obligation hereunder may be assigned, pledged or otherwise transferred by any party without the prior consent of the other party, except in the case of a successor to substantially all of the interests of such party. This Agreement shall inure to the benefit of and shall be binding upon Innovu, Customer and their respective successors, heirs and permitted assigns.

10.5 If and to the extent any provision of this Agreement is held illegal, invalid or unenforceable at law, such provision will be deemed stricken from the Agreement and the remainder of the Agreement will continue in effect and be valid and enforceable to the fullest extent permitted by law.

10.6 This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without reference to the principles of conflicts of law. The prevailing party in any legal proceedings brought by or against the other party to enforce any provision or term of this Agreement shall be entitled to recover against the non-prevailing party the reasonable attorneys' fees, court costs and other expenses incurred by the prevailing party.

10.7 This Agreement (including any Addenda) and each Order Form, now or hereafter executed, constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous proposals, communications, representations and agreements, whether oral or written, with respect to the subject matter hereof. No course of dealing, trade customs, other agreements, representations, warranties or other matters, oral or written, purportedly agreed to or represented by or on behalf of Innovu, by any of its sales personnel, employees or agents, or contained in any sales materials or brochures, shall be deemed to bind the parties hereto with respect to the subject hereof. This Agreement may not be amended or modified, nor may any right or remedy of any party be waived, unless the same is in writing and signed by a duly authorized representative of such party. No consent by any party to, or waiver of, a breach by the other party shall constitute consent to, waiver of, or excuse of any other different or subsequent breach.

10.8 **Dispute Resolution.** Any controversy, claim, or dispute ("Disputed Claim") arising out of or relating to this Agreement must follow the dispute resolution process stated in this Agreement. The parties shall use reasonable efforts to resolve any claim or dispute arising under this Agreement as soon as is reasonably practicable. In the event of a Disputed Claim, each party shall in the first instance promptly bring the Disputed Claim to the attention of a Director or similar person in a management position ("Responsible Executives"). If any Disputed Claims are not resolved by the Responsible Executives within a reasonable time period, but in no instance more than sixty (60) days, either party may pursue its rights and remedies available under law or in equity. Notwithstanding the foregoing, nothing shall prevent either party from seeking temporary injunctive relief to protect its intellectual property rights, Confidential Information, or to maintain the status quo pending resolution of any dispute.

10.9 Innovu shall not use Customer's name, Customer's Affiliates in any press release or marketing materials without Customer's prior consent. Customer agrees that Innovu may reference its general business relationship with Customer for marketing purpose

10.10 Innovu shall retain the right to perform similar work for others, including competitors of the Customer, during the term of this Agreement. Customer shall retain the right to cause work of the same or a different kind to be performed by its own personnel during the term of this Agreement.

10.11 The parties agree that the terms and conditions of this Agreement are the result of negotiations between the parties and that this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this Agreement. Any dispute or other action arising out of this Agreement must be brought within one (1) year of the date the cause of action accrued, except that an action for nonpayment may be brought within one (1) year of the date of the last payment.

10.12 This Agreement may be signed in counterparts, each of which shall be deemed an original, but both of which taken together shall constitute one and the same instrument. To expedite order processing, both parties agree that the other party may treat documents faxed or emailed as original documents.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first written above.

Innovu, LLC

Capital Area Intermediate Unit

By: _____

By: _____

Name (printed): _____

Name (printed): _____

Title: _____

Title: _____

Date: _____

Date: _____