

## FRAMEWORK AGREEMENT

**THIS FRAMEWORK AGREEMENT** (this “Agreement”) is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **SKILLSOFT (US) LLC**, a Delaware limited liability company, whose address is 7887 E Bellevue Ave Ste 600, Englewood, CO 80111 (the “Contractor”), individually a “Party” and jointly “the Parties.”

### RECITALS

**WHEREAS**, the City awarded this Agreement to the Contractor pursuant to D.R.M.C. Sec. 20-64(a)(3) and the City’s Executive Order 8 for software licensing of the Percipio Compliance Suite.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the recitals set forth above agree as follows:

**1. COORDINATION AND LIAISON:** The Contractor shall fully coordinate all Work under this Agreement with the City’s Chief Information Officer (“CIO”) or other designated personnel of the Department of Technology Services (“Agency” or “TS”).

**2. DEFINITIONS**

**2.1. “City Data”** means all information processed or stored on computers or other electronic media by the City or on the City’s behalf or provided to the Contractor for such processing or storage, as well as any information derived from such information. City Data includes, without limitation: (i) information on paper or other non-electronic media provided to the Contractor for computer processing or storage, or information formerly on electronic media; (ii) information provided to the Contractor by the City, other users, or by other third parties; and (iii) personally identifiable information, confidential or sensitive information, or other regulated data from such users or other third parties, including from the City’s employees.

**2.2. “D(d)ata”** means information, regardless of form, that can be read, transmitted, or processed.

**2.3. “Deliverable(s)”** means a tangible object, or SaaS, that is provided to the City by the Contractor under this Agreement.

**2.4. “Effective Date”** means the date on which this Agreement is approved and signed by the City as shown on the City’s signature page.

**2.5. “Exhibits”** means the exhibits and attachments included with this Agreement.

**2.6. “SaaS”** means a software-as-a-service that the Contractor hosts (directly or indirectly) for the City’s use, subject to the license terms set forth in the **Exhibit D**. For the avoidance of doubt, SaaS does not include Services.

**2.7. “Service(s)”** means the technology related professional services to be performed by the Contractor as set forth in this Agreement and shall include any services or support provided by the Contractor under this Agreement.

**2.8. “Specifications”** refers to such technical and functional specifications SaaS and/or Deliverables included or referenced in an Exhibit.

**2.9. “Subcontractor”** means any third party engaged by the Contractor to aid in performance of the Work.

**2.10. “Task Order”** means a document issued in accordance with this Agreement that specifically describes the Work to be performed.

- 2.11.** “Work” means the SaaS, Services, hardware, or Deliverables provided and/or performed pursuant to this Agreement.
- 3. SOFTWARE AS A SERVICE, SUPPORT, AND SERVICES TO BE PERFORMED:** As the City directs, the Contractor shall diligently undertake, perform, and make available the technology related Work set forth in the Exhibits. The City shall have no liability to compensate the Contractor for Work that is not specifically authorized by this Agreement. The Work shall be provided and performed as stated herein and shall conform to the Specifications. The Contractor is ready, willing, and able to provide the Work required by this Agreement. The Contractor shall faithfully perform any Services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in this Agreement and in accordance with the terms of this Agreement.
- 4. TASK ORDERS FOR ADDITIONAL PRODUCTS AND SERVICES**
- 4.1.** To initiate a Task Order, the City will provide a request to the Contractor describing the general scope and intent of the Work it desires the Contractor to perform under that Task Order. The Contractor shall submit a proposal, which shall include a quote, to the City in response to the City’s request. All Task Orders, signed by the Parties, shall be issued in accordance with this Agreement using the rates contained therein. Each Task Order shall include a detailed scope of Services, level of effort, timeline for completion, rates or fixed fee pricing, and payment schedule, including a “not to exceed” amount, specific to each Task Order. Task Orders shall be construed to be in addition to, supplementary to, and consistent with the provisions of this Agreement. In the event of a conflict between a particular provision of any Task Order and a provision of this Agreement, this Agreement shall take precedence. A Task Order may be amended by the Parties by a written instrument prepared by the Parties jointly and signed by their authorized representatives.
- 4.2.** The City is not required to execute any minimum number of Task Orders under this Agreement, and the City reserves the right to execute Task Orders with the Contractor at its sole discretion. The City shall have no liability to compensate the Contractor for any Work not specifically set forth in this Agreement or a properly executed Task Order. In no event shall a Task Order term extend beyond the Term unless the City has specifically agreed in writing. If this Agreement is terminated for any reason, each Task Order hereunder shall also terminate unless the City has specifically directed otherwise in writing. Task Orders may also be terminated in accordance with this Agreement’s termination provisions. The Contractor agrees to reasonably coordinate its provision of Services with any third party under contract with the City doing work or providing Services which affect the Contractor’s performance.
- 4.3.** The Contractor represents and warrants that all Services under a Task Order will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards; all Services and/or Deliverables will conform to applicable, agreed upon specifications, if any; and, it has the requisite ownership, rights and licenses to perform its obligations under this Agreement fully as contemplated hereby and to grant to the City all rights with respect to any

software and Services free and clear from any and all liens, adverse claims, encumbrances and interests of any third party.

5. **TERM**: This Agreement will commence on May 30, 2025, and will expire, unless sooner terminated, on May 30, 2030 (the “Term”). Subject to the City’s prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term will extend until the work is completed or earlier terminated by the City.

6. **COMPENSATION AND PAYMENT**

**6.1. Fees:** The City shall pay, and the Contractor shall accept as the sole compensation for Services rendered and costs incurred under this Agreement the fees described in the attached Exhibits. Amounts billed may not exceed rates set forth in the Exhibits and will be made in accordance with any agreed upon payment milestones.

**6.2. Reimbursement Expenses:** There are no reimbursable expenses allowed under this Agreement. All the Contractor’s expenses are contained in the budget as described in the Exhibits. The City will not be obligated to pay the Contractor for any other fees, costs, expenses, or charges of any nature that may be incurred and paid by the Contractor in performing their obligations under this Agreement including but not limited to personnel costs, benefits, contract labor, overhead, administrative costs, operating costs, supplies, equipment, and out-of-pocket expenses.

**6.3. Invoicing:** The Contractor must submit an invoice which shall include the City contract number, clear identification of the Work that has been completed or delivered, and other information reasonably requested by the City. Payment on all uncontested amounts shall be made in accordance with the City’s Prompt Payment Ordinance, §§ 20-107, *et seq.*, D.R.M.C, and no Exhibit or order form shall modify the City’s statutory payment provisions.

**6.4. Maximum Contract Amount**

**6.4.1.** Notwithstanding any other provision of this Agreement, the City’s maximum payment obligation will not exceed One Million Five Hundred Sixty-Two Thousand Three Hundred Ninety-Eight Dollars (\$1,562,398.00) (the “Maximum Agreement Amount”). The City is not obligated to execute an Agreement or any amendments for any further Work, including any Services performed by the Contractor beyond that specifically described in the attached Exhibits. Any Work performed beyond those in the attached Exhibits are performed at the Contractor’s risk and without authorization under this Agreement.

**6.4.2.** The City’s payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of this Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. This Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

7. **TAXES, CHARGES AND PENALTIES**: The City shall not be liable for the payment of taxes, late charges, or penalties of any nature other than the compensation stated herein, except for any additional amounts which the City may be required to pay under D.R.M.C. § 20-107 to § 20-115.

**8. STATUS OF CONTRACTOR:** The Contractor is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Contractor nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, or employment relationship between the Parties.

**9. TERMINATION**

- 9.1.** Either Party may terminate this Agreement, and either Party may terminate a product under this Agreement, for the other Party's material breach by written notice specifying in detail the nature of the breach, effective in thirty (30) days unless the other Party first cures such breach, or effective immediately if the breach is not subject to cure.
- 9.2.** The City has the right to terminate this Agreement or a product under this Agreement without cause upon thirty (30) days prior written notice to the Contractor. Nothing gives the Contractor the right to perform under this Agreement beyond the time when its Work becomes unsatisfactory to the City. Notwithstanding anything to the contrary contained in this Agreement, if the City terminates this Agreement without cause, the City shall be under no obligation to make further payment(s) for any remaining subscription years, licensing fees, or support costs as outlined in the attached Exhibits once the then current annual term expires; provide that, the City shall not be entitled to any refund, unless stated otherwise in the Exhibits, for the remainder of the prepaid annual term then in effect at the time of this Agreement's early termination without cause.
- 9.3.** Notwithstanding the preceding paragraph, the City may terminate this Agreement if the Contractor or any of its officers or employees are convicted, plead nolo contendere, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with the Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.
- 9.4.** Upon termination of this Agreement, with or without cause, the Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in this Agreement. Upon The City's request or upon termination, the Contractor shall return to the City all property placed in the Contractor's possession or control pursuant to this Agreement.
- 9.5.** The City is entering into this Agreement to serve the public interest of the City as determined by its governing bodies. If the City fails to appropriate the necessary funding to continue this Agreement, the City, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated for lack of appropriation shall not be equivalent to a City right to terminate for convenience or without cause. This Subsection shall not apply to a termination of this Agreement by the City for a breach of contract by the Contractor. If the City terminates this Agreement for lack of appropriation, the City shall pay the Contractor an amount equal to the percentage of the total reimbursement payable under this Agreement that

corresponds to the percentage of Work satisfactorily delivered or completed and accepted, as determined by the City, less payments previously made.

**10. EXAMINATION OF RECORDS AND AUDITS:** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to the Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Contractor shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under this Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. 20-276.

**11. WHEN RIGHTS AND REMEDIES NOT WAIVED:** In no event shall any action by either Party hereunder constitute or be construed to be a waiver by the other Party of any breach of covenant or default which may then exist on the part of the Party alleged to be in breach, and the non-breaching Party's action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available to that Party with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall be deemed or taken to be a waiver of any other breach.

**12. INSURANCE**

**12.1. General Conditions:** The Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. The Contractor shall keep the required insurance coverage in force at all times during the term of this Agreement, including any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-VIII" or better. The Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

**12.2. Proof of Insurance:** The Contractor shall provide to the City, upon request, a certificate of insurance evidencing compliance with the minimum requirements set forth in this Section 12. The Contractor certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the certificate of insurance. The City's

acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of the Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement.

**12.3. Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), the Contractor and Subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees, and volunteers as additional insured.

**12.4. Waiver of Subrogation:** For all coverages required under this Agreement, with the exception of Professional Liability – if required, the Contractor's insurer shall waive subrogation rights against the City.

**12.5. Subcontractors and Subconsultants:** The Contractor shall confirm and document that all Subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by the Contractor and appropriate to their respective primary business risks considering the nature and scope of services provided.

**12.6. Workers' Compensation and Employer's Liability Insurance:** The Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

**12.7. Commercial General Liability:** The Contractor shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate.

**12.8. Automobile Liability:** The Contractor shall maintain Automobile Liability with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired, and non-owned vehicles used in performing services under this Agreement.

**12.9. Cyber Liability:** The Contractor shall maintain Cyber Liability coverage with minimum limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. If Claims Made, the policy shall be kept in force, or a Tail policy placed, for three (3) years.

**12.10. Technology Errors & Omissions:** The Contractor shall maintain Technology Errors and Omissions insurance including network security, privacy liability and product failure coverage with minimum limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate. The policy shall be kept in force, or a Tail policy placed, for three (3) years.

### **13. DEFENSE AND INDEMNIFICATION**

**13.1.** The Contractor hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims,

judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of the Contractor or its Subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

**13.2.** The Contractor’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. the Contractor’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

**13.3.** The Contractor will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

**13.4.** Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

**13.5.** The Contractor shall indemnify, save, and hold harmless the indemnified parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the indemnified parties in relation to any claim that any Work provided by the Contractor under this Agreement (collectively, “IP Deliverables”), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. The Contractor’s obligations hereunder shall not extend to the combination of any IP Deliverables provided by the Contractor with any other product, system, or method, unless the other product, system, or method is (i) provided by the Contractor or the Contractor’s subsidiaries or affiliates; (ii) specified by the Contractor to work with the IP Deliverables; (iii) reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or (iv) is reasonably expected to be used in combination with the IP Deliverables. In addition, the provisions of this Section 13.5 shall not apply to the extent any Claim arises from or relates to any materials provided to the Contractor by the City, the and Contractor assumes no liability whatsoever for such materials.

**13.6.** The Contractor shall indemnify, save, and hold harmless the indemnified parties against all costs, expenses, claims, damages, liabilities, court awards and other amounts, including attorneys’ fees and related costs, incurred by the indemnified parties in relation to the Contractor’s failure to

conform with §§ 24-85-101, *et seq.*, C.R.S., or the *Accessibility Standards for Individuals with a Disability* as established pursuant to § 24-85-103 (2.5), C.R.S. This indemnification obligation does not extend to the City's generated content using the Contractor's software, including any configuration or customization of the Contractor's software by the City.

