

**ON CALL
TECHNOLOGY SERVICES
AGREEMENT**

THIS AGREEMENT (“Agreement”) is by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **SLALOM, LLC**, a Colorado limited liability company, whose address is 821 2ND Avenue, Seattle, WA 98104 (the “Consultant”). Each party may be individually referred to as a “Party” or collectively as the “Parties.”

WHEREAS, the City desires to contract with the Consultant for services; and

WHEREAS, the Consultant is qualified and ready, willing and able to perform consulting services for the City.

NOW, THEREFORE, the Parties hereto agree as follows:

1. SCOPE OF SERVICES; ORDER: The Consultant, under the general direction of, and in coordination with City’s Chief Information Officer, or other designated supervisory personnel (the “Manager”), shall diligently perform any and all authorized services required under this Agreement. The Consultant will provide specialized professional services as a Salesforce partner to work on multiple strategic and tactical items related to the ongoing use and development of Salesforce as a core business platform within the City. The Consultant will provide on-call services to support the City in the expansion and continued development of the City’s Salesforce Implementation. The main areas of support are: program management, business and technical analysis, implementation, development, user experience and change management to support the provisioning of technology services to the City and its constituents. These specialized services will be set out in the applicable Order based on the attached rate sheet, along with the rates, identified on attached **Exhibit A**. The City shall authorize specific assignments for the Consultant by placing a written service order signed by the Manager and the Consultant (the “Order”) describing in sufficient details the services and/or deliverables and rates to be provided. The Consultant agrees that during the term of this Agreement, at the City’s request and direction, it shall fully coordinate its provision of the services with any person or firm under contract with the City doing work or providing services which affect the Consultant’s services. The Consultant shall faithfully perform the work in accordance with the standards of care, skill, training, diligence and judgment provided by competent individuals and entities that perform services of a similar nature to those described in this Agreement. Consultant represents and warrants that all services will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards; all services will conform to applicable specifications and as attached to the Order, 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. If in either party's reasonable judgment there is a material change in the scope, duration, requirements, assumptions or dependencies described in an Order, the parties shall negotiate an appropriate change order or Order addendum in good faith and on commercially reasonable terms which shall be

memorialized in a mutually executed change order or Order addendum (collectively, “Change Order”). If the parties are unable to agree to a Change Order, then either party may, upon ten (10) days’ prior written notice to the other party, terminate the applicable SOW.

2. **TERM:** The term of this Agreement shall commence on June 1, 2018 and shall terminate on May 1, 2023, unless earlier terminated in accordance with the Agreement.

3. **COMPENSATION AND PAYMENT:**

A. **Fee:** The City agrees to pay to the Consultant, and the Consultant agrees to accept as its sole compensation for its services rendered and costs incurred under this Agreement, the rates set forth on attached **Exhibit A**.

B. **Reimbursement Expenses:** There are no reimbursable expenses allowed under this Agreement, unless specifically set out in the Order and agreed to in writing by the City prior to being incurred. All overhead and administrative expenses and materials of the Consultant are contained in the rates contained in Section 3(A) of this Agreement.

C. **Invoicing:** Consultant shall provide the City with a monthly invoice in a format and with a level of detail acceptable to the City. The City shall pay any undisputed amounts in accordance with its obligations under the City’s Prompt Payment Ordinance, § 20-107 to 20-118, D.R.M.C.; but in no event will the City pay more than thirty-five (35) days after its receipt of an undisputed invoice.

D. **Maximum Contract Liability:**

(i) Any other provision of this Agreement notwithstanding, in no event shall the City be liable to pay for services rendered and expenses incurred by the Consultant under the terms of this Agreement for any amount in excess of **THREE MILLION DOLLARS (\$3,000,000.00)** (the “Maximum Contract Amount”). The Consultant acknowledges that the City is not obligated to execute an agreement or an amendment to Consultant for any further services and that any services performed by Consultant beyond that specifically described in **Exhibit A** or contained in an Order are performed at Consultant’s risk and without authorization under this Agreement.

(ii) The Parties agree that the City’s payment obligation, whether direct or contingent, shall extend 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 Parties agree that (i) the City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

4. **STATUS OF CONSULTANT:** The Consultant is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Consultant 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.

5. TERMINATION:

A. The City has the right to terminate this Agreement, with or without cause, on ten (10) days written notice to the Consultant. However, nothing herein shall be construed as giving the Consultant the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the City or the City informs the Consultant that it no longer requires its services, and the Consultant shall bear all the risk of providing same.

B. City may immediately terminate this Agreement in the event the Consultant 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, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Consultant's business.

C. Upon termination of the Agreement, with or without cause, the Consultant 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 the Agreement.

