# ADDENDUM TO THE SOFTWARE LICENSE AGREEMENT
## Between
## LARAMIE COUNTY, WYOMING and OCCUPATIONAL RESEARCH & ASSESSMENT, INC.

This is an Addendum to the Software License Agreement (hereinafter Agreement) by and between Laramie County, 310 W. 19th Street, Cheyenne, WY 82001 ("COUNTY") and Occupational Research and Assessment, Inc., with offices at 124 Elm Street, Big Rapids, MI 49307 ("CONTRACTOR").

## I. PURPOSE

This Addendum modifies the Software License Agreement for purposes of providing COUNTY software services for medicolegal death investigation case management, as fully described in the agreement attached herein and incorporated by this reference as Attachment A.

## II. TERM

This Agreement shall commence on the date last executed by the duly authorized representatives of the parties, and shall remain in force for an initial trial period of thirty (30) days and based on a term agreed upon by the parties, or until terminated pursuant to the provisions of this Addendum.

## III. PAYMENT

The COUNTY shall pay the CONTRACTOR based on the services outlined in Section 14 'Fees and Payments' of Attachment A. The COUNTY is exempt from sales and use taxes pursuant to Wyo. Stat. Ann. § 39-15-105 as amended. No payment shall be made before the last signature is affixed to this Agreement. Payments shall be in accordance with Wyo. Stat. § 16-6-602 (as amended).

## IV.  RESPONSIBILITIES OF CONTRACTOR

CONTRACTOR agrees to retain all required records for three (3) years after the County makes final payment and all other matters relating to the Agreement are concluded. CONTRACTOR agrees to permit access by the COUNTY or any of its duly authorized representatives to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this specific Agreement for purposes including but not limited to audit, examination, excerpts, and transcriptions. It is agreed that finished or unfinished documents, data or reports, prepared by CONTRACTOR under this contract shall be considered the property of the COUNTY and upon completion of the services to be performed, or upon termination of this Agreement for cause, or for the convenience of the COUNTY, will be turned over to the COUNTY.

## V.  MODIFICATIONS

Section 21 entitled "The Site and Software are Located in and Delivered from Big Rapids, Michigan, USA" is stricken off and shall be of no force and effect, and if replaced with the following:

> " Applicable Law and Venue: The parties mutually understand and agree this Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming. The foregoing provisions of this paragraph are agreed by the parties to be a material inducement to the CONTRACTOR and to the COUNTY in executing this Agreement. This provision is not intended, nor shall it be construed to waive the COUNTY's governmental immunity as provided in this Agreement."

## VI.   ADDITIONAL PROVISIONS

A.   Independent Contractor: The services to be performed by the CONTRACTOR are those of an independent contractor and not as an employee of the COUNTY. The CONTRACTOR is not eligible for Laramie County Employee benefits and will be treated as an independent contractor for federal tax filing purposes. The CONTRACTOR assumes responsibility for its personnel who provide services pursuant to this contract and will make all deductions required of employers by state, federal and local laws and shall maintain liability insurance for each of them. The CONTRACTOR is free to perform the same or similar services for others.

B.   Acceptance Not Waiver: The COUNTY's approval of the work or materials furnished hereunder shall not in any way relieve the CONTRACTOR of responsibility for the technical accuracy of the work. The COUNTY approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C.   Termination: This Agreement may be terminated (a) by either party at any time for failure of the other party to comply with the terms and conditions of this agreement; (b) by either party, with thirty (30) days' prior written notice to the other party; or (c) upon mutual written agreement by both parties.

D.   Entire Agreement: This Addendum (5 pages) and Attachment A (3 pages), represent the entire and integrated agreement and understanding between the parties and supersedes all prior negotiations, statements, representations and agreements, whether written or oral.

E.   Assignment: Neither this Agreement, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party.

F.   Modification: This Agreement shall be modified only by a written agreement, duly executed by all parties hereto.

G. Invalidity: If any provision of the Agreement of this Addendum is held invalid or unenforceable by any court of competent jurisdiction, or if the COUNTY is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties that the provisions of this Agreement are fully severable.