**13.7.** This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

**14. LIMITATION OF THE CONTRACTOR'S LIABILITY:** To the extent permitted by law, the liability of the Contractor, its Subcontractors, and their respective personnel to the City for any claims, liabilities, or damages relating to this Agreement shall be limited to damages, including but not limited to direct losses, consequential, special, indirect, incidental, punitive or exemplary loss, loss or unauthorized disclosure of City Data, not to exceed three (3) times the Maximum Agreement Amount payable by the City under this Agreement. No limitation on the Contractor's liability to the City under this Section shall limit or affect: (i) the Contractor's indemnification obligations to the City under this Agreement; (ii) any claims, losses, or damages for which coverage is available under any insurance required under this Agreement; (iii) claims or damages arising out of bodily injury, including death, or damage to tangible property of the City; or (iv) claims or damages resulting from the gross negligence, bad faith, or intentional misconduct of the Contractor or its Subcontractors.

**15. COLORADO GOVERNMENTAL IMMUNITY ACT:** The Parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, *et seq.*, C.R.S.

**16. COMPLIANCE WITH APPLICABLE LAWS AND POLICIES:** The Contractor shall comply with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations, public health orders, and Executive Orders of the City and County of Denver that are applicable to the Contractor's performance hereunder. These laws, regulations, and other authorities are incorporated by reference herein to the extent that they are applicable. Any of the Contractor's personnel visiting the City's facilities will comply with all applicable City policies regarding access to, use of, and conduct within such facilities. The City will provide copies of such policies to the Contractor upon request.

**17. COMPLIANCE WITH DENVER WAGE LAWS:** To the extent applicable to the Contractor's provision of Services hereunder, the Contractor shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City's Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Contractor expressly acknowledges that the Contractor is aware of the requirements of the City's Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Contractor, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

**18. DATA PROTECTION:** The Contractor recognizes and agrees that: (i) City Data is valuable property of the City; (ii) City Data may include Confidential Information, protected or regulated data, and trade

secrets of the City; and (iii) the City has dedicated substantial resources to collecting, managing, protecting, and compiling City Data. The Contractor recognizes and agrees that City Data may contain personally identifiable information or other sensitive information, even if the presence of such information is not labeled or disclosed. If the Contractor receives access to City Data, the Contractor shall comply with all applicable data protection laws, including the Colorado Consumer Protection Act and the Colorado Privacy Act, to the extent applicable. At a minimum, the Contractor shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards necessary and appropriate to ensure compliance with the standards and guidelines applicable to the Contractor's performance under this Agreement. The Contractor shall also comply with the terms and conditions in the attached **Exhibit D**, Information Technology Provisions. Any Exhibit or external term hereto may not waive or modify the Contractor's legal obligations to protect City Data in compliance with applicable law under this Agreement.

**19. SAFEGUARDING PERSONAL INFORMATION:** "PII" means personally identifiable information including, without limitation, any information maintained by the City about an individual that can be used to distinguish or trace an individual's identity, including, but not limited to, first and last name, residence or other physical address, electronic mail address, telephone number, credit card information, an official government-issued driver's license or identification card number, social security number or tax identification number, date and place of birth, mother's maiden name, or biometric records. PII includes, but is not limited to, all information defined as personally identifiable information in §§ 24-73-101, C.R.S. "PII" shall also include "personal information" as defined in § 24-73-103(1)(g), C.R.S. If the Contractor or any of its Subcontractors receives PII under this Agreement, the Contractor shall provide for the security of such PII, in a manner and form acceptable to the City, including, without limitation, non-disclosure requirements, use of appropriate technology, security practices, computer and data access security, data storage and transmission encryption, security inspections, and audits. As applicable, the Contractor shall be a "Third-Party Service Provider" as defined in § 24-73-103(1)(i), C.R.S., and shall maintain security procedures and practices consistent with §§ 24-73-101, *et seq.*, C.R.S. In addition, as set forth in § 28-251, D.R.M.C., the Contractor, including, but not limited to, the Contractor's employees, agents, and Subcontractors, shall not collect or disseminate individually identifiable information about the national origin, immigration, or citizenship status of any person, over and above the extent to which the City is required to collect or disseminate such information in accordance with any federal, state, or local law.

**20. SECURITY BREACH AND REMEDIATION**

**20.1. Security Breach:** If the Contractor becomes aware of a suspected or unauthorized acquisition or disclosure of unencrypted data, in any form, that compromises the security, access, confidentiality, or integrity of City Data (a "Security Breach"), the Contractor shall notify the City in the most expedient time and without unreasonable delay. A Security Breach shall also include, without limitation, (i) attempts to gain unauthorized access to a City system or City Data regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a City system for the processing or storage of data; or (iv) changes to the City's system hardware, firmware, or software characteristics without the City's knowledge,

instruction, or consent. Any oral notice of a Security Breach provided by the Contractor shall be promptly followed by a written notice to the City.

**20.2. Remediation:** The Contractor shall implement and maintain a program for managing actual or suspected Security Breaches. In the event of a Security Breach, the Contractor shall cooperate with the City and law enforcement agencies, when applicable, to investigate and resolve the Security Breach, including, without limitation, providing reasonable assistance to the City in notifying third parties. The Contractor shall provide the City prompt access to such records related to a Security Breach as the City may reasonably request; provided such records will be the Contractor's Confidential Information, and the Contractor will not be required to provide the City with records belonging to, or compromising the security of, its other customers. The provisions of this Subsection do not limit the City's other rights or remedies, if any, resulting from a Security Breach. In addition, unless the Security Breach resulted from the City's sole act or omission, the Contractor shall promptly reimburse the City for reasonable costs, incurred by the City in any investigation, remediation or litigation resulting from any Security Breach, including but not limited to providing notification to third parties whose data was compromised and to regulatory bodies, law-enforcement agencies, or other entities as required by law or contract; establishing and monitoring call center(s), and credit monitoring and/or identity restoration services to assist each person impacted by a Security Breach in such a fashion that, in the City's sole discretion, could lead to identity theft; and the payment of reasonable legal fees and expenses, audit costs, fines and penalties, and other fees imposed by regulatory agencies, courts of law, or contracting partners as a result of the Security Breach attributable to the Contractor or its Subcontractors.

## **21. ACCESSIBILITY AND ADA WEBSITE COMPLIANCE**

**21.1. Compliance:** By July 2024, the Contractor shall comply with, and the Work provided under this Agreement shall be in compliance with, all applicable provisions of §§ 24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established pursuant to Section § 24-85-103 (2.5), C.R.S. (collectively, the "Guidelines"), to the extent required by law. The Contractor shall also conform with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

**21.2. Testing:** The City may require the Contractor's compliance to be determined by a third party selected by the City to attest that the Contractor's has performed all obligations under this Agreement in compliance with §§ 24-85-101, *et seq.*, C.R.S., and the Accessibility Standards for Individuals with a Disability as established pursuant to § 24-85-103 (2.5), C.R.S.

**21.3. Validation and Remediation:** The Contractor agrees to promptly respond to and resolve any instance of noncompliance regarding accessibility in a timely manner and shall remedy any noncompliant Work at no additional cost to the City. If the City reasonably determines accessibility issues exist, the Contractor shall provide a "roadmap" for remedying those deficiencies on a reasonable timeline to be approved by the City. Resolution of reported accessibility issue(s) that may arise shall be addressed as high priority, and failure to make

satisfactory progress towards compliance with the Guidelines, as agreed to in the roadmap, shall constitute a breach of contract and be grounds for termination or non-renewal of this Agreement.

## **22. CONFIDENTIAL INFORMATION**

**22.1.** “Confidential Information” means all information or data, regardless of form, not subject to disclosure under the Colorado Open Records Act, §§ 24-72-201, *et seq.*, C.R.S. (“CORA”), and is marked or identified at the time of disclosure as being confidential, proprietary, or its equivalent. Each of the Parties may disclose (a “Disclosing Party”) or permit the other Party (the “Receiving Party”) access to the Disclosing Party’s Confidential Information in accordance with the following terms. Except as specifically permitted in this Agreement or with the prior express written permission of the Disclosing Party, the Receiving Party shall not: (i) disclose, allow access to, transmit, transfer or otherwise make available any Confidential Information of the Disclosing Party to any third party other than its employees, Subcontractors, agents and consultants that need to know such information to fulfill the purposes of this Agreement, and in the case of non-employees, with whom it has executed a non-disclosure or other agreement which limits the use, reproduction and disclosure of the Confidential Information on terms that afford at least as much protection to the Confidential Information as the provisions of this Agreement; or (ii) use or reproduce the Confidential Information of the Disclosing Party for any reason other than as reasonably necessary to fulfill the purposes of this Agreement. This Agreement does not transfer ownership of Confidential Information or grant a license thereto. The City will retain all right, title, and interest in its Confidential Information.

**22.2.** The Contractor shall provide for the security of Confidential Information and information which may not be marked, but constitutes personally identifiable information or other federally or state regulated information (“Regulated Data”) in accordance with all applicable laws and regulations. If the Contractor receives Regulated Data outside the scope of this Agreement, it shall promptly notify the City.

**22.3.** Disclosed information or data that the Receiving Party can establish: (i) was lawfully in the Receiving Party’s possession before receipt from the Disclosing Party; or (ii) is or becomes a matter of public knowledge through no fault of the Receiving Party; or (iii) was independently developed or discovered by the Receiving Party; or (iv) was received from a third party that was not under an obligation of confidentiality, shall not be considered Confidential Information under this Agreement. The Receiving Party will inform necessary employees, officials, Subcontractors, agents, and officers of the confidentiality obligations under this Agreement, and all requirements and obligations of the Receiving Party under this Agreement shall survive the expiration or earlier termination of this Agreement.

**22.4.** Nothing in this Agreement shall in any way limit the ability of the City to comply with any laws or legal process concerning disclosures by public entities. The Parties understand that all materials exchanged under this Agreement, including Confidential Information, may be subject to CORA. In the event of a request to the City for disclosure of possible confidential materials, the City shall advise the Contractor of such request to give the Contractor the opportunity to object to the disclosure of any of its materials which it marked as, or otherwise asserts is, proprietary or

confidential. If the Contractor objects to disclosure of any of its material, the Contractor shall identify to the City the legal basis under CORA for any right to withhold. In the event of any action or the filing of a lawsuit to compel disclosure, the Contractor agrees to intervene in such action or lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. If the matter is not resolved, the City will tender all material to the court for judicial determination of the issue of disclosure. The Contractor further agrees to defend, indemnify, and save and hold harmless the City, its officers, agents, and employees, from any claim, damages, expense, attorneys' fees, or costs arising out of the Contractor's intervention to protect and assert its claim of privilege against disclosure under this Section.

- 23. ASSIGNMENT; SUBCONTRACTING:** This Agreement may not be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, either Party may assign its rights and obligations under this Agreement, in whole but not in part, without the other Party's permission, to an affiliate or in connection with any merger, consolidation, sale of all or substantially all of such assigning party's assets, or any other similar transaction; provided that the assignee: (i) is not a direct competitor of the non-assigning party; (ii) provides prompt written notice of such assignment to the non-assigning party, including any updates to the notices provision below; (iii) is capable of fully performing the obligations of the assignor under this Agreement; and (iv) agrees to be bound by the terms and conditions of this Agreement. Any purported transfer or assignment in violation of this Section 26 shall be null and void and of no force and effect. In the event of any subcontracting or unauthorized assignment: (i) the Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any subconsultant, Subcontractor, or assign.
- 24. NO THIRD-PARTY BENEFICIARY:** Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in this Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Contractor receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.
- 25. NO AUTHORITY TO BIND CITY TO CONTRACTS:** The Contractor lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.
- 26. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS:** Except for the functional requirements provided in response to a request for proposal and/or any subsequent enhancement of the SOW or other implementation documentation that may be developed after execution of this Agreement, this Agreement is the complete integration of all understandings between the Parties as to the subject matter of this Agreement. No prior, contemporaneous, or subsequent addition, deletion, or other modification has any force or effect, unless embodied in this Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of this Agreement or any written amendment to this Agreement will have any force or effect or bind the City.

