

**AMERICAN NATIONAL RED CROSS
"CAN TOOLS PORTAL"
IN TEXAS**

**PARTICIPATION AND CONFIDENTIALITY AGREEMENT
FOR EXTERNAL ORGANIZATION**

THIS AGREEMENT ("Agreement") is entered into effective on the Effective Date (as defined below), by and between The American National Red Cross ("**Red Cross**") and the organization that has executed this Agreement below ("**Participant**") (each a "**Party**" and collectively the "**Parties**").

WHEREAS, the Coordinated Assistance Network ("**CAN**") was established as an online database, maintained by the Red Cross, to allow participating organizations to share confidential client data in order to coordinate and streamline disaster relief assistance to clients;

WHEREAS, the Red Cross has established a separate internal Client Assistance System database, the current version of which is known as "**CAS 2.0**";

WHEREAS, many individuals were affected by disasters in Texas in 2016 (the "**Disaster**");

WHEREAS, as a pilot program of a new and separate version of CAN ("**CAN Tools Portal**"), the Red Cross desires to provide certain organizations ("**Participants**", which include without limitation Red Cross and Participant) with certain access to CAS 2.0 to share confidential data ("**Data**") received from or concerning individuals affected by the Disaster (any of which, a "**Client**") in order to coordinate and streamline Disaster relief assistance to Clients;

AND WHEREAS, Participant seeks to coordinate its efforts with other Participants by using CAN Tools Portal to share Client Data for the purpose specified herein;

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

1. Purpose. Participant is entering into this Agreement for the purpose of sharing Client Data with other Participants to coordinate disaster relief services for the Disaster defined above, and for no other disaster. Red Cross will provide Participant with access to CAN Tools Portal in order for Participant to input and access Client Data for such purpose.

2. Confidentiality and Use of Client Data. All Client Data in CAN Tools Portal is confidential. The Parties will treat Client Data as confidential and adhere to the following requirements:

(a) Client consent to share Data. Participant will not input into CAN Tools Portal any Data about a given Client unless that Client has expressly agreed that Participant may share such Data with other organizations, including but not limited to nongovernmental and governmental organizations, for Disaster relief purposes.

(b) Use of Data. Participant will use Client Data only to help determine a Client's Disaster-caused needs and coordinate Disaster relief assistance.

(c) Access to Data. Each Party will restrict internal access to Client Data to its caseworkers who (i) need access to Client Data to perform their job duties and (ii) sign a confidentiality agreement conforming to Exhibit A in all material respects. Participant will provide each of its caseworkers who needs access to Client Data with a separate account for using CAN Tools Portal with a unique user identification and password. At such time that a Participant caseworker no longer works for Participant or no longer needs access to Client Data, Participant will de-activate the CAN Tools Portal account for such caseworker. Participant will at all times maintain appropriate written internal policies and procedures for access to and use of CAN Tools Portal.

Participant: _____

Participant Initials: _____

(d) Disclosure of Data by Participant. Participant will not disclose Client Data to any third party unless the Client consents to disclosure. If Participant receives a request, subpoena, or other demand for Client Data contained in CAN Tools Portal, Participant will promptly refer the request to the Red Cross, which will take appropriate responsive action.

(e) Disclosure of Data by Red Cross. Client Data in CAN Tools Portal is available to other CAN Tools Portal Participants. With the exception of the foregoing, the Red Cross will not disclose Client Data to any third party unless (i) the Client consents to disclosure, (ii) disclosure is compelled by law, or (iii) personally-identifiable information is removed such that the remaining information does not reference and cannot be linked to any particular Client.

(f) Breach of Confidentiality. If Participant learns of any unauthorized access, loss, alteration, theft or corruption of Client Data, Participant will promptly notify the Red Cross and take any appropriate corrective action.

3. Ownership and License

(a) Ownership. Participant acknowledges that CAS 2.0, CAN Tools Portal, and all intellectual property relating directly or indirectly to any of the foregoing, including but not limited to patents, design rights, copyrights, trademarks, service marks, database rights, trade secrets, know-how and all derivative works thereof (collectively, "**Intellectual Property**"), are either owned by or licensed to Red Cross. Participant shall not in any manner attempt to obtain any right, title, or interest, by registration, patent, copyright or otherwise in or to such Intellectual Property or any derivative thereto, and shall not take any action that jeopardizes, limits or interferes with Red Cross' ownership of and/or right to use the Intellectual Property.

(b) Right to Access and Use. Subject to the provisions and limitations in this Agreement, Participant is hereby granted a limited, non-exclusive and non-transferable license to access and use CAN Tools Portal in the United States, including without limitation through the internet.

(c) Restrictions on Access and Use. Participant shall not: (i) cause, permit or authorize the decompilation, modification, disassembly or reverse engineering of CAN Tools Portal, or otherwise discover the services, software and/or technology of CAN Tools Portal, or create derivative works thereof; (ii) allow unauthorized third parties to view, access or use CAN Tools Portal; (iii) sell, assign, rent, transfer, distribute, act as a service bureau, sublicense or otherwise grant rights in CAN Tools Portal to any third person; (iv) use, or allow the use of, CAN Tools Portal in contravention of any federal, state, local, foreign or other applicable laws, rules or regulations; (v) introduce into CAN Tools Portal any virus or other code or routine intended to disrupt, delete, damage, alter, or modify CAN Tools Portal. Inputting and saving Client Data or Participant's internal business data or similar information on CAN Tools Portal will not constitute modification.

