Hosting and Maintenance Agreement

This Agreement is made this 29th day of March, 2017, between Information, Inc. (hereinafter "Consultant"), having its principal place of business at 9961 NC Hwy 87 N., Pittsboro, North Carolina 27312, and Yadkin County Human Services Agency (hereinafter "Client"), having its principal place of business at 250 Willow St., Yadkinville, North Carolina 27055.

Purpose

Client and Consultant enter into this Agreement in order to provide hosting and maintenance services for the NCDSS Day Sheets application, as outlined in Supplement A attached to this agreement.

Changes

Changes to any of the specifications for this Agreement or in this Agreement itself must be made in writing and agreed upon by both parties.

Invoicing

Consultant will submit invoices to Client for payment of hosting and maintenance services as such payment becomes due. Invoices are due in full upon at the beginning of the hosting period. Client may choose to pay for hosting and maintenance fees on a quarterly, semi-annual or annual basis. In the event of early termination of this Agreement by Client, Consultant shall be reimbursed for all reasonable costs and non-cancelable commitments incurred in the performance of this hosting agreement for which the Client has not yet paid.

Hosting Services

In accordance with the terms of this agreement, Consultant will provide access to a customized version of the NCDSS Day Sheets application for Client for the purposes of tracking time for DSS employees at the website address specified in Supplement A.

Consultant shall provide the following hosting services:

1. **Website Access.** Consultant shall provide Client with application level access to NCDSS Day Sheets application via a secure (HTTPS) URL. Users of the application will be provided with a username and password to access the application. No direct access to server hardware, operating system, database management system or other system resources shall be provided.
2. **Data Storage.** Consultant shall store all Client data created and managed by the application, including files, text and parameters; data shall be backed-up on a separate storage system at regular intervals.
3. **Updates.** Consultant shall provide automatic application updates at no cost.

Authorized Usage

Client agrees that access to applications shall be restricted to Yadkin County employees and shall use commercially reasonable efforts to protect User IDs and passwords. Client agrees that Consultant employees may access system as required to diagnose and resolve technical issues.

Service Commitment

Consultant will use reasonable efforts to make the application available with an Annual Uptime Percentage of at least 99.9% outside of maintenance windows (described below). Application availability is defined as the ability to log-on and access the hosting server. In the event that Consultant does not meet the Annual Uptime Percentage, Client will be eligible to receive a Service Credit equal to five percent (5%) of their bill.

Maintenance

1. **Scheduled Maintenance.** To ensure optimal performance of the servers or to apply application updates, Consultant will perform routine maintenance on a regular basis, requiring servers to be removed from service. Consultant reserves one (1) hour of server unavailability per month for

maintenance purposes. The maintenance is typically performed during off-peak hours. Consultant will provide Client with advanced notice of maintenance whenever possible.

2. **Emergency Maintenance.** Under certain circumstances, Consultant may need to perform emergency maintenance, such as security patch installation or hardware replacement. Consultant will not be able to provide Client with advanced notice in case of emergency maintenance.

Maintenance Services

In accordance with the terms of this agreement, Consultant will furnish the installation, support, error-correction or customization services identified on Supplement A for the NCDSS Day Sheets application.

Ownership of Data

All data created by Client and/or stored by Client within Consultant's applications and servers are considered by Consultant to be Client property and are for Client's exclusive use unless access is permitted by Client. Consultant shall allow access to such data by authorized Consultant employees for maintenance and system administration purpose as appropriate only. In the event of the termination of this Agreement, Consultant shall furnish to Client a copy of all Client data within ten (10) business days.

Data Integrity

Consultant employs sophisticated techniques to ensure the integrity of the data on its servers. Consultant performs routine server and application backups for disaster recovery purposes only. Server backup scope and scheduling is at Consultant's sole discretion. **Consultant shall not perform backup or restore the data upon Client's request unless such backup or restore is agreed upon in writing.**

Data Retention

Consultant shall not be responsible for retaining any of Client's data after termination of this agreement. After data is provided to Client in accordance with the Ownership of Data section of this Agreement, all data is deleted from Consultant servers.

Fees and Expenses

Client shall pay the Consultant the fee(s) set forth on Supplement A to this Agreement in full upon the Commencement Date of this agreement. The Consultant shall have the right to change the fee once each year, effective with the next renewal date, provided that: (i) the Consultant gives Client at least ninety (90) days prior written notice of any such change; and (ii) so long as the change is not an increase of more than ten percent (10%) of the then-current fee. Client shall pay the Consultant for services outside of the scope of this Agreement on time and material basis at the Consultant's then-prevailing rates, and only with the Client's prior written approval.

Delivery and Acceptance

Client shall have four (4) weeks from receipt of each Deliverable or New Release to accept or reject the Deliverable in writing. In the event that Client rejects any Deliverable, it shall provide Consultant with a reasonably detailed description of its reasons for the rejection. Consultant shall use its best efforts to promptly cure any identified deficiency that is within the parameters of the functionality of the application. The Deliverable shall be deemed accepted if Client does not notify Consultant of any material defects during the acceptance period or if Client makes beneficial use of the application. Acceptance shall not be unreasonably withheld.