- 27. SEVERABILITY:** Except for the provisions of this Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of this Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.
- 28. CONFLICT OF INTEREST:** No employee of the City shall have any personal or beneficial interest in the Services or property described in this Agreement. The Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. § 2-51, *et seq.* or the Charter §§ 1.2.8, 1.2.9, and 1.2.12. The Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. The Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Contractor by placing the Contractor's own interests, or the interests of any party with whom the Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate this Agreement in the event it determines a conflict exists, after it has given the Contractor written notice describing the conflict.
- 29. NOTICES:** All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, electronic mail with read receipt requested, or mailed via United States mail, postage prepaid, if to the Contractor at the aforementioned address, and if to the City at: Chief Information Officer, Denver Technology Services, 201 West Colfax Avenue, Dept. 301, Denver, Colorado 80202; with a copy to: Denver City Attorney's Office, 1437 Bannock St., Room 353, Denver, Colorado 80202. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. If a Party delivers a notice through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by certified or registered mail to the addresses set forth herein. The Parties may designate electronic and substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.
- 30. DISPUTES:** All disputes between the City and the Contractor arising out of or regarding this Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the CIO as defined in this Agreement. In the event of a dispute between the Parties, the Contractor will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.
- 31. GOVERNING LAW; VENUE:** This Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into this Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes

amendments or supplements to same. Venue for any legal action relating to this Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

- 32. NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under this Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.
- 33. LEGAL AUTHORITY:** The Contractor represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate, and official motion, resolution or action passed or taken, to enter into this Agreement. Each person signing and executing this Agreement on behalf of the Contractor represents and warrants that he has been fully authorized by the Contractor to execute this Agreement on behalf of the Contractor and to validly and legally bind the Contractor to all the terms, performances and provisions of this Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either the Contractor or the person signing this Agreement to enter into this Agreement.
- 34. LITIGATION REPORTING:** If the Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect the Contractor's ability to perform its obligations under this Agreement, the Contractor shall, within 10 days after being served, notify the City of such action and deliver copies of such pleading or document, unless protected by law, to the City.
- 35. LICENSES, PERMITS, AND OTHER AUTHORIZATIONS:** The Contractor shall secure, prior to the Term, and shall maintain, at its sole expense, all licenses, certifications, rights, permits, and other authorizations required to perform its obligations under this Agreement. This Section is a material part of this Agreement.
- 36. NO CONSTRUCTION AGAINST DRAFTING PARTY:** The Parties and their respective counsel have had the opportunity to review this Agreement, and this Agreement will not be construed against any party merely because any provisions of this Agreement were prepared by a particular party.
- 37. ORDER OF PRECEDENCE:** In the event of any conflicts between the provisions in the body of this Agreement and the Exhibits, the provisions in the body of this Agreement shall control. For the avoidance of doubt, no subsequent document, order form, invoice, or quote issued by the Contractor to the City shall be binding on the City or take precedence over the terms of the body of this Agreement regardless of any term contained therein to the contrary.
- 38. SURVIVAL OF CERTAIN PROVISIONS:** The terms of this Agreement and any Exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of this Agreement survive this Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Contractor's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that

period. Furthermore, a grant of property or intellectual property rights to the City that by its terms continues for longer than the duration of this Agreement will survive expiration or termination of this Agreement, except termination for the City's breach of its obligations to pay for such property or rights. Promptly after termination or expiration of this Agreement, in whole or in part, the Contractor shall promptly return to the City all City Data and all other information provided by the City in such format as the City may reasonably require and permanently erase all copies thereof.

- 39. INUREMENT:** The rights and obligations of the Parties herein set forth shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns permitted under this Agreement.
- 40. FORCE MAJEURE:** Neither Party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, unreasonable delay of carriers, governmental order or regulation, complete or partial shutdown of manufactures, unreasonable unavailability of equipment or software from suppliers, default of a Subcontractor or vendor (if such default arises out of causes beyond their reasonable control), the actions or omissions of the other Party and/or other substantially similar occurrences beyond the Party's reasonable control ("Excusable Delay"). In the event of any such Excusable Delay, time for performance shall be extended for as may be reasonably necessary to compensate for such delay.
- 41. PARAGRAPH HEADINGS:** The captions and headings set forth herein are for convenience of reference only and shall not be construed to define or limit the terms and provisions hereof.
- 42. CITY EXECUTION OF AGREEMENT:** This Agreement is expressly subject to and shall not be or become effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver.
- 43. ADVERTISING AND PUBLIC DISCLOSURE:** The Contractor shall not include any reference to this Agreement or to Services performed pursuant to this Agreement in any of the Contractor's advertising or public relations materials without first obtaining the City's written approval. Any oral presentation or written materials related to Services performed under this Agreement will be limited to Services that have been accepted by the City. The Contractor shall notify the City in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.
- 44. EXTERNAL TERMS AND CONDITIONS DISCLAIMER:** Notwithstanding anything to the contrary herein, the City shall not be subject to any provision including any terms, conditions, or agreements, and links thereto, appearing on the Contractor's or a Subcontractor's website, forms, or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically incorporated into this Agreement.
- 45. PROHIBITED TERMS:** Any term included in this Agreement that requires the City to indemnify or hold the Contractor harmless; requires the City to agree to binding arbitration; limits the Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be *void ab initio*. All contracts entered into by the City, except for certain intergovernmental agreements, shall be governed by Colorado law notwithstanding any term or condition to the contrary.

- 46. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** To the extent applicable, the Contractor shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring the Contractor from City facilities or participating in City operations.
- 47. COUNTERPARTS OF THIS AGREEMENT:** This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement.
- 48. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** The Contractor consents to the use of electronic signatures by the City. This Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.
- 49. ATTACHED EXHIBITS INCORPORATED:** The following attached exhibits are hereby incorporated into and made a material part of this Agreement: **Exhibit A**, Order Form; **Exhibit B**, Service Level Agreement; **Exhibit C**, Certificate of Insurance; and **Exhibit D**, Information Technology Provisions; and **Exhibit E**, SAAS License Terms.

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**Contract Control Number:** TECHS-202578035-00  
**Contractor Name:** SKILLSOFT US LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

---

**APPROVED AS TO FORM:**

Attorney for the City and County of Denver

By:

---

**REGISTERED AND COUNTERSIGNED:**

By:

---

By:

---

**Contract Control Number:** TECHS-202578035-00  
**Contractor Name:** SKILLSOFT US LLC

Signed by:  
Tom Infantino  
B3B8D8F8A3C541F...

Initial  
Bb

Name: Tom Infantino  
(please print)

Title: SVP Sales  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)



**EXHIBIT A:**  
**ORDER FORM**

This Order Form together with any Exhibits attached hereto which are hereby incorporated by reference (the "Order Form") is effective as of May 30, 2025 (the "Effective Date") by and between Skillsoft (US) LLC ("Skillsoft") and City and County of Denver ("Customer"), and issued in accordance with the terms and conditions and made a part of the Framework Agreement between Skillsoft and City and County of Denver signed contemporaneously with this Order Form (the "Agreement").

**1. LICENSE DETAILS**

START DATE	END DATE	SKILLSOFT PRODUCT	AUTHORIZED AUDIENCE
May 30, 2025	May 29, 2030	Percipio Skillsoft Leadership Development Program	9,000
May 30, 2025	May 29, 2030	Skillsoft Expert 3.0	9,000
May 30, 2025	May 29, 2030	Percipio Compliance Suite Complete	9,000

**DEPLOYMENT METHOD:** Percipio

START DATE	END DATE	SKILLSOFT PRODUCT	AUTHORIZED AUDIENCE
May 30, 2025	May 29, 2026	Percipio Compliance	9,000
May 30, 2025	May 29, 2026	Percipio Compliance Complete	9,000

**DEPLOYMENT METHOD:** Percipio Compliance

START DATE	END DATE	SKILLSOFT PRODUCT	AUTHORIZED AUDIENCE
May 30, 2025	May 29, 2028	Skillsoft Coaching 6 month Subscription (45 minute sessions)	75

**DEPLOYMENT METHOD:** Skillsoft Coaching

START DATE	END DATE	SKILLSOFT PRODUCT	AUTHORIZED AUDIENCE
May 30, 2025	May 29, 2030	Percipio LMS Connector	1 CONNECTOR

**DEPLOYMENT METHOD:** No Deployment Method

**2. LICENSE FEES AND COMMITMENT.** Customer's total commitment hereunder is set forth below and is calculated as follows (the "Commitment Fee"). Applicable state and local taxes are not included in the totals below and will be calculated as of the date of the invoice(s) issued hereunder:

YEAR/TERM	ANNUAL LICENSE FEES
Y1	325,728.77 USD
Y2	325,728.77 USD
Y3	325,728.77 USD
Y4	255,406.07 USD
Y5	255,406.07 USD
<b>TOTAL</b>	<b>1,487,998.45 USD</b>

All fees shall be invoiced annually in advance and are due and payable net 35 days from the date of invoice.

**3. ORDER FORM DEFINITIONS.** Any term not otherwise defined herein shall have the meaning provided it in the Agreement.

- **Authorized Audience** means the number of Licensed Users that may access and use the Skillsoft Product(s) licensed hereunder for the License Term.
- **License Consumption** occurs when a member of the Authorized Audience has accessed the Percipio platform (each such person, a "Licensed User"). Further, once a member of the Authorized Audience has accessed the Percipio platform, that member is considered to have consumed a license for the Skillsoft Product(s) that have been assigned to that member for the remainder of the then current annual License Term. Notwithstanding the foregoing, Skillsoft agrees that licenses for terminated employees of Customer can be exchanged for a new member of the Authorized Audience during an annual term and that usage of the Skillsoft Product(s) by a terminated employee will not count toward Customer's License Consumption. The foregoing sentence applies only to full time, regular employees and shall not apply to contractors or temporary employees of Customer.
- **License Term** means the period of time from the Start Date to the End Date.
- **Licensed User** shall mean an individual employee of Customer based in the Territory who is authorized by Customer to access the Skillsoft Products.
- **Percipio** shall mean a method for the delivery of and access to the Skillsoft Products whereby Skillsoft shall host the Skillsoft Products on Skillsoft servers and Customer may obtain access to the Skillsoft Products. Customer may not customize Percipio. Skillsoft shall provide installation of any maintenance releases and/or new version releases to the Percipio platform at no extra charge to Customer. The timing of such installations will be at Skillsoft's discretion. Skillsoft shall maintain backups



of customer data for a period of not more than ninety (90) days. Skillsoft will provide storage for custom content, at no additional cost, as follows: 200 gigabytes of storage space (Initial Storage Allowance). Customer shall be responsible for monitoring its use of the storage and if Customer exceeds the Initial Storage Allowance, Customer will be charged at the price per gigabyte of \$70.00.

- **Percipio Compliance** means an interface located on Percipio by which Customer shall access all licensed compliance products hosted on Skillsoft's Online Training Academy platform.
- **Percipio Compliance Suite Complete** is a package of assets in the areas of legal compliance and Safety and Health, including but not limited to the Global Code of Conduct and Global Safety Compliance courses, licensed to Customer in US English and any additional languages as set forth in the license table above. Customer acknowledges that for Customer to enable full use of the Global Code of Conduct course and Global Safety Compliance course, customizations are required. In the event that Customer elects to have Skillsoft perform such customizations a mutually agreeable Statement of Work setting forth the work to be performed and the applicable fees shall be executed between the parties. For the purposes of Percipio Compliance Suite Complete, License Consumption occurs when a Licensed User has accessed an asset within Percipio Compliance Suite Complete.
- **Percipio Compliance Complete** is a package of Course Objects in the areas of legal compliance and Safety and Health, including but not limited to the Global Code of Conduct and Global Safety Compliance courses, in accordance with the terms and conditions set forth herein. Customer acknowledges that for Customer to enable full use of the Global Code of Conduct course and Global Safety Compliance course, customizations are required. In the event that Customer elects to have Skillsoft perform such customizations a mutually agreeable Statement of Work setting forth the work to be performed and the applicable fees shall be executed between the parties.
- **Percipio LMS Connector** shall mean access to Percipio and Percipio content whereby Skillsoft shall host the content and Percipio on Skillsoft-managed servers and Customer may obtain access to the content and Percipio via a suite of integration tools on Skillsoft-managed servers through the World Wide Web. Skillsoft will provide the Percipio LMS Connector as it relates to management of content and the Percipio experience including securing server space, installation, maintenance, and allocation of bandwidth. If Customer licenses the Percipio LMS Connector and Skillsoft releases any Updates to the Percipio LMS Connector, those updates will be automatic and may require updates to any Customer systems connected to or using the Percipio LMS Connector. Skillsoft reserves the right to upgrade Customer's version of the Percipio LMS Connector at any time. These upgrades may be conducted during production time.
- **Percipio Skillsoft Leadership Development Program** is a package of selected assets in the area of leadership development, subject to the Authorized Audience level. Skillsoft reserves the right to modify, restrict, or update any content contained in the Skillsoft Leadership Development Program throughout the term of this Order Form.
- **Skillsoft Coaching 6 month Subscription (45 Minute Sessions)** provides (i) access to the Skillsoft Coaching platform, with curated content and an enterprise metrics dashboard; (ii) access to 1-on-1 coaching sessions of up to forty-five (45) minutes each per seat; and (iii) access Skillsoft Coaching 3-Way Coaching Session, licensed for a period commencing upon login into the platform for up to six (6) months or until expiration of the License Term set forth in this Order Form (iv) access to Percipio Skillsoft Leadership Development Program deployed on the Percipio platform. Customer acknowledges that any seats activated with less time than the seat provides will not be credited back for the lost time, and seats not activated on or before the expiration date of the Order Form shall be forfeited; and (v) Customer will not receive a refund of any fees for such forfeited or expired seats. Customer acknowledges that seats can only be reallocated to another user within one month of the originally allocated user's sign in, or at any time if no sessions have been utilized.
- **Skillsoft Coaching 3-Way Coaching Session** is a thirty (30) minute session between the user, coach, and the user's manager.
- **Skillsoft Expert 3.0** is a package of selected assets in the area of business, productivity and collaboration, digital transformation, and technology and developer and a collection of interactive, hands-on practice environments in 15 programming languages across multiple domains. Skillsoft reserves the right to modify, restrict, or update any content contained in Skillsoft Expert 3.0 throughout the term of this Order Form.
- **Territory** shall mean North America, however, if any portion of the Territory is subject to an embargo or other legal restriction imposed on either party, that portion of the Territory shall be deemed excluded from the definition of "Territory".