D. If this Agreement is terminated by the Consultant or by the City for cause, the Consultant shall be compensated for, and such compensation shall be limited to: (1) the sum of the amounts contained in invoices which it has submitted and which have been approved by the City; (2) the reasonable value to the City of the work which the Consultant performed prior to the date of the termination notice, but which had not yet been approved for payment; and (3) the cost of any work that is needed to accomplish an orderly termination of the work and is approved in writing by the Manager. If this Agreement is terminated without cause by the City the Consultant shall also be compensated for any reasonable costs it has actually incurred in performing services prior to the date of the termination. In the event that all or any part of this Agreement is terminated for any reason, Consultant will immediately document in detail the status of any services in progress. Consultant will provide all assistance reasonably requested by the City in connection with the efficient and orderly transition of performance of the services by Consultant to the City or any third party designated by the City.

E. If this Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in the Consultant's possession, custody, or control by whatever method the City deems expedient. The Consultant shall deliver to the City all documents in any form that were prepared under this Agreement, and all other items, materials and documents which have been paid for by the City to the City. These documents and materials are the property of the City. Copies of work product incomplete at the time of termination shall be marked "DRAFT-INCOMPLETE."

F. Upon termination of this Agreement by the City, the Consultant shall not have any claim against the City by reason of such termination or by reason of any act incidental

to termination, except for compensation for work satisfactorily performed as described in this Agreement.

6. INTELLECTUAL PROPERTY RIGHTS: The City and Consultant intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Consultant and paid for by the City pursuant to this Agreement, in preliminary or final forms and on any media (collectively, "Materials"), shall belong to the City. The Consultant shall disclose all such items to the City. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are a "work made for hire" and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a "work made for hire," the Consultant hereby sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark and other intellectual property rights in perpetuity. Consultant retains all right title and interest in its know-how, ideas, concepts, procedures, routines, techniques, methods, systems, processes, models, templates, tools, generalized features of the structure, sequence and organization of software, user interfaces, screen designs and the like, and any enhancements made to the foregoing while performing Services (collectively, "Consultant Tools"). Consultant hereby grants City a worldwide, perpetual, fully paid, royalty-free, and non-exclusive right and license to use any Consultant Tool incorporated in and required for City's use of the Materials. Neither party has any right whatsoever in or to any trademark, trade name, copyright, name, logo, or other intellectual property of the other party, except as specifically set forth otherwise herein. Consultant may use within the scope of its business the general knowledge, skills and experience that are developed in the course of, or learned as a result of, the provision of Services (collectively, "Residuals"), provided that Residuals shall not include any information that is the City's Confidential Information.

7. CITY INFORMATION:

A. The Consultant acknowledges and accepts that, in performance of all work under the terms of this Agreement, the Consultant may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. The Consultant agrees that all Proprietary Data or confidential information provided or otherwise disclosed by the City to the Consultant shall be held in confidence and used only in the performance of its obligations under this Agreement. The Consultant shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent consultant would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential" and provided to or made available to the Consultant by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

B. Except as expressly provided by the terms of this Agreement, the Consultant agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish, post on the internet, transfer, sell, permit access to, distribute, allow interactive rights to, or otherwise make available the Proprietary Data or confidential information or any part thereof to any other person, party or entity in any form or media for any purpose other than performing its obligations under this Agreement. The Consultant further acknowledges that by providing this Proprietary Data or confidential information, the City is not granting to the Consultant any right or license to use such data except as provided in this Agreement. The Consultant further agrees not to disclose or distribute to any other party, in whole or in part, the Proprietary Data or confidential information without written authorization from the Manager.

C. The Consultant acknowledges and understands that the Proprietary Data may not be completely free of errors. The Proprietary Data should be used for reference only and should not be relied upon in any other way.

D. The Consultant agrees that any computer programs, or data processing techniques developed by the Consultant or provided by the City in connection with this Agreement, any Proprietary Data, or any confidential information shall be deemed to be the sole property of the City and all rights, including copyright, shall be deemed to be the sole property of the City and all rights, including copyright, shall be reserved to the City. The Consultant agrees, with respect to the Proprietary Data and confidential information, that: (1) the Consultant shall not copy, recreate, reverse, engineer or decompile such data, in whole or in part, unless authorized in writing by the Manager; (2) the Consultant shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; (3) the Consultant shall, upon the expiration or earlier termination of the Agreement, destroy (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City.

E. The Consultant will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of the Consultant under this Agreement shall survive the expiration or earlier termination of this Agreement. The Consultant shall not disclose Proprietary Data or confidential information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement.

F. Notwithstanding any other provision of this Agreement, the City is furnishing Proprietary Data and confidential information on an “as is” basis, without any support whatsoever, and without representation, warranty or guarantee, including but not in any manner limited to, fitness, merchantability or the accuracy and completeness of the Proprietary Data or confidential information. The City assumes no liability for any errors or omissions herein. If discrepancies are found, the Consultant agrees to contact the City immediately.