Consultant will make itself available through electronic means and in person as required to assist Client in the use of the Deliverables as requested by client. All services furnished by Consultant following acceptance of Deliverable files shall be billed at the rate of $100 per hour unless covered by this Agreement.

Term and Termination

1. **Term of Agreement.** This Agreement shall commence on the Commencement Date stated in Supplement A and will continue until June 30, 2018.

2. **Termination of Agreement.** This Agreement shall terminate (i) immediately upon termination or expiration of Client's right to use the NCDSS Day Sheets application; (ii) upon expiration of the then-current term, provided that at least thirty (30) days advance written notice of termination is given to Consultant by the Client; (iii) upon expiration of the then-current term, provided that at least (60) days advance written notice of termination is given to Client by the Consultant; or (iv) upon thirty (30) days advance written notice if the other party has breached this Agreement and has not cured such breach within such notice period.

3. **Survival.** In the event of any termination of the Agreement, the Invoicing Section; Delivery and Acceptance Section; and Paragraph Ten (10) of the Miscellaneous Section hereof will survive and continue in effect and will inure to the benefit of and be binding upon the parties and their legal representatives, heirs, successors, and assigns, except that, in the event of early termination by Client prior to receipt of the final Deliverable, the warranties set forth in Paragraph Ten (10) shall be construed as to apply only to the work actually received, acknowledged, and accepted by Client as provided for in this Agreement.

Client Support

1. **Level of Support.** The level of support that the Consultant can provide is dependent upon the cooperation of the Client and the quantity of information that the Client can provide. If the Consultant cannot reproduce a problem or if the Client cannot successfully gather adequate troubleshooting information, the Consultant may need temporary login access to the Client system to identify and address the problem.

2. **Client Responsibility.** The Client shall not distribute the application to any third party. The Client shall not make any modifications to the application. If any fixes are a result on non-authorized Client modifications to the application, this Agreement shall not apply and Client will be billed at the Consultant's standard hourly rate for corrections and time to troubleshoot the application.

Miscellaneous

1. **Force Majeure.** Either party will be excused from delays in performing or from its failure to perform hereunder to the extent that such delays or failures result from causes beyond the reasonable control from such party; provided that, in order to be excused from delay or failure to perform, such party must act diligently to remedy the cause of such delay or failure.

2. **No Agency.** Consultant is not an agent of Client and is being retained only as an independent contractor. Consultant shall have no authority to bind or contract on behalf of Client and Consultant shall, under no circumstances, represent to any third-party that it has such authority to negotiate for or on behalf of Client, or bind Client to any obligation. Additionally, Consultant understands and affirms that any work performed on behalf of Client is being performed as an independent contractor and that no consideration paid to Consultant will be in the form of W-2 wages. Therefore, no withholding of any form of Federal or State income, Social Security or Medicare benefits will be made. Consultant understands that it is responsible for the payment of all such employment taxes, and agrees to hold Client harmless there from.

3. **Multiple Counterparts.** This Agreement may be executed in several counterparts, all of which taken together will constitute one single Agreement between the parties.

4. **Required Approvals.** Where Agreement, approval, acceptance, or consent by either party is required by any provision of this Agreement, such action will not be unreasonably delayed or withheld.

5. **No Waiver.** A delay or omission by either party in exercising any right or power under this Agreement will not be deemed to be a waiver of that right or power. Likewise, a waiver by either party as to any breach, covenant, condition or remedy under this Agreement or its amendments will not be construed to be a waiver of any succeeding breach, covenant, condition or remedy. Unless stated otherwise, all remedies provided for in this Agreement will be cumulative and in addition to and not in lieu of any other remedies available to either party at law in equity or otherwise.

6. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of North Carolina without regard for the choice of law provisions thereof.

7. **Entire Agreement.** This Agreement together with the Supplement A constitutes the entire Agreement between the parties. No change, waiver or discharge hereof will be valid unless it is in writing and is executed by the party against whom such change, waiver or discharge is sought to be enforced.

8. **Notices.** Under this Agreement if one party is required to give notice to the other, such notice will be deemed given if mailed by US Mail, First Class, Postage Prepaid and addressed as written above.

9. **No Assignment.** No assignment or transfer of this Agreement or any obligation incurred hereunder shall be made without the written consent of the other party. In the event of any merger, reorganization, consolidation or sale of all or substantially all the assets of either party, the consent of the other party to the assignment of this Agreement to the new, reorganized, reconstituted, or purchaser entity shall not be unreasonably withheld.