#### 4. ADDITIONAL TERMS.

**4.1 UPGRADE OPTION.** In the event that Customer wishes to increase the Authorized Audience to the licensed Skillsoft Coaching 6 month Subscription (45 minute sessions), Skillsoft agrees that Customer may add additional seats for the price per seat as set forth in the table below. Upgrades will be memorialized via a new Order Form signed between the parties.

SKILLSOFT PRODUCT(S)	NUMBER OF SEATS	ANNUAL PRICE PER SEAT
Skillsoft Coaching 6 month Subscription (45 minute sessions)	50+ seats	\$1,700.00 per seat
Skillsoft Coaching 6 month Subscription (45 minute sessions)	49 or less seats	\$1,900.00 per seat



**RATIFICATION.** The terms and conditions of the Agreement shall govern the use of the Skillsoft Products provided hereunder.

The authorized representatives of Skillsoft and Customer have executed this Order Form signifying their agreement to its contents.

**SKILLSOFT (US) LLC**

Signed by:

By:   
Tom Infantino  
B3B8D8F8A3C541F...

Name: Tom Infantino

Title: SVP Sales

Date: 4/9/2025

**CITY AND COUNTY OF DENVER**

By:

Name:

Title:

Date:

Initial



IC-2603 | Krajicek

**CUSTOMER INFORMATION EXHIBIT**

BILL TO	City and County of Denver
CONTACT	Patti Rowe
PHONE	(720) 360-7603
E-MAIL	patricia.rowe@denvergov.org
ADDRESS	201 West Colfax Ave
CITY	Denver
STATE	CO
ZIP CODE	US 80202

SHIP TO	City and County of Denver
CONTACT	Patti Rowe
PHONE	(720) 360-7603
E-MAIL	patricia.rowe@denvergov.org
ADDRESS	201 West Colfax Ave
CITY	Denver
STATE	CO
COUNTRY	US
ZIP CODE	80202

## **Exhibit B - PERCIPIO SERVICE LEVEL AND SUPPORT ADDENDUM**

This Addendum applies solely to the Service Level of Percipio provided to Customer by Skillsoft under the Agreement and Skillsoft's Support Process. The terms and conditions of this Addendum are in addition to those of the Agreement, and both the Agreement and this Addendum shall apply; provided, however, that in the event of a conflict between the terms and conditions of the Agreement and those of this Addendum, the latter shall prevail.

1. Definitions. Capitalized terms used but not defined in this Addendum shall have the same meaning as in the Agreement.
- 1.1 "Downtime" shall mean a sustained loss of access Percipio for 20 consecutive minutes due to a failure of Skillsoft to provide service for such period. Downtime shall not include any network unavailability during Skillsoft's scheduled maintenance or issues beyond the control of Skillsoft such as those caused by the: (1) speed of the connection by which the end user is accessing Percipio; (2) memory, configuration, and/or web browsers of the end user workstations from which the end user is accessing Percipio; (3) security systems and/or firewall/proxy servers that end users need to pass through from Customer to the Skillsoft servers; or (4) internet service provider that services the end users.
- 1.2 "Service Credit" shall mean an amount equal to pro-rata monthly license fees for a period of Downtime.
2. Service Level Obligations of Skillsoft.
  - 2.1 Skillsoft agrees that Percipio shall be provided and access to the Skillsoft Products shall be available twenty-four (24) hours per day seven (7) days a week, with Skillsoft's internet service provider guaranteeing 99.5% uptime, during the term of this Agreement unless otherwise stated herein.
  - 2.2 Percipio and the Skillsoft Products will not be available during scheduled maintenance by Skillsoft. Skillsoft's current maintenance schedule is set forth in Section 3.6 below. Skillsoft agrees to notify Customer of any changes to this maintenance schedule. Such notices may be given via email.
  - 2.3 Skillsoft agrees that all Percipio servers are backed up nightly.
  - 2.4 Skillsoft agrees to keep confidential any Customer information relating to Customer's use of Percipio including but not limited to the User IDs, passwords, e-mails addresses, scores, and access and completion records of Users.
  - 2.5 Skillsoft agrees that in the event Customer experiences a Downtime event in excess of two (2) hours, Customer shall be eligible to receive from Skillsoft a Service Credit for such Downtime, calculated from Skillsoft's receipt of notification by Customer that Customer is experiencing Downtime. Upon Customer's request, Skillsoft shall issue a Service Credit within two weeks from resolution of the applicable Downtime event.
  - 2.6 Customer shall report Downtime to Skillsoft's Technical Support Department, through its toll free number. Skillsoft agrees that in the event that Skillsoft discovers or is notified by Customer that Customer is experiencing Downtime, Skillsoft will take action to determine the cause of the Downtime and correct the problem, disruption, or outage, provided the cause is within Skillsoft's control.
  - 2.7 Time to Discover Cause of Downtime; Notification of Customer. Within two (2) hours of discovering or receiving notice of a Downtime event, Skillsoft will determine whether the cause of the Downtime is limited to Skillsoft's (or its subcontractors' or agents') equipment and software providing service to Customer. If Skillsoft determines that Skillsoft's (or its subcontractors' or agents') equipment and software are not the cause of the Downtime, Skillsoft will attempt to determine the cause of the Downtime within an additional two (2) hour period. In any event, Skillsoft will notify Customer of the cause of the Downtime once it has been identified, and provide an estimated time for resolution of the problem for problems related to Skillsoft's (or its subcontractors' or agents') equipment and software. If the cause of and remedy to the Downtime reside outside of Skillsoft's (or its subcontractors' or agents') equipment and software, Skillsoft will use commercially reasonable efforts to notify the party(ies) responsible for the Downtime and cooperate with it/them to resolve such Downtime as soon as possible.
3. Support Process.
  - 3.1 Introduction
 

Skillsoft is pleased to offer Customer access to Skillsoft's Global Customer Service Center, staffed with more than 45 live front line and senior support resources, on a 24x7x365 basis. Customer may choose from a wide array of contact modalities to best suit its service needs, including chat, telephony, e-mail, and self-service. For a complete list of worldwide support contact options, please visit <http://support.skillsoft.com>. In terms of differentiation between contact channels, Skillsoft prioritizes staffing to ensure the promptest response to contacts received via phone and chat and, as such, these vehicles are encouraged for use in reporting high severity or complex issues that require timely resolution.
4. Skillsoft solutions supported:
  - Percipio
  - Skillsoft Library Content

### 3.2 Roles and Responsibilities

#### Skillsoft Customer Support

- Initial receipt of all service requests from Customer
- All level I & II troubleshooting requirements
- Knowledge of Customer's specific support handling instructions (Reference Notes) if these have been provided. **Note:** Company Specific Reference Notes are accessed at the time of Customer contact.
- Interaction with the end user when required to test and confirm issue resolution
- Escalation of issues to Skillsoft Development, Operations, Hosting, or Account Teams where appropriate
- Logging and tracking all service requests
- Creation of reports for Customer user contacts to support upon request

#### Customer

- Compliance with all Skillsoft product requirements
- Submission of appropriate issue details to begin troubleshooting process
- Ability to provide feedback on troubleshooting steps.
- Provide Skillsoft support representative(s) with generated case numbers for all contacts regarding reported user issues

### 3.3 Issue Management

This section describes the problem management processes between Customer and Skillsoft. Technical escalation procedures are described along with management escalation procedures should an issue not be handled in a timely manner.

#### Live Help

The Live Help feature allows users with navigational, usage, and technical questions to connect with a Skillsoft Customer Support Representative in a live forum. In this forum they will receive one-on-one support. Live Help support is available on a 24/7 basis if Customer opts to allow access to this support feature and has an average call time delay response of < 60 seconds.

#### Phone

This option is best for company-specific issues, high-priority issues requiring an immediate response (i.e. Downtime), and for complex issues. Phone support is available on a 24/7 basis to Customer and has an average call time delay response of < 90 seconds.

#### ACD (Automatic Call Distribution)

The caller to Skillsoft Customer Support is presented with a menu of choices using an ACD system. This system allows calls to be routed to individuals with the highest skill sets for that caller's particular question or problem.

The average call time delay response: 90 secs

#### Voice Mails

If Customer calls during a period when all Skillsoft representatives are already engaged, and Customer does not wish to wait in the queue, Customer may leave a voicemail in the Skillsoft Customer Support mailbox. These voicemails are regularly checked throughout the day, and Customer should expect to receive a return call from Skillsoft Customer Support within 2 hours.

The average voicemail response goal: 2 hours.

#### Web Form

There are several ways of accessing the web form:

1. Via the corporate marketing site: <http://support.skillsoft.com/websupport/> and clicking on the "Contact us via our web form" link

2. Via the Technical Support Link within the Skillport product

### **Skillsoft Support Community**

An administrator of an organization can go to the 'Skillsoft Support Community' to submit/manage cases. Please reference this guide for more information on how to use/access the community –

<https://support.skillsoft.com/admin/login/helpguide/Skillsoft%20Support%20Community%20Help%20Guide.pdf>

### **Email**

Customers may e-mail Customer Support at [support@skillsoft.com](mailto:support@skillsoft.com). All e-mail queries to these addresses will receive an automated response to their submission which will include their case number for that particular issue. Subsequently, a Skillsoft representative will provide an initial response to the customer e-mail within 24 hours of receipt of said message.

### **E-mail escalations**

All issues deemed too complex to be resolved efficiently by e-mail correspondence or issues that require handling by an external Skillsoft support entity (i.e. Application Engineers, Development, Operations, Hosting etc.) will be moved to a case for appropriate tracking and escalation (See the ESCALATIONS section of this document for additional details).

Additionally, e-mail requests will be moved to telephone support under the following circumstances:

1. Following a response from Customer indicating that no resolution to the issue was realized after receiving and attempting any of Skillsoft's "broad spectrum" troubleshooting e-mails
2. When the issue has not been resolved after three email exchanges with Customer

The e-mail sent to Customer requesting to move the issue to telephone support will contain all of Skillsoft Customer Support's contact numbers in addition to an offer of a call back if that is deemed more convenient for Customer.

In the event that Customer fails to make contact with Skillsoft Customer Support within one business day, a second attempted e-mail contact will be initiated. If Customer still fails to make contact with Skillsoft Customer Support within one additional business day a final contact will be attempted. This final contact will apprise Customer that Skillsoft hopes Customer's lack of response is due to the issue being resolved, but that Skillsoft Customer Support is ready to assist if required. Customer will be instructed to contact Skillsoft Customer Support quoting its existing case number so that the issue can be reopened if the issue persists. If Customer does not respond to the final contact, the case will be moved to a **CLOSED – NO RESPONSE** status.

### **3.4 Escalations**

#### **Escalation Processes within Support**

If the Skillsoft Customer Support Representative finds that all normal troubleshooting options have been exhausted but have not resolved the issue, he/she will escalate the case to the Customer Service Team Leader group who will route the escalation to the appropriate Level II/III resource within Skillsoft Customer Support:

The Level II/III Support personnel will follow-up with Customer before 5:00PM EST the following business day (average response time 4 hours). Troubleshooting will continue with Customer until such time as the issue is resolved, or until an escalation to an external Skillsoft support resource is required (i.e. Application Engineers, Development, Operations, Hosting, etc.) for further troubleshooting and final resolution.

In the event that Skillsoft's Level II support team is unable to make contact with Customer on first attempt, a voice mail will be left (where possible) which will contain instructions on how to make contact for additional support. If Customer fails to make contact with support within one business day, a second attempted contact will be initiated. If Customer still fails to make contact with support within one additional business day a final contact will be attempted by phone and followed immediately by e-mail. This final contact will apprise Customer that Skillsoft hopes Customer's lack of response is due to the issue being resolved, but that Skillsoft Customer Support is ready to assist if required. Customer will be instructed to contact Skillsoft Customer Support quoting its existing case number so that the issue can be reopened if the issue persists. If Customer does not respond to the final contact, the case will be moved to a **CLOSED – NO RESPONSE** status.

### 3.5 Incident Classification Schema

Skillsoft Customer Support will classify each service request using two qualifiers: Severity and Priority. This classification schema will become the basis for all support processes. The Business Rules on which they are built will be monitored by Skillsoft's CRM system to ensure service levels are enforced and that Skillsoft management is aware of concerns before they escalate.

#### Severity

The Severity of a Service Request is determined by Skillsoft based upon the operational impact on the operation of the relevant applications and the impact to Customer. The Severity is based on objective observations, and its value remains the same throughout the life of the support case, unless circumstances dictate otherwise (such as an issue propagating to multiple customers, or affecting other components of the application not discovered when the issue was first reported).