H. Contingencies: The CONTRACTOR certifies and warrants no gratuities, kick-backs or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement.

I. Discrimination: All parties agree they will not discriminate against any person who performs work under the terms and conditions of this Agreement because of race, color, gender, creed, handicapping condition, or national origin.

J. ADA Compliance: All parties agree they will not discriminate against a qualified individual with disability, pursuant to a law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, *et seq.*, and/or any properly promulgated rules and regulations relating thereto.

K. Governmental/Sovereign Immunity: The COUNTY does not waive its Governmental/ Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 *et seq.*, by entering into this Agreement. Further, the COUNTY fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.

L. Third Parties: The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to the Agreement, and shall inure solely to the benefit of the parties to this Agreement.

M. Conflict of Interest: The COUNTY and the CONTRACTOR affirm, to their knowledge, no CONTRACTOR employee has any personal beneficial interest whatsoever in the agreement described herein. No staff member of the CONTRACTOR, compensated either partially or wholly with funds from this Agreement, shall engage in any conduct or activity which would constitute a conflict of interest relative to this Agreement.

N. Force Majeure: Neither party shall be liable to perform under this Agreement if such failure arises out of causes beyond control, and without the fault or the negligence of said party. Such causes may include, but are not restricted to, Act of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. In every case, however, a failure to perform must be beyond the control and without the fault or the negligence of said party.

O. Limitation on Payment: The COUNTY's payment obligation with regard to the Cross Connect Agreement is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the

continuance of the services and equipment provided by the CONTRACTOR the Agreement may be terminated by COUNTY at the end of the period for which funds are available. The COUNTY shall notify the CONTRACTOR at the earliest possible time of the services which will or may be affected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if the COUNTY knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to the COUNTY in the event this provision is exercised, and the COUNTY shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision. This provision shall not be interpreted or construed to permit the COUNTY to terminate this Agreement in order to acquire similar services from another party.

P.      Notices:      All notices required and permitted under this Agreement shall be deemed to have been given, if and when deposited in the U.S. Mail, properly stamped and addressed to the party for whom intended at such parties' address listed herein, or when personally delivered personally to such party. A party may change its address for notice hereunder by giving written notice to the other party.

Q.      Addendum Controls:      Where a conflict exists or arises between any provision or condition of this Addendum and the Agreement, the provisions and conditions set forth in this Addendum shall control.

R.      Compliance with Law:      The CONTRACTOR shall comply with all applicable laws, regulations and ordinances, whether Federal, State or Local.

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**ADDENDUM TO SOFTWARE LICENSE AGREEMENT**
**Between**
**LARAMIE COUNTY, WYOMING and OCCUPATIONAL RESEARCH AND**
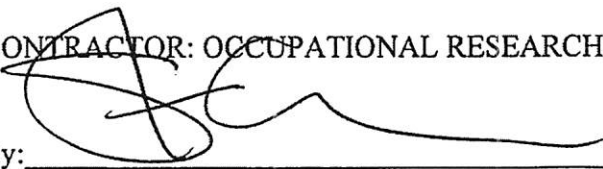**ASSESSMENT, INC.**

**Signature Page**

LARAMIE COUNTY, WYOMING

By:_____ Date _____
    Gunnar Malm, Chairman, Laramie County Commissioners

ATTEST:

By:_____ Date _____
    Debra Lee, Laramie County Clerk

CONTRACTOR: OCCUPATIONAL RESEARCH AND ASSESSMENT, INC.

By:_____ Date 6/28/21
    Authorized Signature:

REVIEWED AND APPROVED AS TO FORM ONLY:

