NEOGOV™

July 31, 2023

Subject: NEOGOV Sole Source Letter

To Whom It May Concern:

Governmentjobs.com, Inc. (d/b/a NEOGOV) is the largest provider of out-of-the-box software as a service ("SaaS") WorkforceManagement Solutions tailored for the public sector and higher education. NEOGOV is the sole source provider of an integrated suite of Workforce management tools designed exclusively for government agencies and institutions of higher education. NEOGOV's workforce management suite consists of four integrated modules Recruit, Develop, Manage, and Comply. NEOGOV products are built to support the unique needs of public sector HR teams and to automate the entire employee lifecycle while maintaining the highest standard of compliance. As a result of our investment in innovation and unique expertise working in the public sector and education, we have created a one-of-a-kind solution offering the following properties:

Insight and Governmentjobs.com
- Insight is the only applicant management platform fully integrated with the Governmentjobs.com public sector job board; both are manufactured and supported solely by NEOGOV.
- Insight is one of the only applicant tracking systems with a public sector Job Description and Salary Range Database
- Insight is an applicant tracking system with robust public sector time-to-hire data
- Insight has public sector data allowing NEOGOV to provide relevant recruiting analytics to help make informed business decisions, including benchmarking, and time-to-hire data with other area public sector agencies.
- Insight is the only applicant tracking system fully integrated with the Schooljobs.com higher education job board.
- Insight is the only public sector focused applicant tracking system integrated with "Attract", a Candidate Relationship Management tool (CRM) to better capture candidate leads, manage relationships, automate communications, and measure recruiting data. The integration with Attract allows NEOGOV customers to expand the candidate pool with Governmentjobs.com candidates that have opted-in to receive job notifications for open jobs in their area of interest.

Attract
- Attract is the only candidate relationship manager (CRM) fully integrated with Insight and OHC to better capture candidate leads, manage relationships, automate communications, and measure recruiting data. The integration between Insight, OHC, and Attract allows NEOGOV customers to expand the candidate pool with Governmentjobs.com candidates that have opted-in to receive job notifications for open jobs in their area of interest.
- Attract is the only candidate relationship manager (CRM) that allows for data from Career Pages to flow directly to Attract.

Candidate Text Messaging:
- NEOGOV's Candidate Text Messaging (CTM) provides the ability to send personalized, relevant texts to your applicants. CTM allows an agency to create custom message templates with easy-to-use merge fields for your hiring managers to choose from. Texts can be sent in bulk or individually at any step in the evaluation process.

In addition, all NEOGOV training, system documentation, hosting services, information security, and software maintenance for the products listed herein are provided by or through NEOGOV personnel.

Note, this letter is for information purposes only. Please note, this letter is not intended to serve as a legal opinion as to the availability of NEOGOV solutions through any particular procurement method. Recipients are advised to conduct independent analysis to determine whether procurement regulations applicable to their agency permit sole-source procurement.

Please let us know if you require any further information regarding our services.

Sincerely,

Joshua Snyder
NEOGOV VP of Business Development

Order Form

NEOGOV

NEOGOV

Governmentjobs.com, Inc. (dba "NEOGOV")
2120 Park Pl, Suite 100
El Segundo, CA 90245
United States
billing@neogov.com
Sales Rep: Mitch Boland

Customer:

Doral, City of (FL)
8300 NW 53rd Street, Suite 100
Doral, FL 33166
USA

Quote Valid From: 6/16/2023
Quote Valid To: 9/15/2023

Quote Number: Q-11306
PaymentTerms: Annual,Net 30
Subscription Term in Months: 24

Employee Count: 432
Order Summary

Year 1   50% discount on ALL fees in Year 1.

Service Description	Type	Start Date	End Date	Term Price (USD)
Candidate Text Messaging Subscription	RECURRING	9/1/2023	8/31/2024	$623.50
Attract Subscription	RECURRING	9/1/2023	8/31/2024	$6,544.50
Attract Setup	ONE-TIME			$3,000.00
			Year 1 TOTAL:	$10,168.00

Year 2   List price in Year 2.

Service Description	Type	Start Date	End Date	Term Price (USD)
Candidate Text Messaging Subscription	RECURRING	9/1/2024	8/31/2025	$1,309.35
Attract Subscription	RECURRING	9/1/2024	8/31/2025	$13,743.45
			Year 2 TOTAL:	$15,052.80

ORDER TOTAL (USD) :   **$25,220.80**

A. Terms and Conditions

1. Agreement. This Ordering Document and the Services purchased herein are expressly conditioned upon the acceptance by Customer of the terms of the NEOGOV Services Agreement either affixed hereto or the version most recently published prior to execution of this Ordering Form available at https://www.neogov.com/service-specifications. Unless otherwise stated, all capitalized terms used but not defined in this Order Form shall have the meanings given to them in the NEOGOV Services Agreement.

2. Effectiveness & Modification. Neither Customer nor NEOGOV will be bound by this Ordering Document until it has been signed by its authorized representative (the "Effective Date"). Unless otherwise stated in this Ordering Document, all SaaS Subscriptions shall commence on the Effective Date. This Ordering Document may not be modified or amended except through a written instrument signed by the parties.

3. Summary of Fees. Listed above is a summary of Fees under this Order. Once placed, your order shall be non-cancelable and the sums paid nonrefundable, except as provided in the Agreement.

4. Order of Precedence. This Ordering Document shall take precedence in the event of direct conflict with the Services Agreement, applicable Schedules, and Service Specifications.

B. Special Conditions (if any).

1. Insight renewal increase for years 2023 and 2024 will be capped at 6% with purchase of Attract and Candidate Text Messaging before the 2023 renewal period.

"Doral, City of (FL)"

Signature: _Valerie Vicente_

Name: Valerie Vicente, ESQ.