8. Consultant’s Information: The Parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, 7B C.R.S. (2003), and that in the event of a request to the City for disclosure of such information, the City shall advise the Consultant of such request in order to give the Consultant

the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Consultant agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same. The Consultant further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Consultant's intervention to protect and assert its claim of privilege against disclosure under this Article including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

9. EXAMINATION OF RECORDS: The Consultant agrees that any duly authorized representative of the City, including the City Auditor, shall have access to and the right to examine any books, documents, papers and records of the Consultant, involving transactions related to this Agreement. This right shall survive for a minimum of three (3) years after final payment is made under this Agreement.

10. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any action by a Party constitute or be construed to be a waiver by that party of any breach of covenant or default which may then exist on the part of the other Party. A 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 the Agreement shall be deemed or taken to be a waiver of any other breach.

11. PERSONNEL:

A. All key personnel identified in an Order will be dedicated by Consultant to the City. The Consultant shall submit to the Manager a list of any additional personnel who will perform services under an Order within thirty (30) days after an Order has been submitted, together with complete resumes and other information describing their ability to perform the services. Such additional personnel must be approved in writing by the Manager.

B. The Parties intend that all key personnel be engaged to perform their specialty for all services required by an Order and that the Consultant shall retain all key personnel for the term of the Order. If the Consultant must replace any of its key personnel, it shall notify the Manager in writing of the changes. No such replacement shall be made until the replacement is approved by the Manager, which approval shall not be unreasonably withheld. The Manager shall respond to the Consultant's written notice of replacement within fifteen (15) days of receipt. If the Manager does not respond within that time, the listed replacement personnel shall be deemed approved. If during the term of the Agreement, the Manager determines that the performance of approved key personnel is not acceptable, Manager shall in Manager's sole and absolute discretion either (a) give the Consultant a reasonable period of time to correct the performance or (b) require the Consultant to replace the personnel as soon as practicable.

C. While the Consultant may retain and contract with subcontractors, no final agreement with any subcontractor shall be entered into without the written consent of the Manager. Requests for approval of subcontractors must be made in writing and include a description of the nature and extent of services to be provided by the subcontractor; the name, address and experience and qualifications of the subcontractor; and any other information which may be requested by the Manager. Because the Consultant's represented qualifications are a consideration to the City in entering into this Agreement, the Manager shall have the right to reject any proposed subcontractor deemed unqualified or unsuitable for any reason to perform the proposed services, and the Manager shall have the right to limit the number of subcontractors. The Manager shall respond to the Consultant's written notice regarding a subcontractor within thirty (30) days of receipt. If the Manager does not respond within that time, the subcontractor shall be deemed approved. Approval of the subcontractor shall not relieve the Consultant of any obligations under this Agreement. Any final agreement with the approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make a claim of payment against any City property arising out of the performance of this Agreement.

D. The Consultant is prohibited from hiring any subcontractor that is currently debarred by the City in accordance with D.R.M.C. § 20-77.

12. INSURANCE:

A. **General Conditions:** 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. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. 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. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Contractor. 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.

B. Proof of Insurance: Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as Exhibit B, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. 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 Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

C. Additional Insureds: For Commercial General Liability, Auto Liability and Excess Liability/Umbrella, Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

D. Waiver of Subrogation: For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City, as permitted by law and policy.

E. Subcontractors and Subconsultants: All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Contractor. Contractor shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Contractor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

F. Workers' Compensation/Employer's Liability Insurance: 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. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Agreement.

G. Commercial General Liability: Contractor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

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

I. Technology Errors & Omissions including Cyber Liability: Contractor shall maintain Technology Errors and Omissions insurance including cyber liability, network security, privacy liability and product failure coverage with limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate

J. Additional Provisions:

(a) For Commercial General Liability and Excess Liability, the policies must provide the following:

- (i) That this Agreement is an Insured Contract under the policy;
- (ii) Defense costs are outside the limits of liability;
- (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(b) For claims-made coverage:

- (i) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier

(c) Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

13. DEFENSE AND INDEMNIFICATION:

A. Consultant hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all third party 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 and until such Claims have been specifically determined by the trier of fact to be due to the 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 Consultant 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.

B. Consultant'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. Consultant'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.

C. Consultant 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 ("Losses"). 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.

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

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

F. Consultant will, at Consultant's expense, indemnify, defend and hold harmless the City, its officers, agents and employees from and against any loss, cost, expense or liability (including but not limited to attorney's fees and awarded damages) arising out of a claim that the products or services supplied or provided by the Consultant, or their use by the City, infringe, violate or misappropriate a patent, copyright, trademark, trade secret or other intellectual property or proprietary right of any third party. The City will promptly notify Consultant in writing of any claim and cooperate with Consultant and its legal counsel in the defense thereof. Consultant shall, in its discretion, perform some or all of the following actions to ensure that the City is not negatively impacted in the functionality of its technology services because of an infringing product: (i) contest, (ii) settle, (iii) procure for the City the right to continue using the product, or (iv) modify or replace the infringing product so that it no longer infringes (as long as the functionality and performance are not degraded as reasonably determined by the City). In the event that Consultant shall reasonably determine that (i)-(iv) above is commercially practicable, the City shall return the infringing Material and Consultant shall refund the fees paid therefor pro rata on a five-year straight line amortized basis. The City may participate in the defense of such action at its own expense. Consultant shall have no indemnity obligation or other liability for any claim of infringement or misappropriation arising from: (i) information, design, specification, instruction, software, data, or material provided by or on behalf of the City, (ii) use of the Material other than in the manner contemplated in the applicable Order, or (iii) any changes to the Material or any combination of the Material with other material not made, provided or expressly authorized by Consultant.