Severity Level	Definition	Can be set by
S1- Critical	<p>Critical Service Impact</p> <ul style="list-style-type: none"> <li>• One or more organisations cannot access or navigate the site.</li> <li>• One or more organisations cannot access learning Paths.</li> <li>• One or more organisations cannot access content.</li> </ul>	Team Leader +
S2- High	<p>Major Service Impact</p> <ul style="list-style-type: none"> <li>• One or more organisations cannot access part of the site.</li> <li>• One or more organisations cannot launch a subset of content.</li> <li>• A number of end users cannot access/navigate the site.</li> <li>• A number of end users cannot access content.</li> <li>• Core Admin functionality not working, e.g. cannot run a report, cannot assign content, cannot register end users.</li> <li>• An item of content cannot be accessed by end users or is crashing when accessed by end users.</li> <li>• Any other issue that results in a material degradation in the usability, quality or availability of any of the Skillsoft Products.</li> </ul>	Team Leader +
S3- Medium	<p>Minor Service Impact</p> <ul style="list-style-type: none"> <li>• An Admin report is incorrect/inaccurate.</li> <li>• A single end user cannot access the site.</li> <li>• A single end user cannot access any content.</li> <li>• A single end user's progress is incorrect.</li> <li>• An item of content is not tracking progress correctly.</li> </ul>	All
S4- Low	<p>Minor Service Impact – Workaround available</p> <ul style="list-style-type: none"> <li>• Issue where there is a ready workaround.</li> <li>• Typos or grammatical errors in content</li> </ul>	All
S5 – Request / Customer Education	<p>No Impact Design or usability query</p> <ul style="list-style-type: none"> <li>• Enhancement request</li> <li>• Username/Password requests</li> <li>• Navigation or functional query</li> </ul>	All

#### Priority

The Priority of a Service Request is a subjective value that refers to the degree of urgency with which the issue must be resolved. This value drives Skillsoft's internal escalation management process. The Priority of a Service Request changes to appropriately reflect the status of the issue.

**Every Severity level has a corresponding default Priority level**, but Priority allows for some input from human and business needs. Problems with low Severity can easily be assigned a higher Priority should the need arise. For example, if there is a simple typo on

Customer's page, that is Severity 4 because of its low scope -- but if that page is Customer's home page and the typo is in Customer's name, it will be addressed as a Priority 1 problem.

The **default** Priority levels for the various Severity levels are shown below:

Severity level	Default Priority level
S1	P1
S2	P2
S3	P3
S4	P4
S5	P5

In order to change a Priority level from its default level, a business case must be presented and approved through appropriate channels.

The table below provides definitions for the various Priority levels.

Priority level	Definition	Can be set by
P1 – Critical	Priority is so high that issue needs to be addressed <i>immediately</i> .  Examples: <ul style="list-style-type: none"><li>• Issues where effect may cascade and cause Downtime</li><li>• Issues where contract compliance may be at risk</li></ul>	Team Leaders+
P2 – High	Give High Attention  Example: <ul style="list-style-type: none"><li>• Sensitive customer situation</li></ul>	Team Leaders+
P3 – Medium	Normal Queue  Example: <ul style="list-style-type: none"><li>• Day to day issues</li></ul>	All
P4 – Low	Low Priority  <ul style="list-style-type: none"><li>• Can be addressed at a later time</li><li>• Moderate problems that can wait until more important problems are resolved</li></ul>	All
P5 – Waiting/No priority	Waiting/No Priority <ul style="list-style-type: none"><li>• Not in scope of Support</li><li>• Not significant enough to prioritise</li></ul>	All

### 3.6 Customer Notification - Percipio

#### Standard Maintenance

Scheduled Maintenance is scheduled for system regular upgrades, repairs, patches etc. on the following days every week.

- Sundays: From 1-3 PM EST

If the maintenance window needs to be longer, or if the hours are longer than the scheduled time, hosting will send an email to the Server Down Distribution list in advance, and such occurrences must be due to an emergency. This list is comprised of clients who have requested (through their Account Consultant) that they be notified when the site is down for any abnormal length of time. The support team is also on this list so that they may be equipped to handle customer inquiries regarding these unscheduled downtimes.

Additional to maintenance windows, Sprints releases occur every two weeks. During a Sprint deployment, service disruptions may occur.

Skillsoft agrees to notify Customer both in advance and upon release of any major release or new features, including their details.

**Special Maintenance Windows:** is additional downtime in excess of the "Standard Maintenance". Notification for these events will be provided 14 days in advance to customer's contact on record. During the Special Maintenance Window, customer will be presented with a web page stating: "We apologize for this service interruption; your system is currently unavailable for maintenance. Please check back (time will be specified)."

### **Customer Outage Notification**

When an issue is detected by Skillsoft's Percipio monitoring service, it will alert on-call technicians via email and pager.

1. The technician will confirm the nature and impact of the alert.
2. Once a service affecting issue has been confirmed, the technician will alert Skillsoft Customer Support personnel (who cover the entire 24x7x365 spectrum).
3. Within 20 minutes of identification of a service impact issue, Skillsoft Customer Support personnel will trigger a notice to the affected Customer contact(s) on Skillsoft's Outage Notification list. The email will contain the following:
  - When the service interruption is expected to be resolved (if unknown, then a follow-up email will be sent when those timelines have been validated).
  - Cause of service interruption (if unknown then a follow-up email will be sent when the cause of the service interruption has been validated).
  - Service Interruption Status Update Notices.
4. Should a service interruption extend 60 minutes beyond the time of any previous outage notification (unless an alternate update timeframe has been communicated), an update email will be distributed to all relevant parties on the Skillsoft's Outage Notification list, and will contain the following:
  - When the service interruption is expected to be resolved (if unknown, then a follow-up email will be sent when those timelines have been validated).
  - Cause of service interruption (if unknown then a follow-up email will be sent when the cause of the service interruption has been validated).

### **Notice of Service Restoration**

Once the Percipio service interruption has been resolved, the on call Application Engineer will notify Skillsoft Customer Support about the service restoration, and will provide a detailed email description of the cause. Based on that information, an email will be distributed to the relevant parties on Skillsoft's Outage Notification list identifying the following (if available):

- Root cause of outage
- How it was resolved
- Total time of service interruption
- Measures put in place to minimize/prevent future occurrence.

### **Issue Resolution and Causality Follow-up**

If any/all aspects of the outage are not immediately available at the time of the Notice of Service Restoration, an issue resolution and causality follow-up email will be provided to Skillsoft's Outage Notification list as soon as possible once an exhaustive investigation has been completed, the problem has been diagnosed, and a corrective plan has been established.

### **3.7 Additional Customer Support Topics**

#### **Reporting**

Skillsoft Customer Support can provide access to reporting on all Customer issue reports. Customer should contact its Skillsoft Account Team members to obtain this information which will include:

- Company Name
- Contact Name (individual submitting support case)
- Case Number
- Summary of Issue
- Error Category
- Case Status
- Case Type
- Case Severity
- Case Priority
- Date Opened
- Date of Last Update

- Solution of issue (upon case closure)

#### **Customer Specific Information**

In the absence of specific customer handling instructions Skillsoft Support will make the following assumptions: Client's deployment takes on generic/vanilla functionality and meets standards as documented in product manuals and Technical Requirements documentation. Customers who may require non-standard support processes should work directly with their Skillsoft Customer Success Manager to create "Company Specific Reference Notes". A link to these Reference notes will be automatically presented to the Skillsoft support agent once the Company name has been populated within the relevant case. Please bear in mind that this support process should be a relatively simple deviation, or addition, to standard Skillsoft procedures, otherwise it may not prove feasible to implement.



## Exhibit C - CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/15/2025

3/26/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b>	Lockton Companies, LLC DBA Lockton Insurance Brokers, LLC in CA CA license #0F15767 8110 E Union Ave., Ste. 100 Denver CO 80237 denver-certs@lockton.com	<b>CONTACT NAME:</b> PHONE <i>[REDACTED]</i> FAX <i>[REDACTED]</i> NAIC No. <i>[REDACTED]</i> E-MAIL <i>[REDACTED]</i>
		<b>INSURER(S) AFFORDING COVERAGE</b>
<b>INSURED</b> 1540047	INSURER A: Great Northern Insurance Company	20303
	INSURER B: Federal Insurance Company	20281
	INSURER C: Pacific Employers Insurance Company	22748
	INSURER D: Pacific Indemnity Company	20346
	INSURER E: Columbia Casualty Company	31127
	INSURER F: XL Specialty Insurance Company	37885

## COVERAGES

CERTIFICATE NUMBER: 21552910

REVISION NUMBER: XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L SUBR INSD Y/N	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
				7/15/2024	7/15/2025	EACH OCCURRENCE	\$ 1,000,000
A	COMMERCIAL GENERAL LIABILITY  CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y	36012659	7/15/2024	7/15/2025	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
						MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 2,000,000
							\$
	GEN'L AGGREGATE LIMIT APPLIES PER:  X POLICY <input checked="" type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC						
	OTHER:						
A	AUTOMOBILE LIABILITY  ANY AUTO OWNED AUTOS ONLY Hired AUTOS ONLY X Comp/Coll Ded \$ .000	Y	73593729	7/15/2024	7/15/2025	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
						BODILY INJURY (Per person)	\$ XXXXXXXX
						BODILY INJURY (Per accident)	\$ XXXXXXXX
						PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX
							\$ XXXXXXXX
B	UMBRELLA LIAB  EXCESS LIAB	X OCCUR CLAIMS-MADE	79837131	7/15/2024	7/15/2025	EACH OCCURRENCE	\$ 25 000,000
						AGGREGATE	\$ 25 000,000
							\$ XXXXXXXX
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY  ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	71736578 (AOS) 71841109 (12 States)	7/15/2024 7/15/2024	7/15/2025 7/15/2025	X PER STATUTE E.L. EACH ACCIDENT	OTHE- R \$ 1,000,000
D		N/A				E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
E	Cyber Liability - Technology E&O Crime	N N	652350541 ELU198461-24	7/15/2024 7/15/2024	7/15/2025 7/15/2025	Limit: \$10,000,000 Limit: \$5,000,000	
F							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

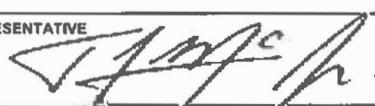
Per Project applies if required by written contract. RE: Contract Number: 202578035.

The City and County of Denver, its elected and appointed officials, employees, and volunteers are included as Additional Insured as respects General, Auto, and Umbrella Liability if required by written contract.

Waiver of Subrogation applies in favor of the Additional Insured as respects General, Auto, and Umbrella Liability, and Workers Comp if required by written contract, where permissible by law.

## CERTIFICATE HOLDER

## CANCELLATION See Attachment

21552910 City and County of Denver Technology Services 201 W. Colfax Ave. Dept. 301 Denver, CO 80202	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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## EXHIBIT D, INFORMATION TECHNOLOGY PROVISIONS

This Exhibit regarding Information Technology Provisions (this “Exhibit”) is a material part of the Agreement between the Parties to which this Exhibit is attached. In addition to the requirements of the main body of this Agreement, the Contractor shall protect the City’s information technology resources and City Data in accordance with this Exhibit. All provisions of this Exhibit that refer to the Contractor shall apply equally to any Subcontractor performing work in connection with this Agreement. Unless the context clearly requires a distinction between the Agreement and this Exhibit, all references to “Agreement” shall include this Exhibit.

### 1. **TECHNOLOGY SERVICES SPECIFICATIONS**

- 1.1. User ID Credentials:** Internal corporate or customer (tenant) user account credentials shall be restricted, ensuring appropriate identity, entitlement, and access management and in accordance with established policies and procedures, as follows:
  - 1.1.1.** Identity trust verification and service-to-service application (API) and information processing interoperability (e.g., SSO and Federation);
  - 1.1.2.** Account credential lifecycle management from instantiation through revocation;
  - 1.1.3.** Account credential and/or identity store minimization or re-use when feasible; and
  - 1.1.4.** Adherence to industry acceptable and/or regulatory compliant authentication, authorization, and accounting (AAA) rules (e.g., strong/multi-factor, expire able, non-shared authentication secrets).
- 1.2. Identity Management:** The City’s Identity and Access Management (“IdM”) system is an integrated infrastructure solution that enables many of the City’s services and online resources to operate more efficiently, effectively, and securely. All new and proposed applications must utilize the authentication and authorization functions and components of IdM. Strong authentication is required for privileged accounts or accounts with access to sensitive information. This technical requirement applies to all solutions regardless of where the application is hosted.
- 1.3. Supported Releases:** The Contractor shall maintain the currency of all third-party software used in the development and execution or use of the Work with third-party vendor approved and supported releases, including, but not limited to, all code libraries, frameworks, components, and other products (e.g., Java JRE, code signing certificates, .NET, jQuery plugins, etc.), whether commercial, free, open-source, or closed-source. This includes any of the Contractor’s controlled systems running on the City’s network, including, but not limited to, any application, firewall, or other type of physical or virtual appliances.
- 1.4. Updates & Upgrades:** During the Term of this Agreement, the Contractor shall provide the City with copies of all new versions, updates, and upgrades of the On-Premise Software (collectively, “Upgrades”), without additional charge, promptly after commercial release. Upon delivery to the City, Upgrades will become part of the On-Premise Software and will be subject to the license and other terms of this Agreement applicable to such On-Premise Software. In addition, the Contractor shall ensure that SaaS receives all updates and upgrades the Contractor provides to its customers generally.