By:_____ Date 6/29/21
    Laramie County Attorney's Office

# SOFTWARE LICENSE AGREEMENT

1. **Parties to Agreement.** This "Case Management System User Terms and Conditions" is between Occupational Research and Assessment, Inc., with offices at 124 Elm Street, Big Rapids, MI 49307 ("ORA"), provider of MDILog software ("MDILog" or the "Software") and the User identified on page 1 of this Software Subscription Agreement ("Agreement").
2. **Software Features and Functions.** The Software is provided as a service, and is accessed via the Web at https://mdilog.com (the "Site"). Its features and functions are located at https://mdilog.com/help/feature.
3. **Creation of User Account.** To create the case management portfolio, to upload video, images, text, sound recordings, and other User content ("Content"), and to access some features and services offered by ORA at the Site, User must create an account. User will receive a password and an account designation.
4. **Importance of Content Backup.** User is responsible for downloading and backing up copies of all its Content on a regular basis to ensure that it always has access to its own Content. Although ORA has designed the Site to enable uptime of over 98%, ORA relies upon third parties for power, data storage, server access, software maintenance, system troubleshooting, system security, and other technology services. The Site will occasionally be down (and the Content inaccessible) for testing, upgrading, and maintenance.
5. **Account Security.** User is responsible for its account, the accuracy of all information uploaded to its account, and all activities occurring in connection with use of the account. Only User authorized representatives (employees and contractors) are shall access the Software or upload Content. User shall keep passwords secure and notify ORA promptly of any suspected breach of security or unauthorized use of its account. User can access its account, review the Information that is stored, and revise or delete that Information. User will need to contact ORA to delete its entire account. User shall ensure it has the legal right to upload the Content to the Software database, and that possession and storage of the Content by ORA (or its subcontracted technical hosts) is lawful and does not violate any state or federal law or violate the rights of any third party.
6. **Super Users.** Some Users (such as a governmental jurisdiction) may have two individuals designated as a Super Administrator or "Super User." A Super User is the medicolegal officer (medical examiner or coroner) of the User jurisdiction or their designee. The Super User will have the sole ability to (a) "activate" and "delete" its delegates under the account established with ORA; (b) add secondary counties/parishes; (c) export account Information; (d) customize permission sets; (e) request to add additional autopsy facilities to the account; (f) activate/deactivate account Information exchanges with ORA authorized partners (e.g., AIT, NMS, OPO, EDRS); and (g) be the point of contact for ORA. For more information about Super Users, see https://mdilog.com/register
7. **Grant of License.** ORA grants User (its employees and contractors) the right to access the Site and use the Software service for User's medicolegal death investigation case management. This authorized access is non-exclusive, limited, personal and nontransferable. User may not authorize others to use the Software or access the Site. User is responsible to ORA for compliance by User contractors with the restrictions in this Agreement.
8. **Trial Period; Acceptance/Rejection; Sole and Exclusive Remedies.** User has thirty (30) days to use the Software and determine if the Software meets User's needs. If User does not notify ORA in writing within those thirty (30) days that it is rejecting the Software, then the Software has been ACCEPTED and User is responsible for payment of the subscription fees. If User rejects the Software, this Agreement is terminated; User has no rights to access the Software or stored Content and ORA has no further obligation to User. Content will be deleted in the course of the operation of the Site. The remedies provided in this Section are the sole and exclusive remedies provided to User under this Agreement and are in lieu of all other remedies by contract, by law, and at equity.
9. **AS-IS Warranty.** User agrees that the thirty (30) day trial period is adequate to test the Software. ACCORDINGLY, ORA PROVIDES, AND USER ACCEPTS, THE SOFTWARE "AS IS," WITH NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND INCLUDING (WITHOUT LIMITATION) ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ORA does not warrant that the functions contained in the Software will meet User's specific requirements, the requirements of User's particular industry, will be error-free, or operate without interruption. ORA will use commercially reasonable efforts to correct bugs and maintain the Software.
10. **ORA Rights in Software.** ORA retains all rights, including intellectual property rights, in the Software, database and Site, including Software features created by ORA at the request of users. User is not granted any right to download the Software, create derivative works, or permit third party access to the Software or Site.
11. **User Content and Data.** User retains the rights applicable to its Content and to data generated through User's use of the Software. ORA may use the account information, Content, and information ORA collects from User's use of the Software and the Site (collectively, "Information") (a) to investigate and verify proper conduct at the Site and to monitor the security and integrity of the Site; (b) as required by law and/or in response to service of legal process, such as a court order, summons, subpoena, and the like (ORA shall use reasonable efforts to notify User in advance of any such disclosure); (c) for Information that is not identifiable to an individual or

entity, ORA may also use aggregate and anonymous Information to enhance the User experience at the Site, to understand how the Site is used, to communicate with its Users about ORA and the Site, and to analyze, develop, and promote its business; (d) for Information that is identifiable to an individual or entity, ORA may use Information as set forth above in (a) and (b), to implement this Agreement, and to communicate with User about the Software, the Site, and this Agreement; (e) for research purposes, ORA may use non-identifiable case Information to create reports and conduct ongoing research activities that support medicolegal death investigation activities. The authorization set forth in this section is irrevocable, royalty-free, worldwide, and transferable.