14. COLORADO GOVERNMENTAL IMMUNITY ACT: The Parties 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, C.R.S. § 24-10-101, *et seq.*

15. TAXES, CHARGES AND PENALTIES: The City shall not be liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq.* The Consultant shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against City property, including but not limited to land, facilities, improvements or equipment.

16. ASSIGNMENT AND SUBCONTRACTING:

A. The Consultant agrees that it will not assign or transfer any of its rights or obligations under this Agreement without first obtaining the written consent of the Manager. A transfer will include a merger, consolidation, liquidation or change of ownership by which fifty percent (50%) or more of the outstanding voting stock, equity or control is transferred. Any attempt by the Consultant to assign or transfer its rights or obligations without the prior written consent of the Manager shall, at the option of the Manager, be null and void and terminate this Agreement and all rights of the Consultant. Consent to the assignment may be granted or denied at the sole and absolute discretion of the Manager. If the City consents to an assignment, then any assignment will not become effective until the assignee unequivocally in a signed document satisfactory to the Manager (1) assumes the obligations under this Agreement; and (2) agrees to be bound by all of the terms, covenants and conditions of this Agreement. Any consent of the City pursuant to this provision must be executed with the same formality as this Agreement. The rights and obligations of the Parties under this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns permitted under this Agreement.

B. The Consultant agrees that it will not subcontract any of its obligations under this Agreement without first obtaining the written consent of the Manager, which consent may be withheld in the absolute discretion of the City. If the City consents to the subcontract, such action shall not be construed to create any contractual relationship between the City and the Consultant's subcontractor. The Consultant shall remain fully responsible to the City for any subcontracted work.

17. NO THIRD PARTY BENEFICIARY: Enforcement of the terms of the 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 Consultant receiving services or benefits pursuant to this Agreement shall be deemed to be an incidental beneficiary only.

18. NO AUTHORITY TO BIND CITY TO CONTRACTS: The Consultant 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.

19. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS: This Agreement is the complete integration of all understandings between the Parties. No prior or

contemporaneous addition, deletion, or other modification related to the subject matter herein shall have any force or effect, unless embodied in this Agreement in writing. No subsequent novation, renewal, addition, deletion, or other amendment shall have any force or effect unless embodied in a written amendment to this Agreement properly executed by the Parties. No oral representation by any officer or employee of the City at variance with the terms and conditions of this Agreement or any written amendment to this Agreement shall have any force or effect nor bind the City. This Agreement and any amendments to it shall be binding upon the Parties and their successors and assigns.

20. SEVERABILITY: The Parties agree that if any provision of this Agreement or any portion thereof, except for the provisions of this Agreement requiring appropriation of funds and limiting the total amount payable by the City, is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected if the intent of the Parties can be fulfilled.

21. CONFLICT OF INTEREST: The Parties agree that no employee of the City shall have any personal or beneficial interest in the services or property described in this Agreement; and the Consultant further agrees not to hire or contract for services any employee or officer of the City which 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.

22. NOTICES: All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Consultant at the address first above written, and if to the City at:

Chief Information Officer
201 West Colfax Avenue, 3rd Floor
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate 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.

23. DISPUTES: The parties will use their reasonable efforts to resolve any dispute, claim or controversy (a "Dispute") arising out of or relating to this Agreement through good faith negotiation in the spirit of mutual cooperation. All negotiations and documents exchanged pursuant to this section are confidential and inadmissible for any purpose, in any legal proceeding involving the parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the

negotiation. If the parties are unable to resolve the Dispute through negotiation, then disputes between the City and Consultant regarding this Agreement shall be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b), *et seq.* . Any Dispute that cannot be resolved through negotiation or administrative hearing, any action to collect Undisputed Amounts Due, and any Dispute with respect to which a party is claiming equitable relief, shall be brought in and resolved by a court of competent jurisdiction. To the extent permitted by applicable law, the parties hereto irrevocably waive any right to trial by jury in any legal proceeding arising out of or relating to this Agreement.

24. GOVERNING LAW; VENUE: This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, the Charter and Revised Municipal Code of the City and County of Denver, and the ordinances, regulations and Executive Orders enacted or promulgated pursuant to the Charter and Code, including any amendments. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

25. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this contract, the Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.

26. WARRANTY: Consultant 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 Consultant represents and warrants that he has been fully authorized by Consultant to execute this Agreement on behalf of Consultant and to validly and legally bind Consultant 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 Consultant or the person signing the Agreement to enter into this Agreement.