- 1.5. Compatibility with Third-Party Software:** The Contractor acknowledges and agrees that the Work must integrate and operate compatibly with various third-party software products. The Contractor shall actively monitor and stay current on new version releases, updates, and changes made to any such third-party software that interfaces or integrates with the Contractor's Work. The Contractor shall ensure that its own products remain fully compatible with the most recent generally available versions of these third-party software components. Within ninety (90) days of the commercial release of a new generally available version of any interfacing third-party software, the Contractor shall complete all necessary testing, coding, and product updates to certify compatibility with the new version. The Contractor shall provide the updated and version-compatible products to the City at no additional cost. If the Contractor's Work is not compatible with the most current generally available third-party software versions required for operation, the City reserves the right to temporarily cease using the incompatible Work until the compatibility issue is resolved, without penalty or payment for a period of noncompliance. Under no circumstances shall the Contractor require the City to run old, non-current versions of third-party software to remain compatible with the Contractor's Work. The responsibility and costs for ensuring third-party software version compatibility shall reside solely with the Contractor.
- 1.6. Adjustment of Licenses:** The City may, at each anniversary date of this Agreement, increase or decrease the number of licenses it has purchased under this Agreement by giving written notice to the Contractor at least thirty (30) days prior to the anniversary date. The Contractor shall adjust the invoice for the next billing period based on the unit price per license specified in this Agreement. The City shall not reduce the number of licenses below the minimum quantity required under this Agreement.
- 1.7. Timing of Fees and Subscriptions:** Notwithstanding any provision to the contrary: (i) no fees for maintenance of On-Premise Software or SaaS, including without limitation for Upgrades, will accrue before Go-Live (as defined below); and (ii) no period before Go-Live will be counted against the time covered by any maintenance period. In addition, no fees for use of SaaS will accrue before Go-Live, and no period before Go-Live will be counted against the time covered by any SaaS subscription fees. "Go-Live" refers to the earlier of Acceptance of the On-Premise Software or SaaS or the City's first use of the On-Premise Software or SaaS in production, other than a beta use or trial.
- 1.8. Performance Outside of the United States:** The Contractor shall request written approval from the City to perform, or subcontract to perform, Services outside the United States. The City may approve or deny such request within the City's sole discretion. Any notice or term in any Exhibit provided to the City by the Contractor regarding performance outside the United States shall be deemed ineffective and void if the City has not granted prior written approval for such performance. This prohibition shall also apply to using, processing, transmitting, or maintaining City Data outside of the United States. Notwithstanding anything to the contrary contained in the Agreement, the City shall have no responsibility or obligation to comply with foreign data protection laws or policies, including, but not limited to, the General Data Protection Regulation of the European Union.

**1.9. Continuity of Critical Services:** The Contractor acknowledges that the Work to be performed under this Agreement is vital to the City and must be continued without interruption and that, upon this Agreement's expiration without renewal, a successor, either the City or another contractor, may continue them. The Contractor agrees to: (i) furnish phase-in training; and (ii) exercise its best efforts and cooperation to complete an orderly and efficient transition to a successor. The Contractor shall, upon the City's written notice: (i) furnish phase-in, phase-out services for up to sixty (60) days after this Agreement expires; and (ii) negotiate in good faith to determine the nature and extent of phase-in, phase-out services required. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the Work called for by this Agreement are maintained at the required level of proficiency. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after expiration that result from phase-in, phase-out operations) at the rates contained herein. The City shall have the authority extend this Agreement monthly if additional time is required beyond the termination of this Agreement, if necessary, to effectuate the transition, and the City shall pay a proration of the subscription fee during any necessary extension.

**1.10. Software Escrow:** At the City's request, the Contractor shall maintain in escrow a copy of the source code and documentation for the licensed software purchased under this Agreement. With each new release of the software provided to the City, the Contractor shall maintain the updated source code and documentation in escrow. If the Contractor files for bankruptcy, becomes insolvent, or ceases operations for any reason, the City shall be provided the current source code and documentation in escrow. The City will only use the source code and documentation to support the licensed software. This Section shall survive the termination of this Agreement.

## **2. SECURITY AUDITS**

**2.1. Performance of Security Audits:** Prior to the Effective Date of this Agreement, the Contractor, will at its expense conduct or have conducted the following, and thereafter, the Contractor will at its expense conduct or have conducted the following at least once per year, and immediately after any actual or reasonably suspected Security Breach: (i) a SSAE 18/SOC 2 Type 2 or other mutually agreed upon audit of the Contractor's security policies, procedures and controls; (ii) a quarterly external and internal vulnerability scan of the Contractor's systems and facilities, to include public facing websites, that are used in any way to deliver Services under this Agreement. The report must include the vulnerability, age, and remediation plan for all issues identified as critical or high; and (iii) a formal penetration test performed by qualified personnel of the Contractor's systems and facilities that are used in any way to deliver Work under this Agreement. The Contractor will provide the City the results of the above audits. The Contractor shall also protect data against deterioration or degradation of quality and authenticity by, at minimum, having a third party perform annual data integrity audits. In addition, the Contractor shall comply with the City's annual risk assessment and the results thereof.

**2.2. Security Audit Results:** The Contractor will provide the City the reports or other documentation resulting from the above audits, certifications, scans, and tests within seven (7) business days of

the Contractor's receipt of such results. The report must include the vulnerability, age, and remediation plan for all issues identified as critical or high. Based on the results and recommendations of the above audits, the Contractor will, within thirty (30) calendar days of receipt of such results, promptly modify its security measures to meet its obligations under this Agreement and provide the City with written evidence of remediation. The City may require, at the Contractor's expense, that the Contractor perform additional audits and tests, the results of which will be provided to the City within seven (7) business days of Contractor's receipt of such results. To the extent the Contractor controls or maintains information systems used in connection with this Agreement, the Contractor shall provide the City with the results of all security assessment activities when conducted on such information systems, including any code-level vulnerability scans, application-level risk assessments, and other security assessment activities as required by this Agreement or reasonably requested by the City. The Contractor will remediate any vulnerabilities to comply with its obligations hereunder. If additional funds are required to perform the tests required by the City that are not accounted for in this Agreement, the Parties agree to amend this Agreement as necessary.

### **3. DATA MANAGEMENT AND SECURITY**

**3.1. Compliance with Data Protection Laws and Policies:** In addition to the compliance obligations imposed by this Agreement, the Contractor shall comply with all information security and privacy obligations imposed by any federal, state, or local statute or regulation, or by any specifically incorporated industry standards or guidelines, as applicable to the Contractor under this Agreement, including, without limitation, applicable industry standards or guidelines based on the data's classification relevant to the Contractor's performance hereunder. If the Contractor becomes aware that it cannot reasonably comply with the terms or conditions contained herein due to a conflicting law or policy, the Contractor shall promptly notify the City.

**3.2. Data Ownership:** Unless otherwise required by law, the City has exclusive ownership of all City Data under this Agreement, and the Contractor shall have no right, title, or interest in City Data. The Parties recognize and agree that the Contractor is a bailee for hire with respect to City Data. The Contractor's use and possession of City Data is solely on the City's behalf, and the Contractor shall only use City Data solely for the purpose of performing its obligations hereunder and shall not use City Data in the development of machine learning and artificial intelligence models for any purpose without the City's written consent. The City retains the right to access and retrieve City Data stored on the Contractor's infrastructure at any time during the Term. All City Data created and/or processed by the Work, if any, is and shall remain the property of the City and shall in no way become attached to the Work. This Agreement does not give a Party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in this Agreement.

**3.3. Data Access and Integrity:** The Contractor shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards necessary and appropriate to ensure compliance with the applicable law and regulation as they relate to the Contractor's performance hereunder to ensure the security and confidentiality of City Data. The Contractor shall protect

against threats or hazards to the security or integrity of data; protect against unauthorized disclosure, access to, or use of data; restrict access to data as necessary; and ensure the proper and legal use of data. The Contractor shall provide the City with access, subject to the Contractor's reasonable security requirements, for purposes of inspecting and monitoring access and use of City Data and evaluating security control effectiveness. The Contractor shall not engage in "data mining" except as specifically and expressly required by law or authorized in writing by the City. Upon written request, the Contractor shall provide the City its policies and procedures to maintain the confidentiality of City Data.

- 3.4. Response to Legal Orders for City Data:** If the Contractor is required by a court of competent jurisdiction or administrative body to disclose City Data, the Contractor shall first notify the City and, prior to any disclosure, cooperate with the City's reasonable requests in connection with the City's right to intervene, quash, or modify the legal order, demand, or request, and upon request, provide the City with a copy of its response. Upon notice, the City will promptly coordinate with the Contractor regarding the preservation and disposition of any City Data and records relevant to any current or anticipated litigation. If the City receives a subpoena, legal order, or other legal demand seeking data maintained by the Contractor, the City will promptly provide a copy to the Contractor. Upon notice and if required by law, the Contractor shall promptly provide the City with copies of its data required for the City to meet its necessary disclosure obligations.
- 3.5. Mandatory Disclosures:** In addition to the requirements set forth herein, the Contractor shall provide the City with a copy of any disclosure the Contractor is required to file with any regulatory body as a result of a Security Breach or other incident that requires the Contractor to make such a disclosure, including but not limited to, required disclosures mandated by the Securities and Exchange Commission. If the contents of any such disclosure is protected by law, the Contractor shall instead provide the City with prompt notice that it was required to make such a disclosure along with the name of the regulatory body requiring the Contractor to make such a disclosure.
- 3.6. Data Retention, Transfer, Holds, and Destruction:** Using appropriate and reliable storage media, the Contractor shall regularly backup data used in connection with this Agreement and retain such backup copies as necessary to meet its obligations hereunder. All City Data shall be encrypted in transmission, including by web interface, and in storage by an agreed upon National Institute of Standards and Technology ("NIST") approved strong encryption method and standard. Upon the expiration or termination of this Agreement, the Contractor shall, as directed by the City, promptly return all City Data provided by the City to the Contractor, and the copies thereof, to the City or destroy all such City Data and certify to the City that it has done so; however, this requirement shall not apply to the extent the Contractor is required by law to retain copies of certain City Data. The Contractor shall not interrupt or obstruct the City's ability to access and retrieve City Data stored by the Contractor. Unless otherwise required by law or regulation, when paper or electronic documents are no longer needed, the Contractor shall destroy or arrange for the destruction of such documents within its custody or control that contain City Data by shredding, erasing, or otherwise modifying the City Data in the paper or electronic documents to make it unreadable or indecipherable. The Contractor's obligations set forth in this Subsection,

without limitation, apply likewise to the Contractor's successors, including without limitation any trustee in bankruptcy.

- 3.7. Software and Computing Systems:** At its reasonable discretion, the City may prohibit the Contractor from the use of certain software programs, databases, and computing systems with known vulnerabilities to collect, use, process, or store, City Data received under this Agreement. The Contractor shall fully comply with all requirements and conditions, if any, associated with the use of software programs, databases, and computing systems as reasonably directed by the City. The Contractor shall not use funds paid by the City for the acquisition, operation, or maintenance of software in violation of any copyright laws or licensing restrictions. The Contractor shall maintain commercially reasonable network security that, at a minimum, includes network firewalls, intrusion detection/prevention, and enhancements or updates consistent with evolving industry standards. The Contractor shall use industry-standard and up-to-date security tools, technologies and procedures including, but not limited to, anti-virus and anti-malware protections. The Contractor shall ensure that any underlying or integrated software employed under this Agreement is updated on a regular basis and does not pose a security threat. Upon request, the Contractor shall provide a software bill of materials ("SBOM") annually or upon major changes to the solution(s) provided to the City under this Agreement. The Contractor shall provide a complete SBOM for the supported life of the solution(s). The Contractor shall monitor for security vulnerabilities in applicable software components and use a risk-based approach to mitigate any vulnerabilities.
- 3.8. Background Checks:** The Contractor shall ensure that, prior to being granted access to City Data, the Contractor's agents, employees, Subcontractors, volunteers, or assigns who perform work under this Agreement have all undergone and passed all necessary criminal background screenings, have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Agreement and applicable law, and possess all qualifications appropriate to the nature of the employees' duties and the sensitivity of the data. If the Contractor has access to federal tax information ("FTI") under this Agreement, the Contractor shall comply with the background check requirements of IRS Publication 1075.
- 3.9. Subcontractors:** If the Contractor engages a Subcontractor under this Agreement, the Contractor shall ensure its Subcontractors are subject to data protection terms that provide at least the same level of data protection as in this Agreement and to the extent appropriate to the nature of the Work provided. The Contractor shall monitor the compliance with such obligations and remain responsible for its Subcontractor's compliance with the obligations of this Agreement and for any of its Subcontractors acts or omissions that cause the Contractor to breach any of its obligations under this Agreement. Unless the Contractor provides its own security protection for the information it discloses to a third party, the Contractor shall require the third party to implement and maintain reasonable security procedures and practices that are appropriate to the nature of the City Data disclosed and that are reasonably designed to protect it from unauthorized access, use, modification, disclosure, or destruction. Any term or condition within this Agreement relating to the protection and confidentiality of any disclosed data shall apply equally to both the Contractor

and any of its Subcontractors, agents, assigns, employees, or volunteers. Upon request, the Contractor shall provide the City copies of its record retention, data privacy, and information security policies. The Contractor shall ensure all Subcontractors sign, or have signed, agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force so long as the Subcontractor has access to any data disclosed under this Agreement. Upon request, the Contractor shall provide copies of those signed nondisclosure agreements to the City.

