

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 **VERTIQ SOFTWARE LLC**, a California limited liability company, whose address is 36 Chatham Ct, San Jose, CA 95139 (the “Contractor”), individually a “Party” and collectively the “Parties.”

WHEREAS, the Parties entered into an Agreement dated May 2, 2018, and an Amendatory Agreement dated February 22, 2019, for the use and support of the VertiQ Case Management System supporting the Office of the Medical Examiner (the “Agreement”); and

WHEREAS, the Agreement expired by its terms on April 1, 2023, and rather than enter into a new agreement, the Parties wish to revive and reinstate all terms and conditions of the Agreement as they existed prior to the expiration of the term and to amend the Agreement as set forth below.

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

1. Effective April 2, 2023, all references to Exhibit A in the existing Agreement shall be amended to read Exhibits A and A-1, as applicable. Exhibit A-1 is attached and will control from April 2, 2023.

2. Effective upon execution, the Agreement is hereby amended by adding a new exhibit, Exhibit D, Service Level Agreement, a copy of which is attached hereto.

3. Section 19 of the Agreement, titled “**TERM**,” is amended to read as follows:

“**19. TERM:** The term of the Agreement is from April 1, 2018, through April 1, 2028.”

4. Subsection 20.4.1 of the Agreement, titled “**Maximum Contract Liability**,” is amended to read as follows:

“**20.4.1.** Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed Eight Hundred Twelve Thousand Five Hundred Fifty Dollars (\$812,550.00) (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 the Contractor beyond that specifically described in **Exhibits A and A-1**. Any services performed beyond those in **Exhibits A and A-1** or performed outside the Term are performed at the Contractor’s risk and without authorization under the Agreement.”

5. Section 23 of the Agreement, titled “**EXAMINATION OF RECORDS**,” is amended to read as follows:

“**23. EXAMINATION OF RECORDS AND AUDITS:** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City’s election in paper or electronic form, any pertinent books, documents, papers and records related to the Contractor’s performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Contractor shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under this Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement,

the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. 20-276.”

6. Section 38 of the Agreement, titled “**NO DISCRIMINATION IN EMPLOYMENT**,” is amended to read as follows:

“**38. NO DISCRIMINATION IN EMPLOYMENT**: In connection with the performance of work under this Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.”

7. Except as amended here, the Agreement is affirmed and ratified in each and every particular.

8. This Second Amendatory Agreement is not 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.

9. The following attached exhibits are hereby incorporated into and made a material part of this Agreement: **Exhibit A-1**, Quotation; and **Exhibit D**, Service Level Agreement.

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Contract Control Number: TECHS-202367372-02 (201737523-02)
Contractor Name: VertiQ Software LLC

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

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

TECHS-202367372-02 (201737523-02)
VertiQ Software LLC

By:  _____
8349526FCE7B483...

Name: Anthony Kessel
(please print)

Title: CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit A-1



VertiQ Software LLC
 P. O. Box 787 (Mailing Address)
 Morgan Hill, CA 95038
 Phone: 408-778-0608
 Fax: 408-782-0850

Quotation for Denver County Medical Examiner
05/4/2023

The purpose of this quotation is for: Contract Renewal

Year Term:	Cost:
Hosted Fees for 25 Concurrent Users <ul style="list-style-type: none"> July 9, 2023 – July 8, 2024 	\$40,950
Annual Registered Agent and State Registration Renewal Fee	\$139
Hosted Fees for 25 Concurrent Users <ul style="list-style-type: none"> July 9, 2024 – July 8, 2025 	\$40,950
Annual Registered Agent and State Registration Renewal Fee	\$139
Hosted Fees for 25 Concurrent Users <ul style="list-style-type: none"> July 9, 2025 – July 8, 2026 	\$40,950
Annual Registered Agent and State Registration Renewal Fee	\$139
Hosted Fees for 25 Concurrent Users <ul style="list-style-type: none"> July 9, 2026 – July 8, 2027 	\$40,950
Annual Registered Agent and State Registration Renewal Fee	\$139
Hosted Fees for 25 Concurrent Users <ul style="list-style-type: none"> July 9, 2027 – July 8, 2028 	\$40,950
Annual Registered Agent and State Registration Renewal Fee	\$139

VertiQ is not required to register in any jurisdiction outside of California because we do not have tax NEXUS in any jurisdiction outside of California. If VertiQ is required to register in your jurisdiction, costs associated with the registration will be added to the annual reoccurring costs as stated above.