(d) Suspension. The Red Cross may suspend Participant's access to and use of CAN Tools Portal at any time based on any reasonable concern the Red Cross may have about such access and use, and will promptly notify Participant in writing. The Red Cross may lift such suspension if and when the Red Cross's concern has been addressed to its satisfaction.

4. Term and Termination.

(a) Term. The term of this Agreement ("**Term**") begins on the date that the Red Cross provides email notification to Participant that Red Cross has received a duly-signed copy of this Agreement ("**Effective Date**"), and remains in effect for one year unless terminated pursuant to Section 4(b) below.

(b) Termination. Either Party may terminate this Agreement at any time: (i) due to breach by the other Party of an obligation under this Agreement, effective immediately upon providing written notice to such other Party, or (ii) without stated cause or for its own convenience, by providing at least thirty (30) days prior written notice to the other Party.

Participant: _____

Participant Initials: _____

(c) **Effect of Expiration or Termination.** Upon the effective date of any expiration or termination of this Agreement: (i) Participant's access to CAN Tools Portal shall discontinue; (ii) Participant shall cease use of CAN Tools Portal; (iii) Participant shall continue to maintain the confidentiality of all Client Data obtained via CAN Tools Portal; and (iv) Participant shall destroy any passwords, security codes, software, documentation, or other materials used to facilitate its access to CAN Tools Portal. Any provisions of this Agreement which by their nature extend beyond its expiration or termination, including but not limited to Sections 3(a), 4(c), 6, 7, 9, 10, and 11, will remain in effect after such expiration or termination.

5. Fee. As of the Effective Date, the Red Cross provides Participant with access to CAN Tools Portal for no fee. The Red Cross reserves the right to later determine and impose a fee on Participant for access to CAN Tools Portal by providing at least ninety (90) days prior written notice before such fee takes effect; if Participant is not interested in continuing to access CAN Tools Portal for such fee, it may terminate this Agreement pursuant to Section 4(b)(ii) before such fee takes effect.

6. Limitation of Liability. In no event shall either Party be liable to the other Party for inaccurate or incomplete data contained in CAN Tools Portal. Neither Red Cross nor its contractors or representatives shall be liable to Participant for any Liability, or for any other damage, loss or injury to Participant, or any other claim or theory of action whatsoever arising out of or related to this Agreement, that individually or collectively exceeds \$25,000.00.

7. Representations and Warranties. Participant represents, warrants, and covenants that it shall comply with all applicable laws rules and regulations, including but not limited to all privacy laws. Participant acknowledges that CAN Tools Portal and any related services are provided "as is" without any warranty, express, implied or otherwise, regarding the security of CAN Tools Portal, the availability of CAN Tools Portal, the accuracy, performance, or the functionality of CAN Tools Portal or any services provided therewith, or any other matter. Notwithstanding anything in this Agreement to the contrary, Red Cross hereby disclaims any warranty of fitness for a particular purpose, quality, merchantability, or non-infringement of third party rights.

8. Publicity. Participant shall not permit or generate any publicity (including without limitation press releases or other public statements), advertising or promotion concerning this Agreement or CAN Tools Portal without the prior written consent of the Red Cross. Participant recognizes that the name, emblem, logo and marks of the Red Cross represent valuable assets and that substantial recognition and goodwill are associated with such assets. Participant shall not use the name, emblem, logo, or marks of the Red Cross without prior written consent for each use.

9. No Assignment. No Party may assign, or otherwise transfer, its rights or delegate its duties or obligations under this Agreement without the prior written consent of the other Party.

10. Notices. Notices shall be provided in writing to the address for the respective Party at its address specified in the signature blocks below. Notices shall be delivered by hand, first-class mail, facsimile transmission, or overnight carrier and shall be deemed effective upon receipt.

11. Force Majeure. Participant understands that in the event of an event beyond the control of Red Cross, including but not limited to, natural or manmade disasters, act of God, war, terrorist event, strike, riot, civil unrest, or any order, regulation, citation, injunction or other action taken or issued by any judicial or regulatory body from any court, government, or agency, Red Cross may not be able to perform its obligations under this Agreement and that CAN Tools Portal may not be accessible or its data up-to-date due to reasons beyond the control and without the fault of Red Cross. As such, Red Cross will be excused, without penalty, from any delay in performance or from failure to perform in accordance with this Agreement, to the extent that such delay or failure results from causes beyond the reasonable control and without fault or negligence of Red Cross.

12. Relationships of the Parties. Red Cross is furnishing the services hereunder as an independent contractor and nothing herein will create any association, partnership or joint venture between the Parties

Participant: _____

Participant Initials: _____

or any employer-employee relationship. Neither Party may act for or on behalf of or in the name of the other Party.

15. General. This Agreement, which includes Exhibit A attached hereto, is the complete and exclusive agreement between the Parties regarding CAN Tools Portal, and it replaces any prior oral or written communications between the Parties with regard thereto. This Agreement may not be modified except in a writing signed by the Parties. This Agreement may be executed in counterparts. Once signed, any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original. If there is a separate written participation agreement between Participant and Red Cross that is in effect as of the Effective Date for the use of CAN, such separate agreement will continue to govern Participant's use of CAN, but will not govern its use of CAN Tools Portal.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered as of the Effective Date.

THE AMERICAN NATIONAL RED CROSS

By: 
Jessica Debalski
Division Disaster State Relations Director
2700 Southwest Freeway
Houston, TX 77098

Date: 11/2/14

Fort Bend County

By: _____
Robert E. Hebert
Fort Bend County Judge
401 Jackson St.
Richmond, TX 77469

Date: _____

Participant: _____

Participant Initials: _____