**3.10. Request for Additional Protections and Survival:** In addition to the terms contained herein, the City may reasonably request that the Contractor protect the confidentiality of certain City Data to ensure compliance with applicable law and any changes thereto. Unless a request for additional protections is mandated by a change in law, the Contractor may reasonably decline the City's request to provide additional protections. If such a request requires the Contractor to take steps beyond those contained herein, the Contractor shall notify the City with the anticipated cost of compliance, and the City may thereafter, in its sole discretion, direct the Contractor to comply with the request at the City's expense; provided, however, that any increase in costs that would increase the Maximum Contract Amount must first be memorialized in a written amendment complying with City procedures. Obligations contained in this Agreement relating to the protection and confidentiality of any disclosed data shall survive termination of this Agreement, and the Contractor shall continue to safeguard all data for so long as the data remains confidential or protected and in the Contractor's possession or control.

#### **4. DISASTER RECOVERY AND CONTINUITY**

**4.1.** The Contractor shall maintain a continuous and uninterrupted business continuity and disaster recovery program with respect to the Work provided under this Agreement. The program shall be designed, in the event of a significant business disruption affecting the Contractor, to provide the necessary and sufficient capabilities, processes, and procedures to enable the Contractor to resume and continue to perform its duties and obligations under this Agreement without undue delay or disruption. In the event of equipment failures, the Contractor shall, at no additional expense to the City, take reasonable steps to minimize service interruptions, including using any back-up facilities where appropriate. Upon request, the Contractor shall provide the City with a copy of its disaster recovery plan and procedures.

**4.2.** Prior to the Effective Date of this Agreement, the Contractor shall, at its own expense, conduct or have conducted the following, and thereafter, the Contractor will, at its own expense, conduct or have conducted the following at least once per year:

**4.2.1.** A test of the operability, sufficiency, and completeness of business continuity and disaster recovery program's capabilities, processes, and procedures that are necessary to resume and continue to perform its duties and obligations under this Agreement.

**4.2.2.** Based upon the results and subsequent recommendations of the testing above, the Contractor will, within thirty (30) calendar days of receipt of such results and recommendations, promptly modify its capabilities, processes, and procedures to meet its obligations under this Agreement and provide City with written evidence of remediation.

- 4.2.3.** Upon request, the Contractor shall provide the City with report summaries or other documentation resulting from above testing of any business continuity and disaster recovery procedures regarding the Services provided under this Agreement.
  - 4.3.** The Contractor represents that it is capable, willing, and able to provide the necessary and sufficient business continuity and disaster recovery capabilities and functions that are appropriate for it to provide services under this Agreement.

## **5. DELIVERY AND ACCEPTANCE**

- 5.1. Acceptance & Rejection:** Deliverables will be considered accepted (“Acceptance”) only when the City provides the Contractor affirmative written notice of acceptance that such Deliverable has been accepted by the City. Such communication shall be provided within a reasonable time from the delivery of the Deliverable and shall not be unreasonably delayed or withheld. Acceptance by the City shall be final, except in cases of Contractor’s failure to conduct proper quality assurance, latent defects that could not reasonably have been detected upon delivery, or the Contractor’s gross negligence or willful misconduct. The City may reject a Deliverable if it materially deviates from its specifications and requirements listed in this Agreement or its Exhibits by written notice setting forth the nature of such deviation. In the event of such rejection, the Contractor shall correct the deviation, at its sole expense, and redeliver the Deliverable within fifteen (15) days. After redelivery, the Parties shall again follow the acceptance procedures set forth herein. If any Deliverable does not perform to the City’s satisfaction, the City reserves the right to repudiate acceptance. If the City ultimately rejects a Deliverable, or repudiates acceptance of it, the Contractor will refund to the City all fees paid, if any, by the City with respect to any rejected Deliverable. Acceptance shall not relieve the Contractor from its responsibility under any representation or warranty contained in this Agreement, and payment of an invoice prior to Acceptance does not grant a waiver of any representation or warranty made by the Contractor.

- 5.2. Quality Assurance:** The Contractor shall provide and maintain a quality assurance system acceptable to the City for Deliverables under this Agreement and shall provide to the City only such Deliverables that have been inspected and found to conform to the specifications identified in this Agreement and any applicable solicitation, bid, offer, or proposal from which this Agreement results. The Contractor’s delivery of any Deliverables to the City shall constitute certification that any Deliverables have been determined to conform to the applicable specifications, and the Contractor shall make records of such quality assurance available to the City upon request.

## **6. WARRANTIES AND REPRESENTATIONS**

- 6.1.** Notwithstanding the acceptance of any Work, or the payment of any invoice for such Work, the Contractor warrants that any Work provided by the Contractor under this Agreement shall be free from material defects and shall function as intended and in material accordance with the applicable Specifications. The Contractor warrants that any Work, and any media used to distribute it, shall be, at the time of delivery, free from any harmful or malicious code, including without limitation viruses, malware, spyware, ransomware, or other similar function or technological means designed to disrupt, interfere with, or damage the normal operation of the

Work and the use of City resources and systems. The Contractor's warranties under this Section shall apply to any defects or material nonconformities discovered within 180 days following delivery of any Work.

- 6.2.** Upon notice of any defect or material nonconformity, the Contractor shall submit to the City in writing within 10 business days of the notice one or more recommendations for corrective action with sufficient documentation for the City to ascertain the feasibility, risks, and impacts of each recommendation. The City's remedy for such defect or material non-conformity shall be:

  - 6.2.1.** The Contractor shall re-perform, repair, or replace such Work in accordance with any recommendation chosen by the City. The Contractor shall deliver, at no additional cost to the City, all documentation required under this Agreement as applicable to the corrected Work or Deliverable; or
  - 6.2.2.** The Contractor shall refund to the City all amounts paid for such Work, as well as pay to the City any additional amounts reasonably necessary for the City to procure alternative goods or services of substantially equivalent capability, function, and performance.
- 6.3.** Any Work delivered to the City as a remedy under this Section shall be subject to the same quality assurance, acceptance, and warranty requirements as the original Work. The duration of the warranty for any replacement or corrected Work shall run from the date of the corrected or replacement Work.
- 6.4. Customization Services:** The Contractor warrants that it will perform all customization services, if any, in a professional and workmanlike manner. In case of breach of the warranty of the preceding sentence, the Contractor, at its own expense, shall promptly re-perform the customization services in question or provide a full refund for all nonconforming customization services.
- 6.5. Third-Party Warranties and Indemnities:** The Contractor will assign to the City all third-party warranties and indemnities that the Contractor receives in connection with any Work or Deliverables provided to the City. To the extent that the Contractor is not permitted to assign any warranties or indemnities through to the City, the Contractor agrees to specifically identify and enforce those warranties and indemnities on behalf of the City to the extent the Contractor is permitted to do so under the terms of the applicable third-party agreements.
- 6.6. Intellectual Property Rights in the Software:** The Contractor warrants that it is the owner of all Deliverables, and of each and every component thereof, or the recipient of a valid license thereto, and that it has and will maintain the full power and authority to grant the intellectual property rights to the Deliverables in this Agreement without the further consent of any third party and without conditions or requirements not set forth in this Agreement. In the event of a breach of the warranty in this Section, the Contractor, at its own expense, shall promptly take the following actions: (i) secure for the City the right to continue using the Deliverable as intended; (ii) replace or modify the Deliverable to make it non-infringing, provided such modification or replacement will not materially degrade any functionality as stated in this Agreement; or (iii) refund 100% of the fee paid for the Deliverable for every month remaining in the Term, in which case the Contractor may terminate any or all of the City's licenses to the infringing Deliverable granted in

this Agreement and require return or destruction of copies thereof. The Contractor also warrants that there are no pending or threatened lawsuits, claims, disputes, or actions: (i) alleging that any of the Work or Deliverables infringes, violates, or misappropriates any third-party rights; or (ii) adversely affecting any Deliverables or Services, or the Contractor's ability to perform its obligations hereunder.

**6.7. Disabling Code:** The Work will contain no malicious or disabling code that is intended to damage, destroy, or destructively alter software, hardware, systems, or data. The Contractor represents, warrants and agrees that the City will not receive from the Contractor any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design, or other malicious, illicit or similar unrequested code, including surveillance software or routines which may, or is designed to, permit access by any person, or on its own, to erase, or otherwise harm or modify any City system, resources, or data (a "Disabling Code"). In the event a Disabling Code is identified, the Contractor shall take all steps necessary, at no additional cost to the City, to: (i) restore and/or reconstruct all data lost by the City as a result of a Disabling Code; (ii) furnish to City a corrected version of the Work or Deliverables without the presence of a Disabling Code; and, (iii) as needed, re-implement the Work or Deliverable at no additional cost to the City. This warranty shall remain in full force and effect during the Term.

## **7. PAYMENT CARD INDUSTRY DATA SECURITY STANDARD COMPLIANCE**

**7.1.** If the Contractor is directly involved in the processing, storage, or transmission of cardholder data on behalf of the City as part of this Agreement, this Section shall apply. Any contractor who provides or has access to software, systems, hardware, or devices which process and/or interact with payment card information or payment cardholder data must be compliant with the current version of the Payment Card Industry Data Security Standard (PCI DSS).

**7.2.** The Contractor covenants and agrees to comply with Visa's Cardholder Information Security Program (CISP), MasterCard's Site Data Protection Rules (SDP), and with all other credit card association or National Automated Clearing House Association (NACHA) rules or rules of member organizations ("Association"), and further covenants and agrees to maintain compliance with the PCI DSS, SDP, and (where applicable) the Payment Application Data Security Standard (PA-DSS) (collectively, the "Security Guidelines"). The Contractor represents and warrants that all of the hardware and software components utilized for the City or used under this Agreement is now and will be PCI DSS compliant during the term of this Agreement. All service providers that the Contractor uses under this Agreement must be recognized by Visa as PCI DSS compliant. The Contractor further agrees to exercise reasonable due diligence to ensure that all of its service providers (as defined by the PCI Security Council), agents, business partners, contractors, Subcontractors, and any third party who may have access to credit card information under this Agreement maintain compliance with the Security Guidelines and comply in full with the terms and conditions set out in this Section. The Contractor further certifies that the equipment, as described herein, will be deployed in a manner that meets or exceeds the PA DSS and/or PCI certification and will be deployed on a network that meets or exceeds PCI standards. The Contractor shall demonstrate its compliance with PCI DSS by annually providing the City an

executed Attestation of Compliance (AOC). The Contractor must provide verification to the City, prior to start up and ongoing annually during the term of this Agreement, that all modules of the Contractor's system(s) that interface with or utilize credit card information in any manner or form of collection are PCI DSS compliant. If the Contractor is a service provider involved in the processing, storage or transmission of cardholder data or sensitive authentication data (collectively "Data Handling") on behalf of the City that would result in Data Handling being included in the City's PCI scope through connected software or components, then the Contractor must provide a PCI Responsibility Matrix ("Matrix") to be attached to this Agreement as an exhibit. The Matrix must identify where responsibility resides for each PCI control requirement, whether it be with the Contractor, the City or shared by both. Any PCI control requirements that do not apply should be indicated along with any pertinent notes.