Title: City Attorney

Date: 9/8/2023

Signature: _BH._

Name: Barbara Hernandez

Title: City Manager

Date: 9/8/2023

NEOGOV

Signature: _____

Name: Michael Burns

Title: Accounting Director

Signature: _____

Name: ___Connie Diaz_____

Title: ___City Clerk_____

Date: ___9/8/2023_____

SERVICES AGREEMENT

V071423

You agree that by placing an order through a NEOGOV standard ordering document such as an "Order Form", "Service Order," "Ordering Document," "SOW" or other document mutually agreed by the parties detailing the services, pricing and subscription term (each, an "Order Form" for purposes of this Agreement), you agree to follow and be bound by the terms and conditions set forth herein. "Governmentjobs.com", "NEOGOV", "we", and "our" means Governmentjobs.com, Inc. (D/B/A/ NEOGOV), for and on behalf of itself and its subsidiaries PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360) (collectively, "NEOGOV" and, where applicable, its other affiliates; "Customer", "you", "your" means the NEOGOV client, customer, and/or the subscriber identified in the Order Form).

"Services Agreement" or the "Agreement" shall be used to collectively refer to this NEOGOV Services Agreement, documents incorporated herein including the applicable Order Form, each Addendum (as applicable), and Special Conditions (if any). "Addendum" means each Addendum set forth either as an Exhibit hereto or and made a part of this Agreement. "Special Conditions" means individually negotiated variations, amendments and/or additions to this Service Agreement of which are either drafted, or incorporated by reference, into the Order Form.

1. Provision of Services. Subject to the terms of this Agreement NEOGOV hereby agrees to provide Customer with access to its SaaS Applications and Professional Services (each defined below) included or ordered by Customer in the applicable Order Form (collectively referred to as the "Services"). Customer hereby acknowledges and agrees that NEOGOV's provision and performance of, and Customer's access to, the Services is dependent and conditioned upon Customer's full performance of its duties, obligations and responsibilities hereunder. This Agreement entered into as of the date of last signature to this Agreement (the "Effective Date"). The Agreement supersedes any prior and contemporaneous discussions, agreements or representations and warranties.

2. SaaS Subscription.

    a) Subscription Grant. "SaaS Applications" means each proprietary NEOGOV web-based software-as-a-service application that may be set forth on an Order Form and subsequently made available by NEOGOV to Customer, and associated components as described in any written service specifications made available to Customer by NEOGOV (the "Service Specifications"). Subject to and conditioned on Customer's and its Authorized Users' compliance with the terms and conditions of this Agreement, NEOGOV hereby grants to Customer a limited, non-exclusive, non-transferable, and non-sublicensable right to (i) onboard, access and use, and to permit Authorized Users to onboard, access and use, the SaaS Applications specified in the Order Form solely for Customer's internal, non-commercial purposes; (ii) generate, print, and download Customer Data as may result from any access to or use of the SaaS Applications; and (iii) train Authorized Users in uses of the SaaS Applications permitted hereunder (these rights shall collectively be referred to as the "SaaS Subscription"). "Authorized Users" means (1) Customer employees, agents, contractors, consultants ("Personnel") who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Services Agreement and (2) for whom access to the Services has been purchased hereunder. You shall not exceed the usage limits (if any) as detailed in the user tier in the applicable Order Form. You may not access the SaaS Applications if you are a direct competitor of NEOGOV or its affiliates. In addition, you may not access the SaaS Applications for purposes of benchmarking or competitive purposes. You shall be responsible for each Authorized User's access to and use of the SaaS Applications and compliance with applicable terms and conditions of this Agreement.

    b) Subscription Term. Unless otherwise specified in an applicable Order Form, SaaS Subscriptions shall commence on the Effective Date and remain in effect for 24 consecutive months, unless terminated earlier in accordance with this Agreement (the "Initial Term"). Thereafter, SaaS Subscriptions shall renew for successive twelve (12) month terms (each a "Renewal Term" and together with the Initial Term, collectively, the "Term") upon mutual agreement of the parties. The Term for the Services is a continuous and non-divisible commitment for the full duration regardless of any invoice schedule. The purchase of any Service is separate from any other order for any other Service. Customer may purchase certain Services independently of other Services. Your obligation to pay for any Service is not contingent on performance of any other Service or delivery of any other Service.

3. Customer Responsibilities. Customer will not, and will ensure its Authorized Users do not (a) make any of the Services available to anyone other than Authorized Users or use any Services for the benefit of anyone other than Customer and its Authorized Users, unless otherwise agreed in writing by the parties, (b) sell, resell, license, sublicense, distribute, make available, rent or lease any of the Services, or include any of the Services in a service bureau or outsourcing offering, unless otherwise agreed in writing by the parties, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of the privacy rights, publicity rights, copyright rights, or other rights of any person or entity, (d) use the Services to store or transmit code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses, (e) interfere with or disrupt the integrity or performance of the Services (including, without limitation, activities such as security penetration tests, stress tests, and spamming activity), (f) attempt to gain unauthorized access to the Services or its related systems or networks, (g) disassemble, reverse engineer, or decompile the Services, or modify, copy, or create derivative works based on the Services or any part, feature, function or user interface thereof,

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(h) remove the copyright, trademark, or any other proprietary rights or notices included within NEOGOV Intellectual Property and on and in any documentation or training materials, or (i) use the Services in a manner which violates the terms of this Agreement, any Order Form or any applicable laws.