27. NO CONSTRUCTION AGAINST DRAFTING PARTY: Each of the Parties acknowledge that they and their respective counsel have had the opportunity to review this Agreement and that this Agreement shall not be construed against any Party merely because this Agreement or any of its provisions were prepared by a particular Party.

28. ORDER OF PRECEDENCE: In the event of any conflicts between the language of this Agreement and the exhibits, the language of the Agreement shall control

29. SURVIVAL OF CERTAIN PROVISIONS: The Parties agree that all terms and conditions of this Agreement, together with any exhibits and attachments, which by

reasonable implication contemplate continued performance or compliance beyond the termination of this Agreement, by expiration of the term or otherwise, shall survive termination and shall continue to be enforceable. Without limiting the generality of this provision, the Consultant's obligations to provide insurance and to indemnify the City shall 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.

30. COMPLIANCE WITH ALL LAWS: All of the services performed under this Agreement by the Consultant shall comply with all applicable laws, rules, regulations and codes of the United States and State of Colorado and with the charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver, as amended.

31. ADVERTISING AND PUBLIC DISCLOSURE: The Consultant shall not include any reference to this Agreement or to services performed pursuant to this Agreement in any of its advertising or public relations materials without first obtaining the written approval of the Manager, which will not be unreasonably withheld. Any oral presentation or written materials related to services performed under this Agreement shall include only services that have been accepted by the City. The Manager shall be notified in advance of the date and time of any such presentation. Nothing in this provision shall preclude the transmittal of any information to officials of the City, including without limitation the Mayor, the Manager, City Council or the Auditor.

32. TIME IS OF THE ESSENCE: The Parties agree that in the performance of the terms, conditions, and requirements of this Agreement and any Order, time is of the essence if so stated in the Order

33. CITY EXECUTION OF AGREEMENT: This Agreement shall not be effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

34. COUNTERPARTS OF THIS AGREEMENT: This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement.

35. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Consultant consents to the use of electronic signatures by the City. The 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 the 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 the 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.

36. BACKGROUND CHECKS ON CONSULTANT'S EMPLOYEES. The Consultant is responsible for completing background checks on any employee who will be engaged with the City under this Agreement in accordance with the City's Executive Order 135

The Consultant shall have performed Criminal Background checks, Financial/ Credit Checks, and Educational Background checks for all employees at least six months prior to being engaged on City work. The Consultant shall certify that there are no misdemeanor or felony convictions for any employee working within the various departments of the City. The Consultant shall affirm that it has performed the background check as determined by the Order and submit its affirmation on a form supplied by the City. If the Consultant falsely represents the contents of any affirmation or background check it shall be grounds for immediate termination of this Agreement.”

37. ACCEPTANCE. Upon completion of each phase of the Services, the City shall have twenty (20) business days in which to accept or reject such Services and related Materials, unless the Order provides a difference acceptance period (in each case, the “Acceptance Period”). If within the Acceptance Period the City provides Consultant with written notification specifying in reasonable detail the manner in which the Services or Materials do not materially conform to the Order specifications, Consultant shall have an additional fifteen (15) days, or such other period as otherwise agreed to or set forth in the Order, to implement such changes as shall be reasonably required to bring the Services or Materials in material conformity with the Order specifications. Consultant shall notify the City of all corrections it made to the Services or Materials and re-perform the Services or submit the revised Materials to the City for its acceptance in accordance with this Section 37. In the event the Services or Materials continue not to conform materially to the Order specifications, the City, in its sole discretion, may: (a) accept the defective Services or Materials at a discount negotiated between the parties; (b) require that Consultant make additional corrections to the Services or Materials according to a schedule mutually agreed upon by the parties; or (c) terminate the applicable Order and receive a refund of all pre-paid amounts corresponding to the defective Services or Materials and any other Services or Materials rendered useless as a consequence of the defective Materials. Acceptance shall be deemed to have occurred following expiration of the Acceptance Period absent a written rejection delivered prior thereto.

38. LIMITATION OF LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE HEREUNDER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, LOST PROFITS, LOST SALES OR ANTICIPATED ORDERS, OR DAMAGES FOR LOSS OF DATA OR GOODWILL, EVEN IF A PARTY WAS INFORMED OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES OR LOSS. EACH PARTY’S RESPECTIVE LIABILITY ARISING OUT OF THE SERVICES PERFORMED UNDER AN ORDER, REGARDLESS OF THE DAMAGES THEORY, SHALL NOT EXCEED THE THREE TIMES THE CUMULATIVE FEES OF THE ORDERS PLACED AND COMPLETED UNDER THIS AGREEMENT. THE FOREGOING LIMITATION SHALL NOT APPLY TO A BREACH OF A PARTY’S CONFIDENTIALITY OBLIGATIONS OR LIMIT A PARTY’S INDEMNIFICATION OBLIGATION WITH RESPECT TO A THIRD PARTY CLAIM.

