SWIMLANE CUSTOMER SUBSCRIPTION LICENSE
A G R E E M E N T

THIS AGREEMENT is made as of the Effective Date (as shown on the signature page below) between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City") and **SWIMLANE, LLC**, a Delaware limited liability company, registered to do business in Colorado, whose address is 363 Centennial Parkway, Ste 210, Louisville, CO 80027 ("Contractor" or "**Swimlane**"), jointly "the parties."

IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1.   SOFTWARE LICENSE, SUPPORT, AND MAINTENANCE TO BE PROVIDED AND SERVICES TO BE PERFORMED:

A.   Contractor, under the general direction of, and in coordination with, the City's Chief Information Officer or other designated supervisory personnel (the "Manager") agrees to provide the software (the "Software") listed on **Exhibit A**, and perform the technology related services described on attached **Exhibit A.1** (the "Statement of Work" or "SOW") and subject to Customer's payment of applicable fees provide the software support and maintenance services described on attached **Exhibit B**.   Customer may purchase professional services ("**Professional Services**") in accordance with the conditions of Exhibit C, the fees set forth in Exhibit A.1 and the rates set out in Exhibit C.   Hereinafter, "**Services**" means, collectively, Maintenance and Professional Services, as applicable.

B.   As the Manager directs, the Contractor shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth on to the City's satisfaction.

C.   The Contractor is ready, willing, and able to provide the services required by this Agreement.

D.   The Contractor shall faithfully perform the 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 the Agreement and in accordance with the terms of the Agreement.

2.   **License Grant; Use of Software.**

A.   License. Subject to the terms and conditions in this Agreement, Swimlane grants to Customer a non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable, limited right and license to access and use Swimlane's proprietary automated security operations platform provided as an on-premise software solution (the "**Software**") during the Term (as defined below) and solely for Customer's internal business purposes.

B.   Customer Responsibilities and Obligations.   Customer: (i) is solely responsible for the use of the Software by Customer and Customer's employees, agents, contractors, representatives and any other personnel authorized by Customer to access the

Software (collectively, "**Users**"); (ii) shall require Users to comply with the terms of this Agreement and User license agreement required at the time of installation ("**EULA**"); and (iii) shall comply with all applicable federal, state, local, foreign and international laws, rules, regulations, ordinances, treaties and governmental orders (collectively, "**Laws**") in using the Software (including, without limitation, (A) all anti-bribery laws (including the Foreign Corrupt Practices Act (US) and the Anti Bribery Act (UK)); and (B) all export control laws and regulations (including the U.S. Export Administration Regulations).

        C.   <u>Ownership of the Software</u>.

        i.   The Software is Swimlane's sole and exclusive property including all: (A) updates, improvements, enhancements, revisions, modifications, new releases and versions, fixes, patches, and derivative works of the Software, user guides, reference manuals, installation materials, and other supporting documentation related to the Software; and (B) integrations, customizations, components, modules, workflows or other work product produced by Swimlane (whether alone or jointly with Customer) for Customer and including all Intellectual Property rights thereto and therein. Any of the items described in this <u>Section 2(c)(i)</u> are deemed to be included in the definition of "Software" hereunder. No rights are granted to Customer other than as expressly described in this Agreement.

        ii.   As used herein, "**Intellectual Property**" means any and all discoveries, improvements, ideas, concepts, creative works, processes, methods, formulas, techniques, know-how, designs, works of authorship, trade secrets, copyrights, patent rights, trademarks, service marks, and any other proprietary rights. Customer may provide suggestions, enhancement requests, recommendations, comments or other feedback ("**Feedback**") to Swimlane relating to the Software or Services. Swimlane may use and include any Feedback, and any Intellectual Property therein, that Customer chooses to voluntarily provide to improve the Software, Services, or any other related technologies. Customer agrees that Swimlane may freely use, reproduce, license, distribute, and otherwise commercialize the Feedback, including any Intellectual Property therein, in the Software, Services, or other related technologies. Swimlane may modify, change, and upgrade the functionality, features, and capabilities of the Software and the underlying technical infrastructure, in its sole and absolute discretion.

        iii.   Customer shall not and shall not direct any third party to: (A) license, sublicense, modify, copy, reproduce, rent, loan, lease, sell, assign, distribute, commercially exploit, create derivative works based on, infringe or violate Swimlane's Intellectual Property rights, or other rights in, the Software; (B) decompile, disassemble, translate, reverse engineer or otherwise attempt to identify, reconstruct, derive or discover the source code of the Software; (C) remove or alter any identification or proprietary notices appearing in the Software; (D) circumvent or violate the technical restrictions of the Software; (E) publicly disseminate performance information about or analysis of the Software, including benchmarking test results; (F) access the Software in order to (1) build a competitive product or service, or (2) copy any ideas, features, functions or graphics of the Software; (G) use the Software for any purpose other than as expressly authorized herein; or (H) take any action that would cause any part of the Software to be placed in the public domain.

        iv.   Without identifying Customer as the data source, Customer hereby grants Swimlane the right to use the data generated, in aggregated form where applicable, from

Customer's use of the Software to maintain, support, and improve the Software, and for any other legal purpose.

   v.   Customer acknowledges the Software may include third party software, including open source software components embedded in, or otherwise provided with, the Software ("Third Party Software"). Third Party Software is expressly excluded from the defined term "Software" as used throughout this Agreement.

   vi.   If Customer is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Software, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. This product was developed fully at private expense. All other use is prohibited.

  3. **<u>DELIVERY AND ACCEPTANCE</u>:**

   A. Contractor shall deliver the Software and perform the services in accordance with the SOW. Contractor will pack, mark, label, document and deliver all Software in accordance with the City's instructions and accepted industry standards.

   B. Upon installation and configuration of the Software, the City will test and evaluate same to ensure that it conforms, in the City's reasonable judgment, to the specifications outlined in the SOW. If the Software does not conform, the City will so notify Contractor in writing within fifteen (15) business days. Contractor will, at its expense, repair or replace the nonconforming product within fifteen (15) days after receipt of the City's notice of deficiency. The foregoing procedure will be repeated until the City accepts or finally rejects the product, in whole or part, in its sole discretion. In the event that the Software contains a defect or nonconformity not apparent on examination, the City reserves the right to repudiate acceptance. In the event that the City finally rejects the Software, or repudiates acceptance of it, Contractor will refund to the City all fees paid, if any, by the City with respect to the rejected product.

   C. If the City is not satisfied with the Contractor's performance of the services described in the SOW, the City will so notify Contractor within thirty (30) days after Contractor's performance thereof. Contractor will, at its own expense, re-perform the service within fifteen (15) days after receipt of City's notice of deficiency. The foregoing procedure will be repeated until City accepts or finally rejects the service in its sole discretion. In the event that City finally rejects any service, Contractor will refund to City all fees paid by City with respect to such service.

  4. **<u>TERM</u>:** The term of the Agreement is from March 1, 2018 through March 31, 2023.

  5. **<u>COMPENSATION AND PAYMENT</u>:**

A. **Fee:** The fee for the software and services is set out in Exhibits A and C (the "Fee"). The Fee shall be paid pursuant to the City's Prompt Payment Ordinance and in accordance with the Payment Milestones in the SOW.

B. **Reimbursement Expenses:** The fees specified above include all expenses, and no other expenses shall be separately reimbursed hereunder.

C. **Invoicing:** Contractor must submit an invoice which shall include the City contract number, clear identification of the deliverable that has been completed, 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.

D. **Maximum Contract Liability:**

(i) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed FIVE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS. ($525,000.00) (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Contractor beyond that specifically described in Exhibits A and B. Any services performed beyond those in Exhibits A and B are performed at Contractor's risk and without authorization under the Agreement.

(ii) 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 the Agreement. The City does not by the Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

6. **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.

7. **TERMINATION:**

A. The City has the right to terminate the Agreement with cause upon written notice effective immediately, and without cause upon twenty (20) days prior written notice to the Contractor. However, nothing gives the Contractor the right to perform services under the Agreement beyond the time when its services become unsatisfactory to the Manager.

B. The City may terminate the 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, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering,

extortion or any offense of a similar nature in connection with Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

C, Contractor may terminate this Agreement in the event of a breach by City of any terms or conditions of this Agreement and City fails to remedy the breach within thirty (30) after receiving notice from Contractor of the breach. For the avoidance of doubt, in the event the Denver City Council does not appropriate the funds necessary to pay the applicable fees hereunder, Contractor may immediately terminate this Agreement without penalty or further obligation to City.

D. Upon termination of the Agreement, with 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 the Agreement.

8.   EXAMINATION OF RECORDS:
A.   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 any pertinent books, documents, papers and records of the Contractor, involving transactions only related to the Agreement until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations.

B.   Swimlane reserves the right to audit Customer's compliance with this Agreement. Customer will allow Swimlane and/or Swimlane's representatives, during normal business hours, all necessary access to Customer's books, records, personnel, information-technology systems, and other facilities in order to determine such compliance. If any audit reveals that Customer has underpaid the fees, Customer shall promptly remit such underpaid amounts plus interest pursuant to the City's prompt Payment Ordinance.

9.   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 the Agreement shall be deemed or taken to be a waiver of any other breach.

10.   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 is 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 D, 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 (if required), 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.

D. **Waiver of Subrogation:** For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.

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 owned, hired and non-owned vehicles used in performing services under this Agreement

   I.   **Technology Errors & Omissions with 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, the policy 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.

    (ii)   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.

11. **REPRESENTATION AND WARRANTY:** Contractor represents and warrants that:

A. the Software will conform to applicable specifications operate in substantial compliance with applicable documentation;

B. all services will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards;

C. all services will conform to applicable specifications and the Exhibits attached hereto;

D. 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 the software and services free and clear from any and all liens, adverse claims, encumbrances and interests of any third party;

E. there are no pending or threatened lawsuits, claims, disputes or actions: (i) alleging that any software or service infringes, violates or misappropriates any third party rights; or (ii) adversely affecting any software, service or supplier's ability to perform its obligations hereunder;

F. the Software will not violate, infringe, or misappropriate any patent, copyright, trademark, trade secret, or other intellectual property or proprietary right of any third party;

G. at the time of delivery of the Software to City, the Software will contain no malicious or disabling code that is intended to damage, destroy or destructively alter software, systems or data; and

H. the media on which all Software is furnished are and will be, under normal use, free from defects in materials and workmanship.

12. **DEFENSE AND INDEMNIFICATION:**

A. 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, any claim of personal injury or property damage caused by Contractor or for Contractor's breach of its representatives and warranties under Section 11 ("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 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.

B.   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. 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.

C.   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.

D.   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.

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

F.   Solely with respect to the Swimlane Software, and as Swimlane's sole liability and Customer's exclusive remedy, Swimlane will defend, indemnify and hold harmless Customer from and against any and all third party claims alleging that the Swimlane Software infringes the intellectual property rights of such third party; provided, that Customer: (i) is promptly notifies Swimlane of the claim in writing; (ii) cooperates with Swimlane in the defense of the claim; and (iii) grants Swimlane sole control of the defense and settlement of the claim. Swimlane will have no obligations to defend, indemnify or hold Customer harmless pursuant to this Section if the infringement claim is caused by (i) Customer's misuse or modification of the Swimlane Software or the Swimlane Software and without such misuse or modification the infringement would not have occurred; (ii) Customer's failure to implement updates or enhancements provided to Customer by Swimlane within a reasonable period of time; and/or (iii) Customer's use of the Swimlane Software in combination with any product not owned or developed by Swimlane and without such non-authorized combination the infringement would not have occurred. The City may participate in the defense of such action at its own expense. If Contractor concludes in its reasonable judgment that none of the foregoing options are commercially reasonable, then Contractor will refund a pro rata portion of the Software annual license fee(s) paid by the City under this Agreement and reimburse the City for all reasonable expenses for removal and replacement of the Software.

13.   **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. (2003).

14. **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.

15. **ASSIGNMENT; SUBCONTRACTING**: The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Manager's prior written consent, which will not be unreasonably withheld or delayed. Any assignment or subcontracting without such consent will be ineffective and void, and shall be cause for termination of this Agreement by the City. The Manager has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. 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 sub-consultant, subcontractor or assign.

16. **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 the 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 the Agreement is an incidental beneficiary only.

17. **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.

18. **AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS:** The Agreement is the complete integration of all understandings between the parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

19. **SEVERABILITY:** Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the 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.

20. **CONFLICT OF INTEREST:**

A. No employee of the City shall have any personal or beneficial interest in the services or property described in the 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.

B. The Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the 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 the Agreement in the event it determines a conflict exists, after it has given the Contractor written notice describing the conflict.

21. **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 Contractor at the address first above written, and if to the City at:

> Chief Information Officer or Designee
> 201 West Colfax Avenue, Dept. 301
> 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.

22. **DISPUTES:** All disputes between the City and Contractor arising out of or regarding the 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 Manager as defined in this Agreement.

23. **GOVERNING LAW; VENUE:** The 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 the 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 the Agreement will be in the District Court of the State of Colorado, Second Judicial District.

24. **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.

25. **USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** 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 Contractor from City facilities or participating in City operations.

26. **CONFIDENTIAL INFORMATION; OPEN RECORDS:**
    A. **City Information:** "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential", or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to Contractor by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format. Contractor acknowledges and accepts that, in performance of all work under the terms of this Agreement, Contractor 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 Confidential Information may be damaging to the City or third parties. Contractor agrees that all Proprietary Data, Confidential Information or any other data or information provided or otherwise disclosed by the City to Contractor shall be held in confidence and used only in the performance of its obligations under this Agreement. Contractor shall exercise the same standard of care to protect such Proprietary Data and Confidential Information as a reasonably prudent contractor would to protect its own proprietary or confidential data.
    B. **Use and Protection of Proprietary Data or Confidential Information:**

    (a) Except as expressly provided by the terms of this Agreement, Contractor 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 any data, including Proprietary Data or Confidential Information or any part thereof to any other person, party or entity in any form of media for any purpose other than performing its obligations under this Agreement. Contractor further acknowledges that by providing data, Proprietary Data or Confidential Information, the City is not granting to Contractor any right or license to use such data except as provided in this Agreement. Contractor further agrees not to disclose or distribute to any other party, in whole or in part, the data, Proprietary Data or Confidential Information without written authorization from the Manager and will immediately notify the City if any information of the City is requested from the Contractor from a third party.

    (b) Contractor agrees, with respect to the Proprietary Data and Confidential Information, that: (1) Contractor shall not copy, recreate, reverse engineer or

decompile such data, in whole or in part, unless authorized in writing by the Manager; (2) Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; and (3) Contractor 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.

        (c)   Contractor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted data received from, or on behalf of City. It is the responsibility of the Contractor to ensure that all possible measures have been taken to secure the computers or any other storage devices used for City data. This includes industry accepted firewalls, up-to-date anti-virus software, controlled access to the physical location of the hardware itself.

        C.   **Employees and Sub-Contractor:** Contractor will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement. Contractor 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.

        D.   **Disclaimer:** 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. Contractor is hereby advised to verify its work. The City assumes no liability for any errors or omissions herein. Specifically, the City is not responsible for any costs including, but not limited to, those incurred as a result of lost revenues, loss of use of data, the costs of recovering such programs or data, the cost of any substitute program, claims by third parties, or for similar costs. If discrepancies are found, Contractor agrees to contact the City immediately.

        E.   **Contractor's Information:** To the extent applicable in this Agreement, the City understands and agrees that the Contractor's software and documentation including, but not limited to, source code, object code, the interface requirements document(s), acceptance test procedures, the Statement of Work, the software design, structure and organization, software screens, the user interface and the engineering know-how implemented in the software (collectively "Contractor Confidential Information") may constitute the valuable properties and trade secrets of Contractor, embodying substantial creative efforts which are secret, confidential, and not generally known by the public, and which secure to Contractor a competitive advantage. The City agrees during the term of this Agreement and any license granted hereunder, and thereafter, to hold the Contractor Confidential Information including any copies thereof and any documentation related thereto, in strict confidence and to not permit any person or entity to obtain access to it except as required for the City's exercise of the license rights granted hereunder, and except as required by 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., C.R.S. In the event of a request to the City for disclosure of such information, the City shall advise Contractor of such request in order to give Contractor the opportunity to object to the disclosure of any of its Contractor

Confidential Information and take necessary legal recourse. 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 Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. Contractor 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 Contractor'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.

27.   LEGAL AUTHORITY: 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 the Agreement. Each person signing and executing the Agreement on behalf of Contractor represents and warrants that he has been fully authorized by Contractor to execute the Agreement on behalf of Contractor and to validly and legally bind Contractor to all the terms, performances and provisions of the Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either Contractor or the person signing the Agreement to enter into the Agreement.

28.   NO CONSTRUCTION AGAINST DRAFTING PARTY: The parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

29.   ORDER OF PRECEDENCE: In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

30.   SURVIVAL OF CERTAIN PROVISIONS: The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the 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.

31.   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.

32.   TIME IS OF THE ESSENCE: The parties agree that in the performance of the terms, conditions, and requirements of this Agreement, time is of the essence.

33.   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 plant, 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 or its officers, directors, employees, agents, vendors or elected officials and/or other substantially similar occurrences beyond the party's reasonable control ("Excusable Delay") herein. In the event of any such Excusable Delay, time for performance shall be extended for a period of time as may be reasonably necessary to compensate for such delay.

34. **PARAGRAPH HEADINGS:** The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.

35. **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.

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

37. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Contractor 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.

38. **ADVERTISING AND PUBLIC DISCLOSURE**: The Contractor shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Contractor's advertising or public relations materials without first obtaining the written approval of the Manager. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Contractor shall notify the Manager in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

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-201839868-00

Contractor Name: Swimlane, LLC.

By: _____

Name: Adam Cresswell
     (please print)

Title: Director of Business Operations
     (please print)

   May 17, 2018

ATTEST: [if required]

By: _____

Name: _____
     (please print)

Title: _____
     (please print)

EXHIBIT A

Software Functionality

Swimlane Software is an on-premise security operations management platform that provides the following functionality:
- Centralized and standardized security alerts and operations activities
- Automated response to security alerts and incidents and implementation of security controls
- Dynamic production of metrics-based dashboard and reports

Software License

	Annual Cost
Swimlane Software License (includes Maintenance Services)	SEE QUOTE

- Swimlane leverages MongoDB Community Edition, which is licensed under GNU AGPL3: http://www.gnu.org/licenses/agpl-3.0.html. If features for MongoDB beyond Community Edition are required, Customer can purchase such features from Swimlane for an additional charge.
- Swimlane licenses high availability, disaster recovery, development, test, quality assurance and other non-production instances pursuant to a separate written agreement.

Services

Service	Cost	Quantity	Total
Professional Services		[ ] hours per Agreement Year	SEE QUOTE

As used herein, "**Agreement Year**" means the 12-month period commencing on the Effective Date and each subsequent 12-month period thereafter.

All Professional Services hours not used in a given Agreement Year shall be forfeited (and no refund or reimbursement shall be due to Customer for any forfeited hours).

SWIMLANE

Prepared By	Caleb Wright	Created Date	1/10/2018
Email	caleb.wright@swimlane.com	Expiration Date	1/31/2018
		Quote Number	2015-0378

Contact Name	Todd Deering	Bill To Name	City and County of Denver
Phone	(720) 913-4831	Bill To	Wellington Webb Building
Email	todd.deering@denvergov.org		201 W. Colfax Ave
			Denver, CO 80202
			USA

Product	Product Description	List Price	Quantity	Extended	Discount	Discount	Total Price
PDS-PRO-W-1	40 hours Professional Services	$8,000.00	1.00	$8,000.00			$8,000.00
SWM-S-3003	Swimlane Annual Subscription for up to 10 Users	$125,000.00	1.00	$125,000.00			$125,000.00
SWM-S-3003	Swimlane Annual Subscription for up to 10 Users	$125,000.00	4.00	$500,000.00	27.00%	$33,750.00	$365,000.00

Total

$498,000.00

Year 1 Software License = $125,000
Year 1 PS = $8,000
Years 2-5 Software License = $91,250
*Software License Paid Annually

Subject to the terms and conditions of the Customer Agreement

Signature: _____

Print Name: _____

Title: _____

Date:_____

City and County of Denver

Signature: _____

Print Name: _____

Title: _____

Date:_____

EXHIBIT A.1

City and County of Denver

Statement of Work (SOW)

1/10/2018

This Statement of Work is entered into by the parties in accordance with and subject to the provisions of the Terms and Conditions between the parties, (the "Agreement"). Terms not otherwise defined in this SOW shall have the meanings defined in the Agreement. In the event of any conflict between the terms of this SOW and the Agreement, the terms in this SOW shall govern as it relates to the rates to be charged and days and description of Services to be performed here-under. Additional legal terms may only be added by Amendment to the Agreement, even if they are to apply to only one Statement of Work.

1. Scope

1.1 Bill of Materials
Swimlane will implement the Swimlane software solution set forth in the quote.

1.2 Base Implementation Services
Swimlane will perform software implementation services:

- Define a recommended architecture based on various volume estimates
- Perform installation of the Swimlane platform

1.3 Additional Services
In addition to Base Implementation Services defined in section 1.2, it is hereby agreed that the follow Services will also be performed, utilizing Professional Services hours as required:

- RBAC Definitions for:
    - Users/Groups/Roles
    - AD Sync (if applicable)
- Application Configuration
    - Field definition

- o Reference field linkage
- o Granular Filed-Level permission (if applicable)
- Content Development
  - o Setup Workflow automation
  - o Configure Task/Integrations
    - Automation Inputs
    - Automation Outputs
    - Triggers
    - Asset Definition
- Key Store Configuration
- Usage Statistics/ROI Calculator
- Report configuration
- Dashboard configuration
- Additional custom development as time permits

2. Operating Procedures

2.1 Point of Contact

COMPANY DETAILS	
CLIENT CONTACT	City and County of Denver
CLIENT ADDRESS	201 W Colfax Ave, Denver, CO 80202

PROJECT CONTACTS & ROLES			
NAME	RESPONSIBILITY	EMAIL	TELEPHONE
TODD DEERING	Information Security Manager	Todd.Deering@denvergov.org	720/913-4831
SWIMLANE	Professional Services Engineer to be appointed at time of execution.		

2.2 Scheduling Authority for Professional Services

Services to be provided by Swimlane will be coordinated with Customer's Technical POC listed in the contact details section above. Customer may appoint in writing (email) additional representatives to act on Customer's behalf. Customer requests made by un-appointed individuals will not be honored.

2.3 Schedule of Performance

Services will be performed during normal business hours Monday – Friday 8 A.M. – 5 P.M., excluding Swimlane corporate holidays, with a three hour minimum delivery window. Time and date of the services delivery will be mutually agreed by both parties no less than two weeks in advance of the delivery date. Where applicable Professional Services hours performed outside normal business hours will be billed at rate of one and a half of standard rates.

2.4 Change Process

Any change to the Scope will be coordinated with the Swimlane Project Lead in accordance with the Change Control Process set forth in Terms and Conditions between the parties. Customer cancelations must be in accordance with Appendix A.

3. Customer Equipment and Sites

Services performed by Swimlane will be conducted on the Customer's Equipment or Software which is owned or licensed by Customer ("Customer Equipment") and is located at the Customer sites (the "Customer Site") shown below:

3.1 Site of Services Performance

Deployment Location	Customer Equipment
Onsite	All licensed equipment

4. Fees and Expenses

The fees for the Services in this SOW are as set forth on the Quote, and will be invoiced in accordance with the Agreement.

4.1 Travel-Related Expenses

Customer will pay all reasonable actual travel-related expenses incurred by employees of Swimlane in accordance with the Agreement.

Appendix A: Professional Services Cancellation Policy

Cancellation Policy varies based on whether the service is scheduled to be delivered remotely or a Customer site. Each case is addressed below:

Remote Services – the majority of Swimlane's services are delivered remotely.

All requests for cancellations of scheduled professional services that are to be delivered remotely must be received at least 48 business hours in advance of the time the service is scheduled to begin.

If cancellation is made fewer than 48 business hours prior to the start of the scheduled session, Swimlane will make reasonable attempts to fill the allotted session with other Customers. If Swimlane does not fill the session then the Customer will be charged for the cancelled session.

If you need to cancel a session, please contact your assigned Professional Services Engineer.

Services Delivered on Customer site – Some Customers prefer to have Swimlane Professional Services delivered on site.

All requests for cancellations of scheduled professional services that are to be delivered on a Customer's site must be received at least 1 week in advance of the time the service is scheduled to begin.

If cancellation is made less than 1 week prior to the start of the scheduled session, Swimlane will make reasonable attempts to fill the allotted session with other Customers. If Swimlane does not fill the session then the Customer will be charged a minimum of 1 business day for the cancelled session along with any charges (cancellation fees) incurred.

If you need to cancel a session, please contact your assigned Professional Services Engineer.

EXHIBIT B

Maintenance and Support Services

Standard Maintenance and Support Package:

- Support Days and Support Hours. Provide a support portal during the hours of 7AM-6PM Mountain Standard Time ("Support Hours"), Monday-Friday (each a "Business Day"), excluding Swimlane holidays.

    - Swimlane holidays are the U.S. Federal Government observed dates, as follows:
        - New Year's Day
        - Martin Luther King Day
        - President's Day
        - Memorial Day
        - Independence Day
        - Labor Day
        - Veterans Day
        - Thanksgiving Day
        - Day after Thanksgiving
        - Christmas Day

- Telephone Support. Provide telephone response by a trained representative(s) during Support Hours as soon as reasonably possible after Customer's placement of a call, but in no event more than one (1) Business Day after Customer's notification of a Priority 1 Error and two (2) Business Days for a Priority 2 Error.

- Email Support.   Provide email response by a trained representative(s) (at support@Swimlane.com) during Support Hours as soon as reasonably possible after receipt of the email by Swimlane, but in no event more than one (1) Business Day after Customer's notification of a Priority 1 Error and two (2) Business Days for a Priority 2 Error.

    - Error Classification. **"Error"** means a reproducible defect in the Software when operated on a supported environment, which causes the Software not to operate substantially in accordance with the supporting documentation. Errors in the Software, and Swimlane's response to such Errors, shall be classified as follows:
    i. Priority 1 Error. A Priority 1 Error causes the Software or any critical component thereof to become totally inoperable, nonfunctional or causes ongoing corruption of critical data.
    ii. Priority 2 Error. A Priority 2 Error substantially impairs Customer's ability to use one or more critical function of the Software.
    iii. Priority 3 Error. A Priority 3 Error minimally impairs Customer's ability to use the core functions of the Software.
    iv. Priority 4 Error.   All other Errors are Priority 4 Errors.

    - Error Correction Intervals. Customer may report suspected Errors to Swimlane in writing, and Swimlane shall designate the Priority level of such Error. After each Error Report, Swimlane shall provide a resolution in the form of a workaround or other modification intended to resolve the Error (each a "Resolution") and within the following time frames:
    i. Priority 1 Error. Swimlane shall assign an individual(s) to capture information and confirm the Error within one (1) twenty-four (24) Business Day after receipt of the Error Report, and supply a Resolution within ten (10) Business Days after receipt of the Error Report confirmation and data collection.
    ii. Priority 2 Error. Swimlane shall assign an individual(s) to capture information and confirm the Error within two (2) Business Days after receipt of the Error Report, and supply a Resolution within (15) Business Days after receipt of the Error Report confirmation and data collection.
    iii. Priority 3 Error. Swimlane shall provide a Resolution as soon as reasonably possible but in no event later than fifteen (15) calendar days after receipt of the Error Report confirmation and data collection.

iv. Priority 4 Error. Swimlane shall take reasonable steps to correct a reported Error within a time frame mutually agreed by the parties commensurate with the severity of the problem, but in no event more than thirty (30) calendar days after receipt of the Error Report confirmation and data collection.

- Updates. Swimlane shall provide Updates for the Software as and when developed for general release in Swimlane's sole discretion. An "Update" means subsequent minor maintenance releases of the Software (e.g., 3.1 to 3.2) and patches that Swimlane generally makes available for Software licensees at no additional license fee to Customer provided Customer is current in the payment of all applicable license fees. Updates shall not include any release, option or future product which Swimlane licenses separately from its Maintenance Services for an additional fee. Each Update will consist of a set of programs and files made available from Swimlane's web site and will identify problems resolved and any significant operational differences resulting from such Update.

- Upgrades. Customer shall be entitled to major Software release upgrades (e.g. 2.0 to 3.0) at no additional cost provided Customer is current in the payment of all applicable license fees. An "Upgrade" means subsequent major releases of the Software (e.g. 2.0 to 3.0) that Swimlane generally makes available for Software licensees at no additional license fee.

- Third Party Software Updates. Swimlane approves and makes available information regarding Updates of Third Party Software included in the Software to Customers via Swimlane's release notes.

- Supervisions and Management. Customer is responsible for undertaking the proper supervision, control and management of its use of the Software, including, but not limited to: (a) assuring a proper supported environment configuration, Software installation and operating methods; and (b) following industry standard procedures for the security of data, accuracy of input and output, and back-up plans, including restart and recovery in the event of hardware or software error or malfunction.

- Lapse Period. If Customer desires to reinstate Maintenance Services after a period without Maintenance Services (the "Lapse Period"), Customer shall be required to pay a fee equal to the sum of (a) the fees for the subsequent one (1) year of Maintenance Services from the date of reinstatement; and (b) the fees for the Maintenance Services for the Lapse Period.

- Exceptions: Swimlane shall have no responsibility to fix any Errors arising out of or related to the following causes: (a) Customer's modification or combination of the Software (in whole or in part); or (b) use of the Software in an environment other than a supported environment. Any corrections performed by Swimlane for such Errors shall be made, in Swimlane's sole discretion, at Swimlane's then-current time and material charges.

EXHIBIT C

Professional Services

Swimlane shall provide the Professional Services in accordance with the terms and conditions set forth below. Capitalized terms set forth herein shall have the meanings ascribed to them in the Agreement, unless express defined herein.

1. Scope of Services. Swimlane shall provide the Professional Services to Customer under this Professional Services Schedule ("**PSA**"). At the start of the deployment planning ("**Start Date**"), Customer and Swimlane shall develop a mutually agreed upon deployment plan that shall be detailed in one or more Statements of Work ("**SOW**") (the "**Services**"). Services include but are not limited to the process of configuring the Software in Customer's environment. This PSA shall expire one (1) year from the Start Date.

2.   Assumptions and Responsibilities

2.1   Assumptions. Changes to this PSA shall be documented using a Project Change Request form in accordance with the process outlined in this PSA. Customer shall ensure that data backup is performed. Swimlane shall not be responsible for the loss or corruption of any Customer data or for any system downtime. Except as may be purchased under a separate Swimlane Services Schedule, Swimlane shall not be responsible for any application or host system access that encompasses coding, scripting, application analysis, system performance, troubleshooting, or applications logins outside of the Services described in this PSA.

2.2   Swimlane Responsibilities. Swimlane shall use commercially reasonable efforts to complete the Services described in this PSA in a timely manner. Swimlane shall perform all appropriate Services remotely, via a remote desktop session or, if necessary, onsite at the Customer facilities. Swimlane shall provide a Project Lead with the qualifications, expertise, and knowledge to fulfill Swimlane's obligations under this PSA, as necessary and applicable to the PSA requirements of <u>Section 1</u>.

2.3   Customer Responsibilities. Completion of the Services by Swimlane in adherence to the terms of this PSA is contingent upon Customer fulfilling all necessary facilities arrangements prior to the commencement of the Services which shall include but not be limited to such items as power, network connections, floor space, and cooling. Such required facility arrangements must be in place for the duration of this PSA. Customer shall make knowledgeable staff available to Swimlane promptly upon a request via pager, telephone, or cell phone to provide background information and clarification of information required to perform the Services outlined in this PSA. All documentation and information provided to Swimlane staff by Customer must be accurate, complete and up-to-date. Customer shall be responsible for any business and data application testing and all necessary data backup in preparation for and during the performance of the Services. Customer shall assign system administrators and operators available by phone or pager for the duration of this PSA.

For the duration of this PSA and where applicable, Customer shall provide Swimlane adequate onsite access to office space and equipment, and to telephones with outside lines and a dedicated, secure line for internet access. Should the project plan rely on electronic/network transfer of data, Customer shall provision and enable any network components or Services required to facilitate the data transfer. Where applicable, Customer shall provide security passes to cover the duration of this PSA to allow Swimlane access, and the ability to enter and leave Customer facilities, with laptop personal computers and any other materials related to the Services to be performed under this PSA. If required by Swimlane, Customer shall participate in testing as directed by Swimlane. Customer shall provide a Project Lead with the requisite qualifications, expertise, and knowledge who is authorized by Customer to act as a liaison between Customer.

3.   Status Notification. Swimlane shall notify Customer of the status of Services hours consumed on a regular basis. Additionally, Swimlane shall also notify Customer when the Services have been completed in accordance with the agreed upon Statement(s) of Work.

4.   Project Change Process. Any change to a PSA shall be coordinated with the Swimlane Project Lead.

4.1   Change Initiation. Swimlane or the Customer may initiate change requests. The Project Lead of the party initiating a change shall submit each change request to the other party's Project Lead, and then both Project Leads shall review such request for validation. Upon the initiation of a change request, both parties must agree within twenty-four (24) hours of the receipt of the Change Request Form by the non-initiating party whether or not to continue performance of the Services or to stop all Services being performed until a mutually agreed upon Change Request Form has been signed by both parties.

4.2 Change Request Review. After the submission of a Change Request Form to a Project Lead and validation of the requested change, the Swimlane Project Lead shall review the requested change to determine if it is within the scope of the SOW.

        (a) Within Services Scope. If the Swimlane Project Lead determines that the change requested by Customer is within the scope of the SOW, the Project Leads of both parties shall execute the Change Request Form and implement the change into performance of the Services as appropriate.

        (b) Outside Services Scope. If the Swimlane Project Lead determines that the requested change is outside the scope of

Services the SOW, the Swimlane Project Lead shall then determine whether such requested change impacts the pricing or scheduling projections for the performance of the Services.

(i)   If the Swimlane Project Lead determines that the requested change does not impact the pricing or scheduling projections of the SOW, the Project Leads shall execute the Change Request Form and implement the requested change into the performance of the Services as appropriate.

(ii)   If the Swimlane Project Lead determines that the requested change does impact the pricing or scheduling projections of the SOW, the terms of <u>Section 4.3</u> shall apply.

4.3 Cost Estimate Preparation. Upon determination that the Change Request impacts the pricing or scheduling of the Services under the SOW, a cost estimate applicable to the performance of the requested change shall be prepared by Swimlane and provided to the Customer. The cost estimate shall fully document the scope of the change, and provide a basis of estimate for the proposed adjustments in price, schedule, and/or other factors as applicable. If applicable, a schedule (separate from but integrated with the implementation plan) shall be developed and maintained for each such authorized change.

44   Change Implementation.   The execution of the Change Request Form by both parties shall cause the Change Request Form to become part of and incorporated into the SOW. Commencement of the performance of the requested change is conditioned upon the mutual execution of the Change Request, and Swimlane's receipt of an additional P.O. authorization to cover the agreed upon price for each requested change.

5.   Fee Description and Payment. Customer shall pay to Swimlane the Professional Service Fees for the performance of the Services under this PSA as set forth in <u>Exhibit A</u> of the Agreement.

6.   Rights to Development. Swimlane shall retain all right, title and interest in and to development tools, know-how, methodologies, processes, technologies or algorithms used in providing the Services and all Intellectual Property rights therein.

7.   Constructive changes. Swimlane and Customer agree that: (a) Customer has knowledge of and control over the conditions and constraints of Customer's facilities, and IT environment; and administers how the services on Customer's IT infrastructure are performed; (b) Swimlane may undertake a course of action under this engagement which was unforeseen at the time the PSA was executed but is necessary, arises from a latent or unusual condition, is at the direction of the Customer, or results from an act of omission of the Customer and, by changing Swimlane's manner, method, or scope of work, increases Swimlane's cost or schedule to perform; (c) should Swimlane's cost or schedule to perform so increase, Swimlane shall have the right to an equitable adjustment to the price, schedule, and/or terms of the PSA for such changes even if these changes have not been submitted through the Project Change Process set forth in Section 4.

Throughout the duration of the contract, the City may request additional Professional Services on an as needed basis. The rate used for these services is listed below.

Description	Rate/hour
Professional Services	$200

SWIMLLC-01   JPIMENTEL

ACORD®
CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/12/2018

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 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).

PRODUCER	CONTACT NAME: Certificate Department
Preferred Insurance Services, Inc 4035 Ridge Top Road, Suite 150 Fairfax, VA 22030	PHONE (A/C, No, Ext): (703) 667-5940 FAX (A/C, No): (703) 991-4838
	E-MAIL ADDRESS: certs@preferins.com

	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : **Valley Forge Insurance**	20508

INSURED	
Swimlane LLC **363 CENTENNIAL PKWY STE 210** **Louisville, CO 80027**	INSURER B :
	INSURER C :
	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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY**			6021396242	02/04/2018	02/04/2019	EACH OCCURRENCE	$ 2,000,000
	☐ CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 500,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 4,000,000
	X POLICY ☐ PROJECT ☐ LOC						PRODUCTS - COMP/OP AGG	$ 4,000,000
	OTHER:							$
A	**AUTOMOBILE LIABILITY**			6021396242	02/04/2018	02/04/2019	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						☐ PER STATUTE ☐ OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)		N/A				E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	**Technology E & O**			6021396242	02/04/2018	02/04/2019	Each Claim/Aggregate	2,000,000

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

As required by written contract, the City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers are included as Additional Insured

Contract #: TECHS-201839868-00)

CERTIFICATE HOLDER	CANCELLATION
City and County of Denver **Department of 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 *David Gibson*

ACORD 25 (2016/03)

CERTIFICATE OF LIABILITY INSURANCE

ACORD®

EAS R001

DATE (MM/DD/YYYY) 4/12/2018

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 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).

PRODUCER	CONTACT NAME:
PAYCHEX INSURANCE AGENCY INC/PAC	PHONE (A/C, No, Ext): / FAX (A/C, No): (888) 443-6112
250881 P: F:(888) 443-6112	E-MAIL ADDRESS:
PO BOX 33015	
SAN ANTONIO TX 78265	

INSURER(S) AFFORDING COVERAGE	NAIC#
INSURER A: Hartford Fire & Its P&C Affiliates	00914
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED

SWIMLANE LLC
3636 EXECUTIVE CENTER DR STE 260
AUSTIN TX 78731

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	
	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE ☐ OCCUR ☐						EACH OCCURRENCE	$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY ☐ PROJECT ☐ LOC ☐						GENERAL AGGREGATE	$
							PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR **EXCESS LIAB** CLAIMS-MADE						EACH OCCURRENCE	$
							AGGREGATE	$
	DED RETENTION $							$
A	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		76 WEG ZU4245	06/22/2017	06/22/2018	X PER STATUTE / OTHER	
							E.L. EACH ACCIDENT	$100,000
							E.L. DISEASE- EA EMPLOYEE	$100,000
							E.L. DISEASE - POLICY LIMIT	$500,000

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

Those usual to the Insured's Operations.
As required by written contract, the City and County of Denver, its Elected and Appointed Officials. Employees and Volunteers are included as Additional Insured.

CERTIFICATE HOLDER	CANCELLATION
CITY AND COUNTY OF DENVER DEPARTMENT OF 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 *Susan L. Castaneda*