- 7.3.** The Contractor shall not retain or store CAV2/CVC2/CVV2/CID or such data prohibited by PCI DSS subsequent to authorization of a credit card transaction, shall prohibit disclosure of any and all cardholder information, and in the event of a compromise of credit card information of any kind, the Contractor shall notify the City in writing consistent with the Security Breach response notification requirements of this Agreement, and shall provide, at the Contractor's sole expense, all necessary and appropriate notification to parties and persons affected by such disclosure and compromise.
- 7.4.** If any Association requires an audit of the Contractor or any of the Contractor's Service Providers, agents, business partners, contractors, or Subcontractors due to a data security compromise event related to this Agreement, the Contractor agrees to cooperate with such audit. If as a result of an audit of the City it is determined that any loss of information is attributable to the Contractor, the Contractor shall pay the City's reasonable costs relating to such audit, including attorney's fees. No review, approval, or audit by the City shall relieve the Contractor from liability under this Section or under other provisions of this Agreement.
- 7.5.** The Contractor is solely responsible for its PCI DSS compliance. The Contractor shall ensure that all PCI DSS vendors comply with PCI DSS standards: (i) in providing Services or Deliverables to the City under this Agreement; (ii) in storing, processing, or transmitting PCI data; and (iii) in engaging in any other activities for any purpose relating to this Agreement. As between the Contractor and the City, the Contractor shall be responsible for a PCI DSS vendor's non-compliance with PCI DSS.
- 7.6.** In addition to all other defense and indemnity obligations undertaken by the Contractor under this Agreement, the Contractor, to the extent that its performance of this Agreement includes the allowance or utilization by members of the public of credit cards to pay monetary obligations to the City or the Contractor, or includes the utilization, processing, transmittal and/or storage of credit card data by the Contractor, shall defend, release, indemnify and save and hold harmless the City against any and all fines, penalties, assessments, costs, damages or other financial obligations, however denominated, assessed against the City and/or the Contractor by credit card company(s), financial institution(s) or by the National Automated Clearing House Association (NACHA) or successor or related entity, including but not limited to, any credit card company

fines, regardless of whether considered to be consequential, special, incidental or punitive damages, costs of notifying parties and persons affected by credit card information disclosure, the cost of replacing active credit cards, and any losses associated with fraudulent transaction(s) occurring after a security breach or loss of information with respect to credit card information, and shall defend, release, indemnify, and save and hold harmless the City from any and all claims, demands, suits, actions, liabilities, causes of action or legal or equitable proceedings of any kind or nature, of or by anyone whomsoever, in any way affected by such credit card data or utilizing a credit card in the performance by the Contractor of this Agreement. In furtherance of this, the Contractor covenants to defend and indemnify the City and the Contractor shall maintain compliance with PCI DSS and with all other requirements and obligations related to credit card data or utilization set out in this Agreement.

## **8. LICENSE OR USE AUDIT RIGHTS**

- 8.1.** To the extent that the Contractor, through this Agreement or otherwise as related to the subject matter of this Agreement, has granted to the City any license or otherwise limited permission to use any of the Contractor's intellectual property, the terms of this Section shall apply.
- 8.2.** The Contractor shall have the right, at any time during and throughout the Term, but not more than once per year, to request via written notice in accordance with the notice provisions of this Agreement that the City audit its use of and certify as to its compliance with any applicable license or use restrictions and limitations contained in this Agreement (an "Audit Request"). The Audit Request shall specify the period to be covered by the audit, which shall not include any time covered by a previous audit. The City shall complete the audit and provide certification of its compliance to the Contractor ("Audit Certification") within a reasonable amount of time following the City's receipt of the Audit Request.
- 8.3.** If upon receipt of the City's Audit Certification, the Parties reasonably determine that: (i) the City's use of licenses, use of software, use of programs, or any other use during the audit period exceeded the use restrictions and limitations contained in this Agreement ("Overuse"), and (ii) the City would have been or is then required to purchase additional maintenance and/or services ("Maintenance"), the Contractor shall provide written notice to the City in accordance with the notice provisions of this Agreement identifying any Overuse or required Maintenance and request that the City bring its use into compliance with such use restrictions and limitations.

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**EXHIBIT E**  
**SAAS LICENSE TERMS**

**1. Definitions**

1.1 “Documentation” means all technical documentation, course descriptions, manuals, and specifications with respect to the Contractor Product(s) that are generally made available by Contractor with the Contractor Product(s). Contractor reserves the right to revise the Documentation from time to time, in its sole discretion, but such revisions shall be solely for the purpose of updating technical information related to the Contractor Products, and shall not reduce the functionality of the Contractor Products.

1.2 “Licensed User” shall have the meaning set forth in the applicable Task Order.

1.3 “Contractor Product(s)” means the Contractor products and services, identified on Task Order(s) issued under this Agreement.

1.4 “Contractor Property” means the Contractor Product(s) and Contractor’s web site architecture and content thereof including, but not limited to, the Intellectual Property Rights inherent therein and/or appurtenant thereto and any copies made as authorized under this Agreement.

**2. License Terms.**

2.1 License Grant. Subject to the restrictions stated in this Agreement and any Task Order issued under this Agreement, Contractor grants to City, and City accepts, a non-exclusive, non-transferable license (without the right to sublicense) for the License Term (as defined in the applicable Task Order), to access and use and to allow the applicable Licensed Users to access and use the Contractor Product(s) set forth therein for City’s internal training purposes only. City shall limit the use of the Contractor Product(s) to the number of Licensed Users for whom City has paid the required license fees.

2.2 Reservation of Rights. All Contractor Products are the property of Contractor and/or its third party licensors and are protected by copyright and other laws relating to proprietary rights. Except for the limited license rights granted to City pursuant to this Section 2, the terms of this Agreement do not convey any ownership or other rights of any kind to City in or to the Contractor Property. Contractor and its licensors have and shall retain all right, title, and interest in and to the Contractor Property. Contractor reserves all rights not expressly granted to City herein. Further, City shall keep the Contractor Property free and clear of all claims, security interests, liens, and encumbrances.

2.3 City Restrictions. Except as may otherwise be permitted in this Agreement, City shall not (a) reproduce, publish, display, distribute, sell, sublicense, transfer, rent, lease, broadcast, timeshare, loan, disclose, or otherwise make available the Contractor Property, or any part thereof, to any third party; (b) reverse engineer, disassemble, decompile, or otherwise attempt to derive source code from the Contractor Property, or any part thereof; (c) modify, translate, adapt, alter, or create derivative works (as defined under the United States copyright laws) based upon the Contractor Property or any part thereof; (d) remove any proprietary notices, labels, trademarks, or service marks on any Contractor Property; (e) merge the Contractor Property, or any component thereof, with another program (unless otherwise authorized pursuant to a specific deployment method identified in an Task Order, or as otherwise permitted by the Documentation); (f) use the Contractor Property, or any component thereof, for any purposes other than those explicitly stated in this Agreement; (g) have any right to any source code for the Contractor Property (h) permit any party not specifically licensed herein to use the Contractor Property; or (i) use download functionality enhancement tools. City further agrees that City is solely responsible for the content of all visual, written, or audible communications made by City or the Licensed Users using the Contractor Product(s). Although Contractor is not responsible for any such communications, Contractor may delete any such communications at any time should Contractor become aware of a communication that is

unlawful, would constitute a criminal offense, or give rise to civil liability. In the event of the foregoing, Contractor will provide prompt notice of such deletion to City, which notice may be provided electronically.

**2.4 City's Responsibility for Allowing Access.** City acknowledges that all of the restrictions on access to and use of the Contractor Property contained in this Section 2 and elsewhere in this Agreement apply to the Licensed Users. City will take all necessary steps to ensure compliance of the Licensed Users therewith, and City will be liable to Contractor for any violations of this Agreement by any employee, or agent of City whether or not such individual was a Licensed User.

**2.5 City Obligations.** City shall: (a) not swap or share the login identifications or passwords ("Logins") used to access the Contractor Products and associated with any Licensed User under any circumstance; (b) not use the provided storage to store any information that is extraneous to or unnecessary for the operation or legitimate use of the Contractor Product(s); (c) not use the user-defined fields to store sensitive personally identifiable information; (d) notify Contractor immediately of any unauthorized use of any Logins used to access the Contractor Products or any other known or suspected breach of security; (e) report to Contractor immediately and use reasonable efforts to stop immediately any copying or distribution of content that is known or suspected by City to be infringing or unlawful; (f) notify Contractor promptly if the number of users exceeds the number of Licensed Users set forth in an Task Order is exceeded; and (g) pursuant to Section 2.8, promptly (i) execute any amendments or Task Orders necessary to memorialize such excess and (ii) pay fees associated with such excess.

**2.6 Usage Records.** Contractor shall have the right during the License Term and for six (6) months after the termination or expiration of this Agreement to examine Contractor's own records in order to audit City's access to and usage of the Contractor Product(s) to verify compliance with this Agreement.

**2.7 Usage Reports.** If the Contractor Products licensed herein are deployed outside of Contractor's platform, City agrees that, if requested by Contractor, City will provide a usage report to Contractor ("Usage Report"). The Usage Report shall include details of all users of the Contractor Products. The purpose of the Usage Report shall be to show the number of users that accessed the Contractor Products in the preceding month.

**2.8 Overages.** If any Usage Report or audit reveals that City's use of the Contractor Products exceeds the permitted Licensed Users for such product, then Contractor shall notify City in writing of such excess (an "Overage"). City will promptly execute any amendments or Task Orders necessary to memorialize such excess. City shall pay Contractor for such Overage in accordance with the payment terms set forth in Section 4.1.

**2.9 Updates.** During the License Term, City shall receive any corrections, enhancements, or other modifications as made commercially available to all Contractor Citys licensing the same Contractor Products.

**2.10 Contractor Site Shut Down and Return/Deletion of City Data and City Content.** Effective thirty (30) days after the termination or expiration of this Agreement, Contractor shall have the right to shut down any and all City-specific Contractor site(s). Prior to the termination or expiration of this Agreement, City may use its administrative account(s) to access reports, other City Data, and download copies of City Content. If City requests any additional formatting or other work involving City Data or City Content, such work shall be subject to an additional fee at Contractor's then-current rates. After the aforesaid 30-day period, Contractor shall have no obligation to maintain or provide any City Data or City Content and shall thereafter, unless legally prohibited, delete all City Data or City Content in its systems or otherwise in its possession or under its control, in accordance with Contractor's internal policies. Contractor will not provide additional formatting of, or other work regarding, City Data unless all amounts due and owing, including any Commitment Fees, Overage fees, or any other fee or charge associated with City's use of the Contractor Products and/or services, have been paid by City.

**2.11 Disabling a Licensed User.** Notwithstanding the foregoing, in order to protect the intellectual property rights of Contractor and its licensors, Contractor may disable any individual's access to the Contractor Product(s)

immediately if, in Contractor's sole discretion, such individual's use of the Contractor Product(s) violates the terms and conditions of this Agreement or any Task Order issued under this Agreement.

### 3. Warranty

**3.1 Substantial Conformance.** Contractor warrants that it will provide the Contractor Product(s) in accordance with industry standard practices. During the term of an Task Order executed under this Agreement the Contractor Product(s) will substantially conform to the Documentation. In the event that a material defect is identified and documented by City, and confirmed by Contractor, then Contractor, at its sole option and expense may: (i) make reasonable efforts to correct defects in the Contractor Product(s); or (ii) replace the defective Contractor Product(s); or (iii) if Contractor deems neither of the foregoing are commercially practicable, terminate the license granted herein with respect to the applicable Contractor Product(s), accept return of the defective Contractor Product(s) in accordance with Section 3.5 and grant City a pro-rated credit of the unused portion of the license fees paid with respect the applicable Contractor Product(s). The remedy stated in this Section 5.2 shall be Contractor's entire obligation and City's sole and exclusive remedy for breach of warranty hereunder and shall be in lieu of any other remedy available to City at law or in equity. This warranty shall not apply if the Contractor product(s) have been (a) altered, modified, or enhanced by any party other than Contractor; (b) subjected to misuse, negligence, or computer or electrical malfunction; or (c) used, adjusted, installed, or operated other than in accordance with the Documentation, or as authorized in writing by Contractor. Furthermore, no warranties shall apply while there is an uncured breach of this Agreement by City for which notice of breach has been given by Contractor hereunder.

**3.2 City Content.** Notwithstanding the provisions in Section 3.1 above, in no event shall Contractor provide any warranties or technical support to City for (i) any City-provided courses or other property, information, software, documentation, or materials provided to Contractor by City or that Contractor hosts on, or provides via, any Contractor Product(s) as requested by City for City's use (collectively, "City Content"); or (ii) third party content licensed by City from such third party and accessed from Contractor's platform via an API or other linking tool (collectively with City Content, "Non-Contractor Content"). Contractor makes no warranties with respect to any such Non-Contractor Content and it expressly disclaims all liability for such Non-Contractor Content, including, without limitation, any failure of such Non-Contractor Content to meet applicable accessibility standards.

**3.3 DISCLAIMER. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS, OR IMPLIED. CONTRACTOR SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, QUIET ENJOYMENT, AND ABSENCE OF SECURITY INTEREST, LIEN, OR ENCUMBRANCE. SPECIFICALLY, AND NOT IN LIMITATION OF THE FOREGOING, CONTRACTOR DOES NOT WARRANT THAT ANY CONTRACTOR PRODUCT(S) WILL MEET CITY'S NEEDS OR REQUIREMENTS, THAT THE OPERATION OF ANY CONTRACTOR PRODUCT(S) WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ALL DEFECTS IN THE CONTRACTOR PRODUCT(S) CAN BE CORRECTED. TO THE EXTENT THAT ANY IMPLIED WARRANTIES ARE DEEMED TO EXIST UNDER APPLICABLE LAW, THEY ARE HEREBY EXPRESSLY LIMITED IN DURATION TO THE DURATION OF ANY EXPRESS WRITTEN WARRANTY MADE HEREIN. ALL CONTRACTOR PRODUCTS, AND ANY OTHER MATERIALS OR INFORMATION PROVIDED BY CONTRACTOR ARE NOT INTENDED, AND SHOULD NOT BE TAKEN, AS LEGAL ADVICE.**