12. **Third Party Marks.** The Site and the Software may refer to third parties (by name, trademark, links, and the like). ORA makes no representation or warranty regarding such third-party products or services and makes no assertion of a business relationship, affiliation, endorsement, or sponsorship by such third parties unless expressly stated on the Site.

13. **Data Security and Privacy.** ORA implements the policies and procedures at https://mdilog.com/help/security.

14. **Fees and Payments.**
    a. *Subscription Basis.* Software access is provided on a subscription basis. User shall pay the applicable Software license fees (https://mdilog.com see Pricing link), including fees based upon the number of individuals within User who have access to the Software and the data storage needs applicable to User. ORA may adjust fees from time to time, with advance notice to User, and shall not increase prices more than once per year.
    b. *Base Services and Additional Services.* Certain services are provided as part of the "base" subscription and other features (e.g., automated data transfer from MDILog to organ donation agencies, data export for automated upload into State/County death certificate data) are provided for an additional fee. For Users with Super Users, only a Super User can order such additional features.
    c. *Additional Services.* User may purchase additional services from ORA at the then-current hourly, *per-diem*, or per-project rate. User shall pay all travel and living expenses of ORA representatives associated with any meetings, implementation, training, technical support, or other on-site visits. ORA may request that User prepay travel expenses. If ORA investigates any User technical problems with the Software and the problem is found to be caused by operator error, unauthorized modification, tampering, or other cause not inherent in the Software, ORA reserves the right to charge for its services at its then-current technical service rates.

15. **Term.** User shall select the term of the Software license (quarterly, yearly). The term shall automatically renew unless either party gives written notice to the other at least ten (10) days prior to end of the then-current term of an intent not to renew, or unless terminated in accordance with this Agreement. If User uses a credit card for payment of its Software license fee, it hereby authorizes ORA to charge such card for each term of use.

16. **Limitation of Liability for Damages.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL ORA BE LIABLE TO CUSTOMER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, LOST PROFITS, BUSINESS INTERRUPTION LOSSES, OR LOSS OF DATA, RESULTING FROM THIS AGREEMENT, ACTIVITY AT THE SITE, THE OPERATION OF THE SOFTWARE, OR ACTIONS BY THIRD PARTIES, REGARDLESS OF THE THEORY OF LIABILITY, INCLUDING EXPRESS CONTRACT, IMPLIED CONTRACT, NEGLIGENCE, WARRANTY, OR MISREPRESENTATION, AND WHETHER OR NOT ORA IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. DIRECT DAMAGES ARE LIMITED TO THE AMOUNT OF THE SOFTWARE LICENSING FEES PAID IN THE PREVIOUS TWELVE (12) MONTHS. As used in this section, "ORA" includes ORA, its officers, directors, employees, contractors, agents, affiliates, related business entities, successors, and assigns.

17. **Integrity of the Site.** User shall not take any action to interfere with the operation of the Software or the Site, to attempt to copy its underlying technology, to upload other computer programs, or copy Content other than User Content. User agrees not to use any automated software (crawlers, robots, bots, spiders, extractors, etc.) at the Site; circumvent, disable or otherwise interfere with security-related features or digital rights management functions at the Site; or hack, reverse engineer, or disable any technology at the Site.

18. **Suspension of Account** In the event of a material breach that is uncured, response to legal process, concern for the integrity of the Site, reasonable suspicion of improper conduct at the Site, or other good faith belief, ORA may suspend or terminate an account, remove or limit access to Content, or limit services to which an account holder has access, and shall use reasonable efforts to provide prior notice to an account holder.