File storage fees will be calculated and charged at the discounted rate of \$0.10 per GB per month, billed annually.

Exhibit D

Service Level Agreement**To Contract # TECHS-201737523****I. SERVICES AVAILABILITY**

Subject to the terms of the Contract, the Services will be available for SaaS, and Storage, and by Contractor 99.9% of the time, 24x7x365 (“**Services Availability**”). Contractor will monitor the Services three hundred sixty-five (365) days per year, seven (7) days per week and twenty-four (24) hours per day and shall take actions as noted herein to address service issues. The Services Availability percentage will be measured on a monthly basis according to the following formula: (i) the sum of (1) number of minutes in the month less (2) the total number of minutes of system downtime in the month, (ii) divided by the number of minutes in the month.

Scheduled Downtime. Contractor shall provide at least seven (7) day advance notice to the County of any anticipated Scheduled Downtime Periods for routine system maintenance to the Services. "Scheduled Downtime" means any scheduled Services unavailability as communicated to the County, which may include without limitation scheduled maintenance, upgrades of hardware or software, or upgrades to increase storage capacity, except as noted below. Scheduled Downtime is not included in the calculation of availability of the Services described above. Business hours will generally refer to Monday – Friday, 8:00 a.m.- 5:00 p.m. Pacific Standard Time (PST). Scheduled downtime typically is performed between 12-1 AM PST

At times, circumstances require an adjustment to be made to the environment to ensure the SaaS Software is properly maintained. These situations, while infrequent, might require taking the SaaS Software system down for a time period not to exceed ten (10) minutes. Contractor will notify County and provide a one (1) hour window to make such adjustments.

Outage. An Outage is defined as a period of time during which the Services fail to provide or perform its primary function to all or a large group of users, including being not available to _____ County, or it has been affected by a non-recoverable error, or the response time is so slow that it is not practical for the Services to be used.

An Outage is considered resolved at the time that Contractor has finished investigating the problem and the County has provided written acceptance that the Services are operational again.

II. PROCESS FOR REPORTING AN OUTAGE

Contractor shall notify the County that an Outage has occurred as soon as Contractor detects an Outage through its automated monitoring systems or other means, but no later than two (2) business days from the first day of the Outage.

When the County believes that an Outage has occurred, County will make reasonable efforts to open a service request reporting such Outage to Contractor no later than the next business day after the County becomes aware that an Outage occurred, and the County will report the nature and time of the believed Outage to Contractor.

Exhibit D

For the avoidance of any doubt, the County will be able to report its belief that an Outage may have occurred to Contractor twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year via the Contractor contacts specified in the Contractor's Escalation Contact Information below.

III. BEGINNING OF MEASUREMENT

The Parties will begin to measure Services Availability upon "**County Use**" of the Services as deemed by the County. County Use will be defined as the general availability of the Services to the County.

IV. ASSIGNMENT OF SEVERITY LEVEL AND RESOLUTION PROCESS

For purposes of this "**Severity Level**" will be defined as the service impact category assigned by the County to any significant loss of SaaS Services capability ("**Incident**") that is not within allowed maintenance window, Exclusions or Disclaimed Problems or is outside of County's Span of Control. Severity Levels shall be determined by the County and will be categorized from Severity Level 1 through Severity Level 4. The Parties will follow the procedures set forth below for Severity Level 1 through Severity Level 4 Incidents:

- a. County contacts Contractor using means of communication designated by Contractor;
- b. Contractor engages County in first level support response, requesting a status and information concerning the Incident;
- c. A support ticket is originated based on the initial Severity Level assessment– a ticket number is given to County contact;
- d. Preliminary troubleshooting and resolution are handled by a Contractor service specialist;
- e. Contractor applications analyst or applicable operations personnel are contacted (if necessary);
- f. If immediate resolution is not available, County contact is given a call back time;
- g. If the Incident is a direct application issue, the Incident is escalated to Contractor's Application Engineering team; and
- h. Calls are returned to County within guidelines specified in table below, including updates as to current status.

Exhibit D

Listed below are the Severity Levels and corresponding guidelines for the Services.