INTENTIONALLY LEFT BLANK

Contract Control Number:

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:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: TECHS-201840883-00

Contractor Name: SLALOM, LLC.

By: *Brian M. Turner*

Name: *Brian Turner*
(please print)

Title: *Southwest Region General Manager*
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



EXHIBIT A – Slalom Rate Card

For services and roles listed in Exhibit A, the cost per hour and how they are applied against a SOW are based on a combination of the following items:

- Consultant level of experience
- Value of consultant knowledge in the marketplace – emerging technologies, skills, etc.
- Complexity of the work requested

Rate cards are valid for 5 years and will automatically increase 3% annually beginning 12 months after effective date.

Service Area	Role	Cost per Hour (includes all costs for travel, per diem, etc.)	
		Minimum Hourly Rate	Maximum Hourly Rate
Program Management	Engagement Lead	\$187	\$285
	Senior Engagement Lead	\$285	\$350
	Program Manager	\$185	\$263
	Project Manager	\$165	\$210
Business and Technical Analysis	Business Analyst	\$143	\$201
	Senior Business Analyst	\$153	\$207
	Technical Analyst	\$158	\$190
	Senior Technical Analyst	\$171	\$202
Management Consulting	Consultant	\$155	\$198
	Senior Consultant	\$177	\$221
	Subject Matter Specialist	\$237	\$315
Implementation	Configurator	\$153	\$207
	Technical Lead	\$184	\$210
	Deployment Lead	\$174	\$236
	Quality Assurance Analyst	\$140	\$190
	Quality Assurance Manager	\$165	\$213
	Integration Architect	\$185	\$251
	Conversion Lead	\$152	\$206
	Developer	\$137	\$158

		Cost per Hour (includes all costs for travel, per diem, etc.)	
Service Area	Role	Minimum Hourly Rate	Maximum Hourly Rate
	Senior Developer	\$168	\$263
	Product Owner	\$190	\$210
	Scrum Master	\$170	\$180
	Solution Architect	\$187	\$263
	Senior Solution Architect	\$211	\$300
	Solution Owner	\$174	\$236
Experience Design	Experience Design Strategist	\$190	\$237
	Experience Designer	\$155	\$165
	Senior Experience Designer	\$167	\$185



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/05/2018

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 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).

PRODUCER Parker, Smith & Feek, Inc. 2233 112th Avenue NE Bellevue, WA 98004	CONTACT NAME: PHONE (A/C, No, Ext): 425-709-3600	FAX (A/C, No): 425-709-7460
	E-MAIL ADDRESS:	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED Slalom, LLC DBA Slalom Consulting 821 Second Ave., Suite 1900 Seattle, WA 98104	INSURER A: Charter Oak Fire Insurance Co.	
	INSURER B: Travelers Indemnity Co.	
	INSURER C: Travelers Prop. Casualty Co. of Amer.	
	INSURER D:	
	INSURER E:	
INSURER F:		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC	X	X	HO630157D5008COF18	1/1/2018	1/1/2019	EACH OCCURRENCE \$ 1,000,000 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
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X	X	HKCAP157D499AIND18	1/1/2018	1/1/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	HC2JUB157D495218 ** EL Stop Gap: Monopolistic States	1/1/2018	1/1/2019	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Workers Compensation and Employers' Liability			HRKUB157D496418	1/1/2018	1/1/2019	EA Accident: 1,000,000; Disease EA Emp: 1,000,000; Disease Pol Limit: 1,000,000

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

INSR: Illinois Union Insurance Co. | INS TYPE: Professional Liability | ADDL INSR: | POLICY NUMBER: EONG23669961006; Professional including Cyber Liability | 1/1/2018 - 1/1/2019 | LIMITS: \$1,000,000 Each Claim/\$1,000,000 Aggregate

Privacy Liability (Cyber Liability) Coverage of \$1,000,000 is included in the Professional Liability... (See Attached Description)

CERTIFICATE HOLDER**CANCELLATION**

City and County of Denver 201 West Colfax Avenue, 3rd Floor 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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DESCRIPTIONS (Continued from Page 1)

City and County of Denver, its elected and appointed officials, employees and volunteers are additional insured on the general liability and automobile policies per the attached endorsements/forms. Waiver of subrogation applies on the general liability, automobile and workers compensation policies per the attached endorsements/forms.

19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.
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B. Owned Autos You Acquire After The Policy Begins

1. If Symbols **1, 2, 3, 4, 5, 6** or **19** are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol **7** is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
 - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Covered Autos Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Covered Autos Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;
 - c. Servicing;
 - d. "Loss"; or
 - e. Destruction.

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Covered Autos Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is An Insured

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a covered "auto".