4. <u>Professional Services</u>. "Professional Services" shall mean professional services purchased by Customer as detailed in an applicable Order Form or NEOGOV Scope of Work (SOW) describing the work to be performed, fees, and any applicable milestones, dependencies, and other technical specifications or related information. Professional Services may include training, implementation, and best practices of and concerning the SaaS Applications. Professional Services are subject to the terms of the Professional Services Addendum made attached hereto as Exhibit D and made a part hereof and may be subject to additional terms pursuant to an SOW and Service Specifications describing, if applicable, the work to be performed, fees, and any applicable milestones, dependencies, and other technical specifications or related information. Order Forms or SOWs must be signed by Customer before NEOGOV shall commence work. If Customer executes a separate SOW, this Agreement and documents incorporated herein (including but not limited to the Professional Services Addendum) shall control in the event of a conflict with the terms of the SOW. All Professional Services purchased by Customer must be utilized within twelve (12) months of the date of the applicable Order Form or SOW.

5. <u>Payment Terms</u>.

   a) <u>Fees</u>. Customer shall pay all Subscription, Onboarding and Set-Up fees ("Subscription Fees") and Professional Service fees ("Professional Service Fees", collectively the "Fees") as set forth in an Order Form within thirty (30) days of the date of NEOGOV's invoice. Fees shall be invoiced annually in advance and in a single invoice for each Term. Unless explicitly stated otherwise in an Order Form, all payments due under an Order Form are expressed in and shall be paid in U.S. dollars. Invoices shall be delivered to the stated "Bill To" party on the Order Form. Unless explicitly provided otherwise, once placed the Order Form is non-cancellable and sums paid nonrefundable. Any invoiced amount that is not received by NEOGOV when due as set forth in an Order Form will be subject to a late payment fee in accordance with the Local Government Prompt Payment Act, Sections 218.70-218.80, Florida Statutes. If any amount owing by Customer is more than 30 days overdue, NEOGOV may, without limiting its other rights and remedies, suspend the Services until such amounts are paid in full. If Subscription Fees are based upon the Authorized User or employee count as may be specified in an Order Form, Customer shall owe NEOGOV supplemental Subscription Fees to the extent Customer exceeds the number of Authorized Users or employees set forth in the Order Form. Except as otherwise specifically stated in the Order Form, NEOGOV may change the charges for the Services with effect from the start of each Renewal Term by providing Customer with new pricing at least thirty (30) day notice prior to commencement of a Renewal Term. The new pricing shall be deemed to be effective if Customer (a) returns an executed Order Form to NEOGOV, (b) remits payment to NEOGOV of the fees set forth in the invoice referencing the new pricing, or (c) the Customer or any of its Authorized Users access or use the Services after the expiration of the previous Term.

   b) <u>Taxes</u>. Customer will pay all taxes, duties and levies imposed by all federal, state, and local authorities (including, without limitation, export, sales, use, excise, and value-added taxes) based on the transactions or payments under this Agreement, except those taxes imposed or based on NEOGOV's net income or those exempt by applicable state law. Customer shall provide NEOGOV with a certificate or other evidence of such exemption within ten (10) days after the Effective Date of this Agreement and thereafter upon NEOGOV's request therefor.

   c) <u>Purchase Orders</u>. Any reference to a purchase order in an Order Form or any associated invoice is solely for Customer's convenience in record keeping, and no such reference or any delivery of services to Customer following receipt of any purchase order shall be deemed an acknowledgement of or an agreement to any terms or conditions referenced or included in any such purchase order. If a purchase order is delivered by Customer in connection with the purchase of Services, none of the terms and conditions contained in such purchase order shall have any effect or modify or supersede the terms and conditions of this Agreement. NEOGOV's failure to object to terms contained in any such purchase order shall not be a waiver of the terms set forth in this provision or in this Agreement.

6. <u>Term and Termination</u>.

   a) <u>Term</u>. This Agreement shall commence on the Effective Date and shall remain in effect until all SaaS Subscriptions have expired and/or both parties have achieved full performance of Professional Services, unless it is terminated earlier in accordance with this Agreement.

   b) <u>Termination for Cause; Effect of Termination</u>. Either Party may terminate this Agreement immediately if the other is in material breach of this Agreement and such breach is not cured within thirty (30) days following non-breaching party's written specification of the breach. NEOGOV may suspend the Services or terminate this Agreement immediately in the event the Services or Customer's use of the Services provided hereunder pose a security risk to the Services, NEOGOV or any third party, or become illegal or contrary to any applicable law, rule, regulation, or public policy. Upon expiration or any termination of this Agreement, Customer shall cease all use and refrain from all further use of the Services and other NEOGOV Intellectual Property. Additionally, Customer shall be obligated to pay, as of the effective date of such expiration or termination, all amounts due and unpaid to NEOGOV under this Agreement. Unless otherwise specified, following 90

days after expiration or termination of the Agreement. NEOGOV may remove Customer Data from NEOGOV Services and without Customer consent or notice.

7. Audit Rights. Upon reasonable notice, NEOGOV or its agent shall have the right to audit Customer's records relating to its compliance with this Agreement. Customer shall cooperate fully with this audit. If any audit conducted under this Section indicates that any amount due to NEOGOV was underpaid, Customer shall within three (3) business days pay to NEOGOV the amount due.

8. Maintenance; Modifications; Support Services.

    a) Maintenance, Updates, Upgrades. NEOGOV maintains NEOGOV's hardware and software infrastructure for the Services and is responsible for maintaining the NEOGOV server operation and NEOGOV database security. NEOGOV may in its sole discretion, periodically modify, Update, and Upgrade the features, components, and functionality of the Services during the Term. "Update" means any update, bug fix, patch or correction of the Services or underlying NEOGOV software that NEOGOV makes generally available to its customers of the same module, excluding Upgrades. Updates are automatic and available upon Customer's next login to the Services following an Update at no additional cost to Customer. "Upgrade" means any update of the Services or underlying NEOGOV software such as platform updates, and major product enhancements and/or new features that NEOGOV makes commercially available. NEOGOV shall have no obligation to provide Upgrades to customers and retains the right to offer Upgrades free of cost or on a per customer basis at additional cost. NEOGOV shall have no liability for, or any obligations to, investments in, or modifications to Customer's hardware, systems or other software which may be necessary to use or access the Services due to a modification, Update, or Upgrade of the Services.