Severity Level	Guidelines for Incident Levels	Resolution Time	Follow-Up With County
Severity Level 1	<p>County will be deemed to have experienced a Severity Level 1 Incident if County experiences the following conditions caused by items within Contractor's span of control:</p> <p>An unplanned fifty percent (50%) to complete loss of SaaS Services capability attributable to the Services.</p> <p>An Incident will begin either when the loss of capability for the Services begins or when the situation becomes known to Contractor or is either automatically or manually reported to Contractor, which-ever occurs earlier, and will continue until such time as the Services are restored as determined by the County.</p>	Two (2) hours	Contractor will contact the County within fifteen (15) minutes of notification of a Severity Level 1 Incident by County. Thereafter, updates will be provided promptly after new information about the Incident is available.
Severity Level 2	<p>County will be deemed to have experienced a Severity Level 2 Incident if County experiences the following conditions caused by items within Contractor's span of control:</p> <ul style="list-style-type: none"> • An unplanned Incident causing a twenty-five percent (25%) to fifty percent (50%) loss of SaaS Services by the Services; or • Recent modifications to the system cause the Services to operate in a way that is materially different from those described in the either the Contract or in the Documentation. 	Six (6) hours	Contractor will use commercially reasonable efforts to make first contact with County within fifteen (15) minutes of notification of a Severity Level 2 Incident by County. Thereafter, updates will be provided promptly, but no later than three (3) business days after new information about the Incident is available.
Severity Level 3	<p>County will be deemed to have experienced a Severity Level 3 Incident if County experiences the following conditions due to items within Contractor's Span of Control:</p> <ul style="list-style-type: none"> • An unplanned incident causing up to a twenty-five percent (25%) loss of SaaS Services by the Services; or • Recent modifications to the system cause the Services to operate in a way that is materially different from those described in the Contract or 	Twenty-four (24) hours	Contractor will use commercially reasonable efforts to make first contact with County within fifteen (15) minutes of notification of a Severity Level 3 Incident by County. Thereafter, updates will be provided promptly after new information about the Incident is available.

Exhibit D

Severity Level	Guidelines for Incident Levels	Resolution Time	Follow-Up With County
	in the Documentation for non-essential features.		
Severity Level 4	Severity Level 4 Incidents are issues that do not affect the operation of the Services and are comprised of “informational” messages (e.g. scheduled maintenance).	One-hundred twenty hours (120)	For Severity Level 4 Incidents, Contractor will use commercially reasonable efforts to make first contact with County seventy-two (72) hours prior to maintenance.

V. EXCLUSIONS

Contractor's support obligations pursuant to this do not include training for County in the use, management or administration of the Services, the client implementation or any other products or services or management of County's day-to-day operational issues such as: (i) software and system configuration, (ii) monitoring and maintaining its hardware, network and third party software; and (iii) performing necessary backups.

In addition, Contractor shall not be obligated to fix any problem with the Services under any of the following circumstances:

- a. County has used the Services other than for the purposes allowed in this Contract;
- b. County has altered, damaged or modified the Services or incorporated it into other software, in a manner not approved by Contractor; or
- c. The problem was caused by County's or a third party's software or equipment other than as specified in this Contract or the Documentation.

The Parties may enter into a Contract Amendment authorizing Contractor to provide additional services at an agreed upon price.

VI. DISCLAIMED PROBLEMS

“Disclaimed Problems” shall mean any Service interruptions, degradation or problems that are the result of:

- a. Scheduled service maintenance, updating, alteration, or implementation of which County has been provided seven (7) calendar days of advance notification and has been approved by the County;
- b. The failure of power or equipment at the premises of County or End User;

Exhibit D

VII. ESCALATION CONTACT INFORMATION

County acknowledges and agrees that the 1st Level Escalation is always the first point of contact for reporting Incidents

VertiQ shall provide you access to telephone and electronic mail during normal business hours (8.00 AM to 5.00 PM Pacific Standard Time Monday - Friday excluding holidays) that allows you to report problems in the functionality of the Product. Calls or emails by your designated representative will be directed to 800-222-7947 or V3TechSupport@vertiq.com

In the event that your SaaS system becomes inoperable outside of normal business hours, please email us at the following address: VertiQsitedown@vertiq.com. An email along with a text message will be generated and distributed to our entire support team to ensure you receive a prompt response.