19. **Termination of Services; Termination of Agreement.**
    a. *Material Breach.* Either party may terminate this Agreement if there is a material breach by the other that is not cured within thirty (30) days after receipt of written notice of such breach. Without limitation, failure to pay fees when due, and/or use of the Software inconsistent with this Agreement, are material breaches. Upon termination, User is responsible for ensuring that it has possession of its Content and all data generated by it in connection with the use of the Software. Termination shall not affect the obligation of User to pay any fees and expenses owing as of the date of termination.
    b. *User Termination for Convenience.* At any time, User may terminate its account, cease using the Software, or delete account information. User may take such actions with or without prior notice to

ORA and without any liability to ORA other than payment of Software license fees through the date of termination or the applicable contract period, whichever is longer.

c. *Termination of Access.* Upon termination of this Agreement ORA may block access to or delete uploaded Content.

20. **User Responsibility.** User acknowledges that its account with ORA and its access to the Software and Site is based upon the truth of the promises, statements, and representations made in this Agreement. User is solely responsible for any costs, expenses, and damages arising from breaches of this Agreement or third party assertions inconsistent with its promises, statements, representations, and warranties. This obligation survives termination of this Agreement. User agrees to use its best efforts to assist ORA in the investigation and resolution of any third party claim or assertion inconsistent with User's obligations under this Agreement, at no charge and promptly upon receipt of notice from ORA of such claim or assertion.

21. **The Site and Software are Located in and Delivered from Big Rapids, Michigan, USA.** This Agreement is entered into, performed in, and based in Big Rapids (Mecosta County), Michigan, USA. The Site does not give rise to personal jurisdiction over ORA, either specific or general, in jurisdictions other than Michigan. This Agreement shall be governed by the internal substantive laws of the State of Michigan, without respect to its conflict of laws principles. Any claim or dispute between User and ORA that arise in whole or in part from the Software or this Agreement shall be decided exclusively by a court of competent jurisdiction located in (or having jurisdiction over) Big Rapids, Michigan.

22. **Entire Agreement.** This Agreement incorporates by reference all terms appearing at the links identified in this Agreement. The Agreement may be updated and modified by ORA from time to time. Those modifications are incorporated as part of the Agreement. User will be notified of significant modifications when it logs on or accesses its account. If User does not accept the modifications to the Agreement, its sole remedy is to conclude its subscription at the end of the then-current term, or sixty (60) days, whichever is less. Provisions which, by their nature, are intended to survive termination shall continue, by way of example, limitation of liability for damages.

23. **Additional General Terms.** No waiver by ORA shall be implied. Any waiver of any term of this Agreement must be in writing and signed by an officer of ORA. If any portion of this Agreement is found to be unenforceable, such portion will be modified to reflect the parties' intent set forth in such portion and only to the extent necessary to make it enforceable. The remaining provisions of this Agreement will remain in full force and effect. ORA may assign, subcontract, delegate, and transfer its rights and obligations under this Agreement to a third party. User may not assign or transfer its account. Each party represents that it has the legal power to enter into this Agreement, and that the person signing this Agreement has the actual authority to bind the User to its terms and conditions. ORA makes no representations that the Site or Software is appropriate or available for use in locations other than the United States. Those who access or use the Site or use the Software from outside the U.S. do so at their own volition and are responsible for compliance with applicable laws.

24. **Notices.** ORA may provide User with notices, including those regarding changes to ORA's Software License Agreement, by email, first class mail, or postings to the Site. Notice is deemed given upon the earlier of (a) actual receipt, (b) twenty-four (24) hours after an email is sent, (c) three (3) days after first class mail is deposited with the U.S. Postal Service, or (d) thirty (30) days after a notice is posted to the Site.

25. **Force Majeure.** It shall not be a material breach of this Agreement, and neither party shall be liable to the other, if prevented from performing its duties or responsibilities under this Agreement by reason of any fire or other casualty, acts of God, earthquake, floods, explosions, interrupted power supply, sabotage, war, riots, acts of terrorism; inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market; strikes, court orders, laws, regulations, or orders of government or military authorities; or any other cause not within the control of such party whose performance is delayed.