10. **Warranties.**

    i) **Limited Warranty.** Consultant warrants only that it will perform all work in the Supplement A in a professional manner. Due to continuous changes to standards and conventions involved in application development and the common use of numerous different hardware and software platforms, **Client acknowledges that the Deliverable files may not work properly in all possible circumstances** Application will be tested using Microsoft Internet Explorer 11 and the latest versions of Google Chrome and Firefox. Consultant makes no warranty that the application to be maintained under this agreement will work properly other than when viewed with versions of Microsoft Internet Explorer 11.0 and later, the latest version of Firefox, and the latest version of Google Chrome. Any modification to the work performed by Client or any third-party on behalf of Client shall void all warranties, express or implied.

    ii) **Non-infringement Warranty.** Consultant represents and warrants to the best of its knowledge and believes that the application, when properly used as contemplated herein, will not infringe or misappropriate any copyright, trademark, patent, or trade secrets of any third persons. Upon being notified of a claim contrary to such warranty, Consultant shall (i) defend through litigation or obtain through negotiation the right of Client to continue using the application; (ii) reword the application so as to make it non-infringing while preserving the original functionality, or (iii) replace the application with functionally equivalent software. If none of the foregoing alternatives provide an adequate remedy, Client may terminate all or any part of this agreement and recover amounts paid hereunder with respect to the infringing deliverable.

    iii) **Warranty Disclaimer. Except as specifically provided in this section ("Warranties") the Consultant hereby disclaims with respect to all services, software, custom work product or other deliverables provided hereunder, all express and implied warranties, including any implied warranties of merchantability, title, accuracy, integration or fitness for a particular purpose.**

11. **Severability.** If any provision of this Agreement or Scope of Work shall be unlawful, void, or for any reason unenforceable, then that section shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

12. **Limitation of Remedies & Liabilities.** The Party acknowledges that the following provisions has been negotiated by them and reflect a fair allocation of risk.

    Client's sole and exclusive remedies for Consultant's default hereunder shall be (i) to obtain the repair, replacement or correction of the defective application, services or deliverables to the extent warranted under Section 10 ("Warranties") or, if Consultant reasonably determines that such remedy is not economically or technically feasible, (ii) to obtain an equitable partial or full refund of amounts paid with respect to the defective application, services or deliverables.

Consultant shall not be liable for any amount exceeding the total portion of the contract price actually paid by Client. In no event shall either party be liable, whether in contract, tort (including negligence) or otherwise, for any indirect, incidental or consequential damages (including lost savings, lost profit or business interruption even if notified in advance of such possibility) arising out of or pertaining to the subject matter of this agreement.

13. **Miscellaneous.** This document constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other communications, whether written or oral. This agreement may be modified or amended only by a writing signed by the party against whom enforcement is sought. Except as specifically permitted herein, neither this agreement nor any rights or obligations hereunder may be transferred or assigned by either party without the others prior written consent and any attempt to the contrary shall be void. Neither party shall be liable for delays caused by events beyond its reasonable control. Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect. Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions. Headings are for reference purposes only and have not substantive effect.

IN WITNESS WHEREOF, Client and Consultant have caused this Agreement to be signed and delivered by their duly authorized officers, all as of the date first written above.

YADKIN COUNTY

By: LISA L HUGHES

Dated: 6/27/17

INFORMATION, INC.

By: Regula Bradley, CFO

Dated: 4/3/17

Maintenance Hours

Consultant shall provide eight (8) hours of maintenance and application support per application over a twelve (12) month period.

Consultant Method of Contact

The Consultant will provide the following communication mechanisms for the Client to use when asking for support:

(a) Telephone Support. Consultant shall maintain a telephone hotline during regular business hours (8:00am to 5:00pm Monday-Friday EST) to assist Client in reporting errors and in providing first-line support in the use and operation of the software.

(b) Email. Consultant shall make available a designated email address or contact person for application maintenance and support requests.

Timeliness of Incident Resolution

Consultant shall use reasonable effort to provide modifications or additions reported by the Client under the conditions of this Agreement set forth in the Client Support section. Consultant will make reasonable efforts to correct or provide work-around solutions for any errors, and if a work-around is the immediate solution, will make reasonable effort to provide a final resolution of the error. Reasonable effort will be made to respond to any support or maintenance requests within 24 business hours after receiving notice and sufficient information from the Client.

New Releases

The Consultant shall be responsible for providing technical support and correcting errors for the most recent release of the application provided to the Client as specified in the Delivery and Acceptance section of this Agreement.

RFP Number (if applicable): _____

Name of Vendor or Bidder: Information, Inc.
_____

_____

IRAN DIVESTMENT ACT CERTIFICATION
REQUIRED BY N.C.G.S. 143C-6A-5(a)

As of the date listed below, the vendor or bidder listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4.

The undersigned hereby certifies that he or she is authorized by the vendor or bidder listed above to make the foregoing statement.

_Regula Bradley_____   _7/18/16_____
Signature   Date

_Regula Bradley_____   _CFO_____
Printed Name   Title

Notes to persons signing this form:

N.C.G.S. 143C-6A-5(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

* When a bid is submitted
* When a contract is entered into (if the certification was not already made when the vendor made its bid)
* When a contract is renewed or assigned

N.C.G.S. 143C-6A-5(b) requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/iran and will be updated every 180 days.