    b) Program Documentation; Training Materials. "Program Documentation" shall mean all user guides, training, and implementation material, and Service descriptions provided by NEOGOV to Customer in connection with the Services. NEOGOV hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use, print, and distribute internally via non-public platforms, the Program Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services. Primary training of NEOGOV Services is conducted by self-review of online materials. NEOGOV's pre-built, online training consists of a series of tutorials to introduce the standard features and functions (the "Training Materials"). The Training Materials may be used as reference material by Customer Personnel conducting day-to-day activities.

    c) Implementation. For Services requiring implementation, NEOGOV implementation supplements the Training Materials and is conducted off-site unless otherwise agreed in the Order Form. For an additional fee as detailed on an applicable Order Form, NEOGOV personnel will provide consultation on best practices for setting up the Services, answer Customer questions during the implementation period, and use commercially reasonable efforts to ensure Authorized User Admins grasp the system. The length of the implementation time is dependent on the type of Service and the Customer's responsiveness. NEOGOV is not responsible or liable for any delay or failure to perform implementation caused in whole or in part by Customer's delay in performing its obligations hereunder and, in the event of any such delay, NEOGOV may, in its sole discretion, extend all performance dates as NEOGOV deems reasonably necessary.

    d) Support. Phone support for the Services is available to Customer Monday through Friday, excluding NEOGOV holidays. Customer may submit a request for online support for the Services 24 hours a day, seven days a week, and the NEOGOV support desk will acknowledge receipt of the request within a reasonable time. The length of time for a resolution of any problem is dependent on the type of case.

    e) Limitations. Unless otherwise specified in the Order Form, this Agreement does not obligate NEOGOV to render any maintenance or support services that are not expressly provided herein, including, but not limited to data uploads, manual data entry, migration services, data conversion, refinement, purification, reformatting, SQL dump, or process consultation.

9. NEOGOV Intellectual Property. NEOGOV shall exclusively own all right, title and interest in and to all pre-existing and future intellectual property developed or delivered by NEOGOV including all Services, products, systems, software (including any source code or object code) or Service Specifications related thereto, Updates or Upgrades, trademarks, service marks, logos and other distinctive brand features of NEOGOV and all proprietary rights embodied therein (collectively, the "NEOGOV Intellectual Property"). This Agreement does not convey or transfer title or ownership of the NEOGOV Intellectual Property to Customer or any of its users. All rights not expressly granted herein are reserved by NEOGOV. Other than recommendation use or as required by law, all use of NEOGOV trademarks must be pre-approved by NEOGOV prior to use. Trademarks shall include any word, name, symbol, color, designation or device, or any combination thereof that functions as a source identifier, including any trademark, trade dress, service mark, trade name, logo, design mark, or domain name, whether or not registered.

10. Data Processing and Privacy.

    a) Customer Data. "Customer Data" shall mean all data that is owned or developed by Customer, whether provided to NEOGOV by Customer or provided by a third party to NEOGOV in connection with NEOGOV's provision of Services to Customer, including Personnel data collected, loaded into, or located in Customer data files maintained by NEOGOV.

NEOGOV Intellectual Property, including but not limited to the Services and all derivative works thereof, NEOGOV Confidential Information, and Platform Data do not fall within the meaning of the term "Customer Data". Customer exclusively owns all right, title, and interest in and to all Customer Data. Customer grants NEOGOV a license to host, use, process, display, create non-personal derivative works of, and transmit Customer Data to provide the Services. NEOGOV reserves the right to delete or disable Customer Data stored, transmitted or published by Customer using the Services upon receipt of a bona fide notification that such content infringes upon the intellectual property rights of others, or if NEOGOV otherwise reasonably believes any such content is in violation of this Agreement.

b) <u>Platform Data</u>. "Platform Data" shall mean any anonymized data reflecting the access to or use of the Services by or on behalf of Customer or any user, including statistical or other analysis and performance information related to the provision and operation of the Services including any end user visit, session, impression, clickthrough or click stream data, as well as log, device, transaction data, or other analysis, information, or data based on or derived from any of the foregoing. NEOGOV shall exclusively own all right, title and interest in and to all Platform Data. Customer acknowledges NEOGOV may compile Platform Data based on Customer Data input into the Services. Customer agrees that NEOGOV may use Platform Data to the extent and in the manner permitted under applicable law. Such anonymized data neither identifies Customer or its users, nor can Customer or any its users can be derived from such data.

c) <u>Data Processing Agreement</u>. To the extent Customer uses the Services to target and collect personal information from users located in the European Union, European Economic Area, or Switzerland (the "EU") or the United Kingdom ("UK"), or has Authorized Users accessing the Services from the EU or UK, the terms of the NEOGOV Data Processing Addendum ("DPA") attached hereto as Exhibit C is hereby incorporated herein by reference and made part of this Agreement. Notwithstanding the foregoing, nothing in this provision is intended to require Customer from taking any action which would conflict with its obligations under Florida law.

d) <u>Data Responsibilities</u>.

    i) NEOGOV will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by NEOGOV personnel except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by applicable law, or (c) as Customer expressly permits in writing. Customer acknowledges and agrees that it is commercially reasonable for NEOGOV to rely upon the security processes and measures utilized by NEOGOV's cloud infrastructure providers.

    ii) Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Data, including but not limited to compliance with applicable laws. NEOGOV will have no responsibility or liability for the accuracy of the Customer Data prior to receipt of such data into the Services. Without limiting the foregoing, Customer shall be solely responsible for and shall comply with all applicable laws and regulations relating to (a) the accuracy and completeness of all information input, submitted, or uploaded to the Services, (b) the privacy of users of the Services, including, without limitation, providing appropriate notices to and obtaining appropriate consents from any individuals to whom Customer Data relates; and (c) the collection, use, modification, alteration, extraction, retention, copying, external storage, disclosure, transfer, disposal, and other processing of any Customer Data. NEOGOV is not responsible for lost data caused by the action or inaction of Customer or Authorized Users. Unless otherwise mutually agreed in writing, Customer shall not maintain any financial, health, payment card, or similarly sensitive data that imposes specific data security or data protection obligations within the Services. Customer shall provide and institute all appropriate tools and procedures required to ensure the security of its own information system and, more specifically, to prevent, detect and destroy the occurrence of any viruses.

e) <u>Breach Notice</u>. NEOGOV will notify Customer of unauthorized access to, or unauthorized use, loss or disclosure of Customer Data within its custody and control (a "Security Breach") within 72 hours of NEOGOV's confirmation of the nature and extent of the same or when required by applicable law, whichever is earlier. Each party will reasonably cooperate with the other with respect to the investigation and resolution of any Security Breach. If applicable law or Customer's policies require notification of its Authorized Users or others of the Security Breach, Customer shall be responsible for such notification.

f) <u>Data Export, Retention and Destruction</u>. Customer may export or delete Customer Data from the Services at any time during a Subscription Term, using the existing features and functionality of the Services. Customer is solely responsible for its data retention obligations with respect to Customer Data. If and to the extent Customer cannot export or delete Customer Data stored on NEOGOV's systems using the then existing features and functionality of the Services, NEOGOV will, upon Customer's written request, make the Customer Data available for export by Customer or destroy the Customer Data. If Customer requires the Customer Data to be exported in a different format than provided by NEOGOV, such additional services will be subject to a separate agreement on a time and materials basis. Except as otherwise required by applicable law, NEOGOV will have no obligation to maintain or provide any Customer Data more than ninety (90) days after the expiration or termination of this Agreement. Customer acknowledges that it is solely responsible for determining any retention requirements with respect to the Customer Data as required by applicable law and NEOGOV disclaims all liability in connection with such determination. In addition, to the extent Customer requests that NEOGOV retain Customer Data

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beyond the expiration of the retention period required by applicable law, rule or regulation, NEOGOV disclaims all liability in in connection with retaining such Customer Data including but not limited to any claims related to loss or destruction of such Customer Data.

11. <u>Third Party Services</u>. The Services may permit Customer and its Authorized Users to access services or content provided by third parties through the Services ("Third Party Services"). Customer agrees that NEOGOV is not the original source and shall not be liable for any inaccuracies contained in any content provided in any of the Third Party Services. NEOGOV makes no representations, warranties or guarantees with respect to the Third Party Services or any content contained therein, provided NEOGOV agrees to pass through any warranties it receives with respect to any Third Party Services. NEOGOV may discontinue access to any Third Party Services through the Services if the relevant agreement with the applicable third party no longer permits NEOGOV to provide such access. If loss of access to any Third Party Services (to which Customer has a subscription under this Agreement) occurs during a Subscription Term, NEOGOV will refund to Customer any prepaid fees for such Third Party Services covering the remainder of the Subscription Term.

12. <u>Nondisclosure</u>.

a) <u>Definition of Confidential Information</u>. "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer's Confidential Information includes its Customer Data. NEOGOV Confidential Information includes the NEOGOV Intellectual Property and the Services. The Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party.

b) <u>Obligations</u>. The Receiving Party will: (i) use the same degree of care it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care); (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (iii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its employees and contractors who need access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not less protective of the Confidential Information than those herein.

c) <u>Exceptions</u>. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

d) <u>Equitable Relief</u>. The parties recognize and agree there is no adequate remedy at law for breach of the provisions of the confidentiality obligations set forth in this Section 12, that such a breach would irreparably harm the Disclosing Party and the Disclosing Party is entitled to seek equitable relief (including, without limitation, an injunction) with respect to any such breach or potential breach in addition to any other remedies available to it at law or in equity.

13. <u>Representations, Warranties, and Disclaimers</u>.

a) <u>Mutual Representations</u>. Each party represents and warrants to the other party that (i) it has full power and authority under all relevant laws and regulations and is duly authorized to enter into this Agreement; and (ii) to its knowledge, the execution, delivery and performance of this Agreement by such party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it.

b) <u>Service Performance Warranty</u>. NEOGOV warrants that it provides the Services using a commercially reasonable level of care and skill and in a professional manner in accordance with generally recognized industry standards for similar services.

c) <u>No Other Warranty</u>. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS WARRANTY SECTION, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE, OR THAT ANY ERROR WILL BE CORRECTED.

d) <u>Disclaimer of Actions Caused by and/or Under the Control of Third Parties</u>. NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIALLY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS OR WITH RESPECT TO ANY THIRD PARTY SERVICES.

e) <u>No Medical Advice</u>. Through certain Services, NEOGOV may make certain telehealth related information available to Customer and/or facilitate user access to telemedicine, expert medical services, and/or emergency medical services. NEOGOV is independent from healthcare providers who provide telemedicine services and is not responsible for such healthcare providers' acts, omissions or for any content or communications made by them. The Services do not provide medical advice and do not create a healthcare provider/patient relationship between Customer and NEOGOV or otherwise. Any Services, or content accessed from the Services, are for informational purposes only and do not constitute medical advice. Customer should seek professional medical advice, diagnosis, and/or treatment for any and all medical conditions, whether as a result of using Services or otherwise. NEOGOV IS NOT RESPONSIBLE OR LIABLE FOR ANY ADVICE, COURSE OF TREATMENT, DIAGNOSIS OR ANY OTHER TREATMENT OR INFORMATION THAT CUSTOMER OR ITS USERS MAY OBTAIN THROUGH THE USE OF THE SERVICES.

14. <u>Indemnification</u>.

a) <u>Customer Indemnity</u>. To the extent permitted by applicable law, Customer will defend and indemnify NEOGOV from and against any claim, demand, suit or proceeding made or brought against NEOGOV (i) by a third party alleging that any Customer Data infringes or misappropriates such third party's intellectual property rights, (ii) in connection with Customer's violation of any applicable laws, or (iii) any claim or allegation by any third party resulting from or related to Customer's or any of its Authorized User's breach of Section 3 of this Agreement. However, to the extent applicable, nothing contained in this Agreement shall be construed as the Customer's waiver of its rights, privileges, immunities, and limitations as defined in Section 768.28, Florida Statutes.

b) <u>NEOGOV Indemnity</u>. Subject to subsections 14(b)(i) through 14(b)(iii) and 14(c) of this Section, if a third party makes a claim against Customer that any NEOGOV intellectual property furnished by NEOGOV and used by Customer infringes a third party's intellectual property rights, NEOGOV will defend the Customer against the claim and indemnify the Customer from the damages and liabilities awarded by the court to the third-party claiming infringement or the settlement agreed to by NEOGOV.

    i) <u>Alternative Resolution</u>. If NEOGOV believes or it is determined that any of the Services may have violated a third party's intellectual property rights, NEOGOV may choose to either modify the Services to be non-infringing or obtain a license to allow for continued use. If these alternatives are not commercially reasonable, NEOGOV may end the subscription or license for the Services and refund a pro-rata portion of any fees covering the whole months that would have remained, absent such early termination, following the effective date of such early termination.

    ii) <u>No Duty to Indemnify</u>. NEOGOV will not indemnify Customer if Customer alters the Service or Service Specifications, or uses it outside the scope of use or if Customer uses a version of the Service or Service Specifications which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Services or Service Specifications which was provided to Customer, or if the Customer continues to use the infringing material after the subscription expires. NEOGOV will not indemnify the Customer to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by NEOGOV. NEOGOV will not indemnify Customer for any portion of an infringement claim that is based upon the combination of Service or Service Specifications with any products or services not provided by NEOGOV. NEOGOV will not indemnify Customer for infringement caused by Customer's actions against any third party if the Services as delivered to Customer and used in accordance with the terms of the Agreement would not otherwise infringe any third-party intellectual property rights.

    iii) <u>Exclusive Remedy</u>. This Section provides the exclusive remedy for any intellectual property infringement claims or damages against NEOGOV.

c) <u>Indemnification Procedures</u>. In order to receive the indemnities described hereunder, the indemnified party must: (i) promptly notify the indemnifying party, in writing, of any claim; (ii) cooperate reasonably with indemnifying party, at the indemnifying party's expense, in the defense and/or settlement thereof; and (iii) allow the indemnifying party to control the defense and/or settlement thereof except that the indemnifying party may not, without the indemnified party's prior written consent, enter into any settlement that does not unconditionally release the indemnified party from liability. The indemnified

party shall have the right to participate in any defense of a claim and/or to be represented by counsel of its own choosing at its own expense, provided that ultimate control of such defense shall remain solely with the indemnifying party.

15. <u>Limitations of Liability</u>.

    a) <u>EXCLUSION OF DAMAGES</u>. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, INCLUDING FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) COST OF REPLACEMENT GOODS OR SERVICES; (e) LOSS OF GOODWILL, LOSS OF BUSINESS OPPORTUNITY OR PROFIT, OR LOSS OF REPUTATION; OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

    b) <u>CAP ON MONETARY LIABILITY</u>. EXCEPT FOR DAMAGES ARISING OUT OF LIABILITY WHICH CANNOT BE LAWFULLY EXCLUDED OR LIMITED, OR CUSTOMER'S OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY FOR ANY AND ALL CLAIMS AGAINST THE OTHER PARTY UNDER THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL NOT EXCEED THE AMOUNT OF ALL PAYMENTS ACTUALLY RECEIVED BY NEOGOV FROM CUSTOMER IN CONNECTION WITH THIS AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE DATE OF THE EVENT INITIALLY GIVING RISE TO SUCH LIABILITY. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT.

16. <u>Reimbursement of Costs in Third Party Litigation</u>. With respect to any litigation or other court proceeding involving Customer and a third party, if any subpoena or other legally binding request related to such litigation or court proceeding is served to NEOGOV requesting copies of documents maintained by NEOGOV or otherwise requesting NEOGOV to appear as a witness in any capacity or provide testimony with respect to Customer's documentation, Customer shall reimburse NEOGOV for its out-of-pocket costs associated with compliance with such request, including but not limited to NEOGOV's reasonable attorneys' fees.

17. <u>Text Message Communications</u>. NEOGOV may offer Personnel the opportunity to receive text messages regarding job application or hiring process reminders, applicant status updates, or other human resource related notices. Since these text message services depend on the functionality of third-party providers, there may be technical delays on the part of those providers. NEOGOV may make commercially reasonable efforts to provide alerts in a timely manner with accurate information, but cannot guarantee the delivery, timeliness, or accuracy of the content of any alert. NEOGOV shall not be liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert; or for any actions taken or not taken by you or any third party in reliance on an alert. NEOGOV cannot vouch for the technical capabilities of any third parties to receive such text messages. To the extent you utilize text messaging features, NEOGOV shall not be responsible for your use of such features.. NEOGOV MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, STATUTORY, OR IMPLIED AS TO: (i) THE AVAILABILITY OF TELECOMMUNICATION SERVICES; (ii) ANY LOSS, DAMAGE, OR OTHER SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES; AND (iii) ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS, OR SETTINGS CONNECTED WITH THE SERVICES.

18. <u>Publicity</u>. Unless otherwise provided in the applicable Order Form, NEOGOV may identify Customer as one of its customers and use Customer's logo for such purposes, subject to any trademark usage requirements specified by Customer.

19. <u>Force Majeure</u>. Except for Customer's payment obligations to NEOGOV, neither party shall be liable for any damages, costs, expenses or other consequences incurred by the other party or by any other person or entity for any act, circumstance, event, impediment or occurrence beyond such party's reasonable control, including, without limitation: (a) acts of God; (b) changes in or in the interpretation of any law, rule, regulation or ordinance; (c) strikes, lockouts or other labor problems; (d) transportation delays; (e) unavailability of supplies or materials; (f) fire or explosion; (g) riot, pandemic, military action or usurped power; (h) actions or failures to act on the part of a governmental authority; (i) internet service interruptions or slowdowns, vandalism or cyber-attacks, or (j) any other cause beyond the reasonable control of such party.

20. <u>Independent Contractor; No Third Party Beneficiary; Fulfillment Partners</u>. The relationship of the parties shall be deemed to be that of an independent contractor and nothing contained herein shall be deemed to constitute a partnership between or a joint venture by the parties hereto or constitute either party the employee or agent of the other. Customer acknowledges that nothing in this Agreement gives Customer the right to bind or commit NEOGOV to any agreements with any third parties. This

Agreement is not for the benefit of any third party and shall not be deemed to give any right or remedy to any such party whether referred to herein or not. NEOGOV may designate any third-party affiliate, or other agent or subcontractor (each a "Fulfillment Partner"), without notice to, or the consent of, Customer, to perform such tasks and functions to complete any Services.

21. <u>Entire Agreement; Amendment; Addendum</u>. This Services Agreement, the Exhibits hereto, each Addendum (as may be applicable pursuant to the terms therein) and documents incorporated herein, the applicable Order Form, and Special Conditions (if any) constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous oral and written statements of any kind whatsoever made by the parties with respect to such subject matter. It is expressly agreed that the terms of this Agreement and any NEOGOV Order Form shall supersede the terms in any non-NEOGOV purchase order or other ordering document. Notwithstanding the foregoing, any conflict of terms shall be resolved by giving priority in accordance with the following order: 1) Exhibit A hereto, 2) the Customer Addendum (Addendum C), 3) Special Conditions (if any), 4) NEOGOV Order Form, 5) the NEOGOV Services Agreement, and 4) the other Exhibits and applicable Addendum. This Agreement supersedes the terms and conditions of any clickthrough agreement associated with the Services. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the parties to be bound. If you are subscribing for the HRIS or PowerEngage Platform, you hereby specifically agree to the terms of the applicable Addendum set forth on the NEOGOV Site.

22. <u>General</u>.
   a) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the state of Florida, without giving effect to conflict of law rules. Any legal action or proceeding relating to this Agreement shall be instituted only in any state or federal court in Miami-Dade, Florida.

   b) Severability. If any provision of this Agreement is held to be illegal or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that the remainder of this Agreement will continue in full force and effect. Provisions that survive termination or expiration are those relating to, without limitation, accrued rights to payment, acknowledgements and reservations of proprietary rights, confidentiality obligations, warranty disclaimers, and limitations of liability, and others which by their nature are intended to survive.

   c) Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given either when personally delivered, one (1) business day following delivery by recognized overnight courier or electronic mail, or three (3) business days following deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested. All such communications shall be sent to (i) Customer at the address set forth in the Order Form and (ii) NEOGOV at the address specified in the applicable Order Form.

   d) Waiver. The waiver, express or implied, by either party of any breach of this Agreement by the other party will not waive any subsequent breach by such party of the same or a different kind.

   e) Electronic Delivery. Delivery of a copy of this Agreement or an Order Form bearing an original signature by electronic mail or by any other electronic means will have the same effect as physical delivery of the paper document bearing the original signature.

   f) Assignment. Customer may not assign this Agreement without the express written approval of NEOGOV Any attempt at assignment in violation of this Section shall be null and void.

   g) Construction. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, addendum, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers as of the date set forth below, and consent to the Agreement.

DORAL, CITY OF (FL)

Signature: _Valerie Vicente_

Name: _Valerie Vicente, ESQ._

Title: _City Attorney_

Date: _9/8/2023_

Signature: _BAH._

Name: _Barbara Hernandez_

Title: _City Manager_

Date: _9/8/2023_

Signature: _Connie Diaz_

Name: _Connie Diaz_

Title: _City Clerk_

Date: _9/8/2023_

NEOGOV

Signature: _____

Name: Michael Burns

Title: Accounting Director

Exhibit A
Government Customer Addendum

If Customer is a Government Customer, the following Government Customer Addendum ("Government Addendum") forms part of the Services Agreement, and in the case of any conflict or inconsistency between the terms and provisions of this Addendum and any other provision of the Services Agreement, the terms of this Government Addendum shall control. For purposes hereof, a "Government Customer" means a Customer which is a (a) U.S. Federal agency, (b) state government, agency, department, or political subdivision (including a city, county or municipal corporation), or (c) instrumentality of any of the foregoing (including a municipal hospital or municipal hospital district, police or fire department, public library, park district, state college or university, Indian tribal economic development organization, or port authority).

1. **Applicability**. The provisions of this Addendum shall apply only if Customer is a Government Customer under the Services Agreement.

2. **Termination for Non-Appropriation of Funds**. If Customer is subject to federal, state or local law which makes Customer's financial obligations under this Services Agreement contingent upon sufficient appropriation of funds by the applicable legislature (or other appropriate governmental body), and if such funds are not forthcoming or are insufficient due to failure of such appropriation, then Customer will have the right to terminate the Services Agreement at no additional cost and with no penalty by giving prior written notice documenting the lack of funding. Customer will provide at least thirty (30) days advance written notice of such termination. Customer will use reasonable efforts to ensure appropriated funds are available. It is expressly agreed that Customer shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its fiscal operations. If Customer terminates the Services Agreement under this Section 2, Customer agrees not to replace the Services with functionally similar products or services for a period of one year after the termination of the Services Agreement.