This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

- (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
- (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
- (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".
- (5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to

pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed, we will:

- (1) Increase the Limit of Insurance for Covered Autos Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- b. That the "insured" would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET WAIVER OF SUBROGATION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

The following replaces Paragraph **A.5., Transfer of Rights Of Recovery Against Others To Us**, of the **CONDITIONS** Section:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent

required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TECHNOLOGY XTEND ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- A. Reasonable Force Property Damage – Exception To Expected Or Intended Injury Exclusion
- B. Non-Owned Watercraft Less Than 75 Feet
- C. Aircraft Chartered With Pilot
- D. Damage To Premises Rented To You
- E. Increased Supplementary Payments
- F. Who Is An Insured – Employees And Volunteer Workers – First Aid
- G. Who Is An Insured – Employees – Supervisory Positions
- H. Who Is An Insured – Newly Acquired Or Formed Organizations
- I. Blanket Additional Insured – Owners, Managers Or Lessors Of Premises
- J. Blanket Additional Insured – Lessors Of Leased Equipment
- K. Blanket Additional Insured – Persons Or Organizations For Your Ongoing Operations As Required By Written Contract Or Agreement
- L. Blanket Additional Insured – Broad Form Vendors
- M. Who Is An Insured – Unnamed Subsidiaries
- N. Who Is An Insured – Liability For Conduct Of Unnamed Partnerships Or Joint Ventures
- O. Medical Payments – Increased Limits
- P. Contractual Liability – Railroads
- Q. Knowledge And Notice Of Occurrence Or Offense
- R. Unintentional Omission
- S. Blanket Waiver Of Subrogation

PROVISIONS

A. REASONABLE FORCE PROPERTY DAMAGE – EXCEPTION TO EXPECTED OR INTENDED INJURY EXCLUSION

The following replaces Exclusion a., **Expected Or Intended Injury**, in Paragraph 2., of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

a. Expected Or Intended Injury Or Damage

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect any person or property.

B. NON-OWNED WATERCRAFT LESS THAN 75 FEET

The following replaces Paragraph (2) of Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

(2) A watercraft you do not own that is:

- (a) Less than 75 feet long; and
- (b) Not being used to carry any person or property for a charge.

C. AIRCRAFT CHARTERED WITH PILOT

The following is added to Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION**

I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

This exclusion does not apply to an aircraft that is:

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

D. DAMAGE TO PREMISES RENTED TO YOU

1. The first paragraph of the exceptions in Exclusion **j.**, **Damage To Property**, in Paragraph **2.** of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is deleted.
2. The following replaces the last paragraph of Paragraph **2.**, **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

Exclusions **c.**, **g.** and **h.**, and Paragraphs **(1)**, **(3)** and **(4)** of Exclusion **j.**, do not apply to "premises damage". Exclusion **f.(1)(a)** does not apply to "premises damage" caused by fire unless Exclusion **f.** of Section **I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by another endorsement to this Coverage Part that has Exclusion - All Pollution Injury Or Damage or Total Pollution Exclusion in its title. A separate limit of insurance applies to "premises damage" as described in Paragraph **6.** of Section **III – Limits Of Insurance.**

3. The following replaces Paragraph **6.** of **SECTION III – LIMITS OF INSURANCE:**
 6. Subject to **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "premises damage" to any one premises.

The Damage To Premises Rented To You Limit will be:

- a. The amount shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part; or
- b. \$300,000 if no amount is shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part.

4. The following replaces Paragraph **a.** of the definition of "insured contract" in the **DEFINITIONS** Section:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";
5. The following is added to the **DEFINITIONS** Section:

"Premises damage" means "property damage" to:

 - a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
 - b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.
6. The following replaces Paragraph **4.b.(1)(b)** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**
 - (b) That is insurance for "premises damage"; or
7. Paragraph **4.b.(1)(c)** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted.

E. INCREASED SUPPLEMENTARY PAYMENTS

1. The following replaces Paragraph **1.b.** of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGES:**
 - b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
2. The following replaces Paragraph **1.d.** of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGES:**
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

F. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – FIRST AID

1. The following is added to the definition of "occurrence" in the **DEFINITIONS** Section:

Unless you are in the business or occupation of providing professional health care services, "occurrence" also means an act or omission committed by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor, in providing or failing to provide first aid or "Good Samaritan services" to a person.

2. The following is added to Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a), (b), (c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any of your "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following is added to Paragraph **5.** of **SECTION III – LIMITS OF INSURANCE**:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed by any of your "employees" or "volunteer workers" in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following is added to the **DEFINITIONS** Section:

"Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

G. WHO IS AN INSURED – EMPLOYEES – SUPERVISORY POSITIONS

The following is added to Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Paragraphs **(1)(a), (b)** and **(c)** above do not apply to "bodily injury" or "personal injury" to a co-"employee" in the course of the co-"employee's" employment by you arising out of work by any of

your "employees" who hold a supervisory position.

H. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS

The following replaces Paragraph **4.** of **SECTION II – WHO IS AN INSURED** of the Commercial General Liability Coverage Form, and Paragraph **3.** of **SECTION II – WHO IS AN INSURED** of the Global Companion Commercial General Liability Coverage Form, to the extent such coverage forms are part of your policy:

Any organization you newly acquire or form, other than a partnership or joint venture, of which you are the sole owner or in which you maintain the majority ownership interest, will qualify as a Named Insured if there is no other insurance which provides similar coverage to that organization. However:

- a. Coverage under this provision is afforded only:

- (1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or
- (2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it, and we agree in writing that it will continue to be a Named Insured until the end of the policy period;

- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

- c. Coverage **B** does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

I. BLANKET ADDITIONAL INSURED – OWNERS, MANAGERS OR LESSORS OF PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is a premises owner, manager or lessor is an insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor does not apply to:

COMMERCIAL GENERAL LIABILITY

- a. Any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
- b. Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.

J. BLANKET ADDITIONAL INSURED – LESSORS OF LEASED EQUIPMENT

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is an equipment lessor is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" caused, in whole or in part, by your acts or omissions in the maintenance, operation or use by you of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after the equipment lease expires.

K. BLANKET ADDITIONAL INSURED – PERSONS OR ORGANIZATIONS FOR YOUR ONGOING OPERATIONS AS REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is not otherwise an insured under this Coverage Part and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" that:

- a. Is caused by an "occurrence" that takes place after you have signed and executed that contract or agreement; and
- b. Is caused, in whole or in part, by your acts or omissions in the performance of your ongoing operations to which that contract or agreement applies or the acts or omissions of any person or organization performing such operations on your behalf.

The limits of insurance provided to such insured will be the limits which you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

L. BLANKET ADDITIONAL INSURED – BROAD FORM VENDORS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is a vendor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" that:

- a. Is caused by an "occurrence" that takes place after you have signed and executed that contract or agreement; and
- b. Arises out of "your products" which are distributed or sold in the regular course of such vendor's business.

The insurance provided to such vendor is subject to the following provisions:

- a. The limits of insurance provided to such vendor will be the limits which you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such vendor does not apply to:
 - (1) Any express warranty not authorized by you;
 - (2) Any change in "your products" made by such vendor;
 - (3) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - (4) Any failure to make such inspections, adjustments, tests or servicing as vendors agree to perform or normally undertake to perform in the regular course of business, in connection with the distribution or sale of "your products";
 - (5) Demonstration, installation, servicing or repair operations, except such operations performed at such vendor's premises in connection with the sale of "your products"; or
 - (6) "Your products" which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part or ingredient of any other thing or substance by or on behalf of such vendor.

Coverage under this provision does not apply to:

- a. Any person or organization from whom you have acquired "your products", or any ingredient, part or container entering into, accompanying or containing such products; or
- b. Any vendor for which coverage as an additional insured specifically is scheduled by endorsement.

M. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You maintain an ownership interest of more than 50% in such subsidiary on the first day of the policy period; and
- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal injury" or "advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

N. WHO IS AN INSURED – LIABILITY FOR CONDUCT OF UNNAMED PARTNERSHIPS OR JOINT VENTURES

The following replaces the last paragraph of **SECTION II – WHO IS AN INSURED**:

No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations. This paragraph does not apply to any such partnership or joint venture that otherwise qualifies as an insured under Section II – Who Is An Insured.

O. MEDICAL PAYMENTS – INCREASED LIMITS

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE**:

- 7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:
 - (a) \$10,000; or

- (b) The amount shown on the Declarations of this Coverage Part for Medical Expense Limit.

P. CONTRACTUAL LIABILITY – RAILROADS

- 1. The following replaces Paragraph c. of the definition of "insured contract" in the **DEFINITIONS** Section:
 - c. Any easement or license agreement;
- 2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

Q. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE

The following is added to Paragraph 2., **Duties In The Event of Occurrence, Offense, Claim or Suit**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

- e. The following provisions apply to Paragraph a. above, but only for the purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:

- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your trustees who is an individual (if you are a trust), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, limited liability company or trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.

- (2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:

- (a) Any individual who is:
 - (i) A partner or member of any partnership or joint venture;
 - (ii) A manager of any limited liability company;

COMMERCIAL GENERAL LIABILITY

- (iii) A trustee of any trust; or
 - (iv) An executive officer or director of any other organization;
that is your partner, joint venture member, manager or trustee; or
 - (b) Any "employee" authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.
- (3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraphs e. (1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.

However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its

abrupt commencement, this Paragraph e. does not affect that requirement.

R. UNINTENTIONAL OMISSION

The following is added to Paragraph 6., **Representations**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

S. BLANKET WAIVER OF SUBROGATION

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" caused by an "occurrence" that takes place; or
- b. "Personal injury" or "advertising injury" caused by an offense that is committed;

subsequent to the execution of the contract or agreement.



**WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY**

ENDORSEMENT WC 00 03 13 (00) -

POLICY NUMBER: HC2JUB157D495218
HRKUB157D496418

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

SCHEDULE

DESIGNATED PERSON:

DESIGNATED ORGANIZATION:

DATE OF ISSUE: - -

ST ASSIGN: