

## SECOND AMENDATORY AGREEMENT

This **SECOND AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City") and **SKILLSOFT CORPORATION**, a Delaware corporation whose address is 107 Northeastern Blvd., Nashua, New Hampshire 03062 (the "Contractor"), jointly ("the Parties").

### WITNESSETH:

**A.** The Parties entered into an Agreement dated June 19, 2013 and a First Amendatory Agreement dated July 21, 2014 (collectively, the "Agreement") to provide the City with a solution to import third-party course progress/completion data into Skillport, and to have the option to integrate that data into Skillport views or reporting.

**B.** The Parties wish to amend the Agreement to modify the scope of work, increase funding, and extend the term.

**NOW THEREFORE**, in consideration of the premises and the Parties' mutual covenants and obligations, the Parties agree as follows:

1. All references to "...Exhibit A and A-1..." in the Agreement shall be amended to read: "...Exhibit A, A-1 and A-2..." as applicable. The scope of work marked as **Exhibit A-2** attached to this Second Amendatory Agreement is hereby incorporated by reference.

2. Article 4 of the Agreement entitled **TERM** is amended to read as follows:

"4. **TERM**: The Term of the Agreement is from May 30, 2013 through May 29, 2017 (the "Term")."

3. Article 5(D)(i) of the Agreement entitled **Maximum Contract Liability** is amended to read as follows:

**"5. COMPENSATION AND PAYMENT:**

**(D). Maximum Contract Liability:**

**(i)** Any other provision of this Agreement notwithstanding, in no event shall the City be liable for payment for services rendered and expenses incurred by Contractor under the terms of this Agreement for any amount in excess of the sum of **ONE MILLION ONE HUNDRED FIFTY THOUSAND NINE HUNDRED EIGHTY-SIX DOLLARS AND 12/100 CENTS (\$1,150,986.12)**. Contractor acknowledges that any work performed by Contractor beyond that specifically authorized by the City is performed at Contractor's risk and without authorization under this Agreement."

4. As herein amended, the Agreement is affirmed and ratified in each and every particular.

5. This Second Amendatory Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

**[SIGNATURE PAGES FOLLOW]**

**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:** CSAHR-201310840-02  
**Contractor Name:** SkillSoft Corporation

By: \_\_\_\_\_ *BP*

**Brian Prusak**  
**Senior Director Finance**  
Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print) *May 16, 2016.*

**ATTEST: [if required]**

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

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

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





EXHIBIT A-2

SCOPE OF WORK - ORDER FORM

This Order Form together with any Exhibits attached hereto which are hereby incorporated by reference (the "Order Form") is effective as of 30 May 2016 (the "Effective Date") by and between Skillsoft Corporation ("Skillsoft") and City and County of Denver ("Customer") and issued in accordance with the terms and conditions and made a part of the Master License Agreement between Skillsoft and City and County of Denver dated 30 May 2013 (the "Agreement").

1. LICENSE DETAILS

LICENSE TERM: START DATE: 30 MAY 2016 END DATE: 29 MAY 2017

Table with 2 columns: SKILLSOFT PRODUCT and AUTHORIZED AUDIENCE. Rows include Desktop & IT Videos, ES&H Courseware Collection, Gigabytes with Custom Content Publishing Solution, etc.

\*Maintenance services provided under SOW No. CCD2915 dated 2 September 2015 are extended through the License Term of this Order Form.

DEPLOYMENT METHOD: SkillPort via Extranet Hosting Services

It is acknowledged that all Customer owned Custom Content hosted by Skillsoft is deleted upon expiration or termination of the Order Form and that Customer is responsible to ensure that master copies are maintained by Customer.

Special Use of Skillsoft Confidential Information (Special Use)

(a) The parties recognize that there may be investigations, proceedings, disputes, or lawsuits (each a Special Event) where Customer is asked to share with limited third parties certain Skillsoft materials that Skillsoft considers to be proprietary and/or confidential.

(b) Skillsoft permits Customer to use Confidential Information solely in connection with a Special Event, provided that Customer i) promptly notifies Skillsoft of the Special Event and the parties involved, ii) keeps in confidence all Confidential Information and does not directly or indirectly use Confidential Information for its own benefit.

(c) All information furnished under this Special Use Section shall remain the property of Skillsoft and shall be returned to it or destroyed promptly at Skillsoft's request together with all copies made of such information by Customer, the Requesting Party, or any other third parties permitted access to the Confidential Information.

(d) Customer acknowledges that its breach of this Special Use Section may result in immediate and irreparable harm to Skillsoft, for which there will be no adequate remedy at law, and Skillsoft shall be entitled to equitable relief to compel Customer to cease and desist all unauthorized use and disclosure of Confidential Information.

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

Table with 2 columns: YEAR/TERM and ANNUAL LICENSE FEES. Rows include Y1 and TOTAL.



All fees shall be invoiced annually in advance and are due and payable net 100% net 35 days from the date of invoice.

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

**Course Object** shall mean current and future online computer based training materials developed and owned by Skillsoft and/or its licensors in the content areas relating to business skills, employee health and safety, legal compliance, financial services industry, desktop applications and information technology, including all hard copy, machine-readable materials that comprise the object, including, all related software, data, disks, tapes, CD-ROM, Documentation and packaging delivered, including by electronic delivery, to Customer. Planned Course Object(s) that are not commercially available at the time of Customer's selection are available on a 'when and if' basis. A target date is indicative of the anticipated release date but is subject to change or removal by Skillsoft without notice. The materials provided hereunder have been developed with subject matter expertise from various third parties but are intended for informational and educational purposes only and do not constitute legal advice or guarantee compliance with any federal, state or local laws or regulations. Although Skillsoft undertakes all reasonable efforts to maintain the legal accuracy of this content and make updated content available to customers, neither Skillsoft nor any third party represents or warrants that the content reflects current legal developments; customers are encouraged to consult local counsel before taking any action based on the content or information provided hereunder.

**Custom Content** shall mean the creation of an on-line computer based training course proprietary to Customer's business.

**Custom Content Publishing Solution** shall mean a self service web application that enables Customer to test their custom content for Skillport compatibility, as well as package, upload, preview and publish the content onto the Skillport platform. If Customer licenses Custom Content hosting that includes the Custom Content Publishing Solution then Customer is responsible for package, upload, preview and publish the content onto the Skillport platform themselves.

**Desktop & IT Videos** shall mean a collection of short, instructional videos covering IT and desktop related topics, hosted on Books24x7. Skillsoft reserves the right to modify, restrict or update any content contained in the Desktop & IT Videos collection at any time during the License Term of this Order Form.

**Environmental, Safety & Health (ES&H) Courseware Collection** is a package of the following Skillsoft products licensed to Customer in US English and any additional languages as set forth in the license table above, subject to the Authorized Audience level, in accordance with the terms and conditions set forth herein:

- Safety and Health Solution Area
- Platform Software

**ILT Module** shall mean the Skillport Add-On Module Instructor Lead Training, which will allow Customer to list, and track classroom training through Skillport via Extranet Hosting Services. The ILT Module is dependent upon a minimum Skillport version (6.2 SR 2).

**IT Videos** shall mean a collection of short, instructional videos covering IT related topics, hosted on Books24x7. Skillsoft reserves the right to modify, restrict or update any content contained in the IT Video collection at any time during the License Term of this Order Form.

**Leadership Channel** means the video lessons and other content and materials pursuant to this Order Form, including, without limitation, on demand video programs, all lesson summaries, ideas for action, and questions to ask provided by Skillsoft in connection with any video lesson. Skillsoft reserves the right to modify, restrict or update any content contained in Leadership Channel throughout the License Term.

**Legal Compliance Courseware Collection** is a package of the following Skillsoft products licensed to Customer in US English and any additional languages as set forth in the license table above, subject to the Authorized Audience level, in accordance with the terms and conditions set forth herein:

- Legal Compliance Solution Area
- Platform Software

**License Term** shall mean the period of time from the Start Date through the End Date.

**Mentoring Service** shall mean a service that enables a user to ask questions relating to specific information technology courses or the general subject matter of those courses and receive responses from experts in the field of information technology. The Mentoring Service is only available for Customers that purchase a license to Extranet Hosting Service and/or Skillport via Extranet Hosting Services.

**Platform Software** shall mean the technology infrastructure selected by Customer in Section 1 of this Order Form above as further defined in Section 3 of this Order Form.

**Referenceware** shall mean the Books24x7 online library of third party reference materials, editorial materials, electronic books and other resources hosted by Books24x7.com, Inc. Skillsoft reserves the right to modify, restrict or update any content contained in a Referenceware collection throughout the term of this Order Form.

**SkillChoice Business** is a prepackaged offering of the Skillsoft Products set forth below, in US English and any additional languages as set forth in the license table above:

- Business Strategy and Operations Solution Area
- Finance, Human Resources, and Administration Solution Area
- Management and Leadership Solution Area
- Professional Effectiveness Solution Area
- Project Effectiveness Solution Area
- Sales and Customer Facing Skills Solution Area
- Mentoring Service
- Platform Software
- BusinessPro Referenceware

**SkillChoice Desktop** is a prepackaged offering of the Skillsoft Products set forth below, in US English and any additional languages as set forth in the license table above:

- Desktop Computer Skills Solution Area
- Mentoring Service
- Platform Software



OfficeEssentials Referenceware

SkillChoice IT is a prepackaged offering of the Skillsoft Products set forth below, in US English and any additional languages as set forth in the license table above:

- Software Development Solution Area
- Operating Systems and Server Technology Solution Area
- Internet and Network Technologies Solution Area
- Enterprise Database Systems Solution Area
- Web Design Solution Area
- Enterprise Resource Planning Systems Solution Area
- Project Effectiveness Solution Area
- Mentoring Service
- Platform Software
- ITPro Referenceware

Skillport® via Extranet Hosting Services shall mean Skillport delivered through a method of delivery and access to the Course Object(s) and Skillport whereby Skillsoft shall host the Course Object(s) and Skillport on Skillsoft servers and Customer may obtain access to the Course Object(s) and Skillport on Skillsoft servers through the World Wide Web. Skillsoft will provide Skillport via Extranet Hosting Services as they relate to management of Course Object(s), including securing server space, installation and maintenance of Course Object(s) allocation of bandwidth and the ability to generate usage reports. If Customer licenses Skillport via Extranet Hosting Services and Skillsoft releases any Updates to Skillport, Skillsoft and Customer shall work together to determine a mutually agreeable time to upgrade the Customer's site to the latest version. If Customer is not willing or able to upgrade to the latest version, Customer acknowledges that it will not be entitled to other Skillsoft Product Updates that are not compatible with Customer's version of Skillport. As a feature of Skillport via Extranet Hosting Services, Customer may elect to implement the credentialing functionality which enables Customer to provide information, credit tracking and certificate capabilities for pre-defined credentials. Such feature is dependent upon a minimum Skillport version. In the event Customer chooses the module to obtain continuing professional education ('CPE') credit for the Skillsoft Courses that are qualified by the National Association of State Boards of Accountancy ('NASBA'), Customer agrees that Skillsoft shall have access to Customer's Skillport administrator reporting feature of the module to print and maintain reports on NASBA CPE credits issued in accordance with its obligations of being a NASBA sponsor organization. The following are the requirements: CPE program sponsors must retain appropriate records for a minimum of five (5) years. To accomplish this, the records must contain the following: (1) program outline/materials; (2) records of participation; (3) date(s) and location(s) of presentation(s) or period during which program was available for purchase; (4) number of credits earned by participants; (5) results of program evaluations.

SkillStudio shall mean the services as defined in the Exhibit attached hereto.

Solution Areas shall mean the Course Object bundle(s) named in this Order Form and comprised of the Course Object(s) included in the respective bundle(s) as set forth in Skillsoft's course catalog which may be found at <http://www.skillsoft.com>, including any Updates thereto.

Updates shall mean (i) any new Skillsoft Product(s) added to a Solution Area licensed and/or (ii) all revisions, new versions and changes to, or modifications of, existing Skillsoft Product(s), which Skillsoft may, in its sole discretion, make generally available to its customers from time to time throughout the License Term; and/or (iii) removal of any retired Course Object from the licensed Solution Area. Skillsoft reserves the right to determine the schedule of Updates. Customer will not be provided Updates if they are not compatible with Customer's deployment method or the version of the Platform Software licensed by Customer.

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

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

SKILLSOFT CORPORATION

CITY AND COUNTY OF DENVER

Signature

Signature

Print Name

**Brian Prusak**  
**Senior Director Finance**

Print Name

Title

Title

Date

*May 26, 2016*

Date



EXHIBIT A  
CUSTOMER INFORMATION

BILL TO	City and County of Denver
CONTACT	Chris Longshore
PHONE	(720) 913-5657
E-MAIL	christopher.longshore@denvergov.org
ADDRESS	201 W Colfax Avenue
CITY	Denver
STATE	CO
COUNTRY	US
ZIP CODE	80202

SHIP TO	City and County of Denver
CONTACT	Chris Longshore
PHONE	(720) 913-5657
E-MAIL	christopher.longshore@denvergov.org
ADDRESS	201 W Colfax Avenue
CITY	Denver
STATE	CO
COUNTRY	US
ZIP CODE	80202





**EXHIBIT B  
SKILLSTUDIO LICENSE TERMS**

**SKILLSTUDIO DEFINITIONS:**

'SkillStudio' is hereby defined as the proprietary Skillsoft customization and course authoring tool used to customize the Skillsoft Courses and/or to author Customer proprietary online courses.

'Course Player' shall mean the software program developed and owned by Skillsoft that can be deployed via a web browser or can be downloaded to a user personal computer where courses can be played in 'off-line' mode when the PC is not connected to the network and which (i) launches and presents the courses to the user; (ii) enables the toolbar features of the courses to function; (iii) controls and enables the template files of a course display in sequence; and (iv) controls and responds to all user interactions within a course.

'Course Source Code' shall be the source code materials that belong to Skillsoft that make up the Skillsoft Course(s) that is/are herein licensed to Customer to create Customized Course(s) using SkillStudio. The Course Source Code provided hereunder shall be further defined in writing.

'Customer Course' shall mean the derivative work product Customer developed using the SkillStudio and the Customer's Source Material.

'Customer's Source Material' shall mean the Customer's own source computer based training material or subject matter content that Customer may use along with the SkillStudio to create its own computer based training course.

'Customized Course' shall mean the derivative work product Customer creates using the SkillStudio to modify the Skillsoft Courses or Course Source Code.

'Developer' an individual for whom Customer has rightfully obtained a License to use or access to SkillStudio and who is authorized by Customer to use or access SkillStudio regardless of whether the individual is actively using SkillStudio at any given time. Developers are limited to Customer's employees. Customer bears responsibility for ensuring compliance of its employees with the terms and conditions hereof.

'Error' any failure by SkillStudio to conform substantially to the Documentation provided that Customer informs Skillsoft of such failure in writing and Skillsoft can reasonably replicate it.

'Product Support' includes the following: (i) email support through Skillsoft Technical Support, (ii) phone support specific to SkillStudio, the Skillsoft Courses and the Course Source Code available through Skillsoft Technical Support and (iii) maintenance releases and all major new releases of SkillStudio, Skillsoft Courses and Course Source Code available upon request by Customer. Email and phone support are available 24X7X365, and covers the functionality of the tool relating to the operation, features and functions of SkillStudio and troubleshooting of Errors encountered using SkillStudio. Product Support does not cover instructional design or issues regarding hosting services, any support needed in these areas will be charged on a time and materials basis at Skillsoft's then-current rates and set forth on a Statement of Work executed by both parties.

'Skillsoft Course(s)' shall mean the on-line computer-based training materials in object code form developed and owned by Skillsoft in those content areas relating to (1) business, professional development, IT and environmental, safety and health which are available in Skillsoft's business skills, E3 or CCA architecture and which include all hard copy, machine-readable materials that comprise the Skillsoft Course licensed by Skillsoft to Customer pursuant to the Agreement referenced above.

**SKILLSTUDIO LICENSE DETAILS:**

In consideration for the annual license and training fees paid hereunder, Skillsoft grants to Customer a non-exclusive, non-transferable, termed license to use the Course Source Code and SkillStudio by the number of Developers specified in this Order Form in accordance with the following terms and conditions:

Customer must obtain from Skillsoft a license to use the applicable Skillsoft Course(s) as a prerequisite to using SkillStudio to create a Customized Course(s).

Developers must complete Skillsoft's Basic Blended Learning Training program consisting of a two (2) day training, delivered either (i) virtually; or (ii) onsite; or (iii) a combination of the foregoing methods, at Skillsoft's sole discretion (the 'SkillStudio Training') as a prerequisite to obtaining support on the use of SkillStudio. Customer may only purchase SkillStudio Training (as defined below) for the number of authorized developers. Customer agrees to pay for SkillStudio Training at the rates set forth in an applicable Order Form plus reasonable travel and living expenses. Cancellation or rescheduling of a scheduled training session will result in a fee to cover all lost travel expenses. Cancellation or rescheduling of a scheduled training session with less than 1 week of notice to the trainer will result in an additional fee equal to 35% of the training cost.

Customer may use SkillStudio along with the Skillsoft Courses or Course Source Code to create Customized Course(s). The Customized Course created by Customer is to be used internally by the users licensed to the associated Skillsoft Courses under the Agreement and shall not be distributed, re-sold or sublicensed by Customer to any third-party.

Skillsoft hereby agrees that Customer may use SkillStudio to develop a Customer Course provided that Customer discloses the subject matter of such Customer Course to Skillsoft prior to creation. Customer may not use SkillStudio to create a Customer Course that would compete with a Skillsoft Course; therefore, Skillsoft reserves the right to reject the creation of a Customer Course that Skillsoft reasonably believes to be competitive with a Skillsoft Course.

The Customized Course and/or Customer Course created with SkillStudio must contain the Skillsoft watermark on the splash screen of such course. Customer's right to use



the Customized Course(s) shall continue provided that the license to use the Skillsoft Course, Course Source Code and SkillStudio is maintained and renewed by Customer.

Skillsoft will provide Customer with Product Support for SkillStudio and Course Source Code licensed hereunder. Only a Developer that has completed the relevant training may receive Product Support with respect to the Course Source Code and SkillStudio. Skillsoft will make available to Customer training and education in the installation, operation and use of SkillStudio at the prices set out in the Order Form. Additional training and consulting services may be purchased by Customer for an additional fee based on Skillsoft's then-current pricing for training and consulting services.

The Customer represents and warrants that the customizations created or added by Customer do not infringe third party intellectual property. Customer acknowledges that Skillsoft is not liable in the event that Customer does infringe on third party intellectual property.