3. **Indemnification**. If Customer is prohibited by federal, state or local law from agreeing to hold harmless or indemnify third parties, Section 14(a) and the indemnification provision included in Section 17 of the Services Agreement shall not apply to Customer, to the extent disallowed by applicable law.

4. **Open Records**. If the Customer is subject to federal or state public records laws, including laws styled as open records, freedom of information, or sunshine laws ("Open Records Laws") the confidentiality requirements of Section 12 of the Services Agreement apply only to the extent permitted by Open Records Laws applicable to the Customer. This Section is not intended to be a waiver of any of the provisions of the applicable Open Records Laws, including, without limitation, the requirement for the Customer to provide notice and opportunity for NEOGOV to assert an exception to disclosure requirements in accordance with the applicable Open Records laws.

5. **Cooperative Purchasing**. As permitted by law, it is understood and agreed by Customer and NEOGOV that any (i) federal, state, local, tribal, or other municipal government (including all administrative agencies, departments, and offices thereof); (ii) any business enterprise in which a federal, state, local, tribal or other municipal entity has a full, majority, or other controlling interest; and/or (iii) any public school (including without limitation K-12 schools, colleges, universities, and vocational schools) (collectively referred to as the "New Entity") may purchase the Services specified herein in accordance with the terms and conditions of this Agreement. It is also understood and agreed that each New Entity will establish its own contract with NEOGOV, be invoiced therefrom and make its own payments to NEOGOV in accordance with the terms of the contract established between the New Entity and NEOGOV. With respect to any purchases by a New Entity pursuant to this Section, Customer: (i) shall not be construed as a dealer, re-marketer, representative, partner or agent of any type of NEOGOV, or such New Entity; (ii) shall not be obligated, liable or responsible for any order made by New Entities or any employee thereof under the agreement or for any payment required to be made with respect to such order; and (iii) shall not be obliged, liable or responsible for any failure by any New Entity to comply with procedures or requirements of applicable law or to obtain the due authorization and approval necessary to purchase under the agreement. Termination of this Agreement shall in no way limit NEOGOV from soliciting, entering into, or continuing a contractual relationship with any New Entity. Any New Entity who purchases Services under this Section hereby represents that is has the authority to use this Services Agreement for the purchase and that the use of the Services Agreement for the purchase is not prohibited by law or procurement regulations applicable to the New Entity.

6. **Subcontractors.** For purposes of this Agreement, including any subsequent documentation requested by Customer pursuant to this Agreement, the term "subcontractors" shall exclude subcontractors (i) who perform routine software development and maintenance services which are not specific to the Customer, (ii) subcontractors who will not have any access to Customer Data, and (iii) subcontractors who have access to Customer Data solely within NEOGOV's or Customer's systems.

Exhibit B
Integration Terms Addendum

NEOGOV offers integrations and platform APIs for integrations to third party systems ("Integration Services"). Customer may use only those Integration Services purchased or subscribed to as listed within the NEOGOV Order Form. The following terms (the "Integration Terms Addendum") shall apply to the extent that Customer utilizes a system integration between the Services and either: (a) an affiliated integrated service, including those found at https://api.neogov.com/connect/marketplace.html and/or https://apidocs.powerdms.com ("Affiliated API") or to the extent that Customer utilizes a system integration between the Services and an unaffiliated third-party service ("Customer Application") integrated using NEOGOV's open API ("Open API"). Integration Services are not available for HRIS Services and this Exhibit B shall not apply to HRIS Services.

1. Provision of Integrations. Subject to and conditioned on compliance with all terms and conditions set forth in this Agreement, NEOGOV hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable license during the applicable Term to use and/or access the Affiliated API as described in this Agreement, or the Open API for communication between Customer's human resource related third application(s) that will interoperate with NEOGOV Services (collectively these uses shall be referred to as the "API" or "Integration"). Customer acknowledges there are no implied licenses granted under this Agreement. NEOGOV reserves all rights that are not expressly granted. Customer may not use the API for any other purpose without our prior written consent. Customer may not share the API with any third party, must keep the API and all log-in information secure, and must use the API key as Customer sole means of accessing the API.

2. Integration Intellectual Property. All right, title, and interest in the API and any and all information, data, documents, materials, inventions, technologies, know-how, descriptions, requirements, plans, reports, works, intellectual property, software, hardware, systems, methods, processes, and inventions, customizations, enhancements, improvements and other modifications based on or derived from the API are and will remain, as appropriate, with NEOGOV. All right, title, and interest in and to the third-party materials, including all intellectual property rights therein, are and will remain with their respective third-party rights holders subject to the terms and conditions of the applicable third-party license agreements. Customer has no right or license with respect to any third-party materials except as expressly licensed under such third-party license agreements.

3. Integration Terms of Use. Except as expressly authorized under this Agreement, you may not remove any proprietary notices from the API; use the API in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; combine or integrate the API with any software, technology, services, or materials not authorized by NEOGOV; design or permit Customer Application(s) to disable, override, or otherwise interfere with any NEOGOV-implemented communications to end users, consent screens, user settings, alerts, warning, or the like; use the API in any of Customer Application(s) to replicate or attempt to replace the user experience of the Services; or attempt to cloak or conceal Customer identity or the identity of Customer Application(s) when requesting authorization to use the API.

4. Customer Integration Responsibilities. Customer, Customer developed web or other software services or applications, and Customer third-party vendors that integrate with the API (collectively the "Customer Applications"), shall comply with all terms and conditions of this Agreement, all applicable laws, rules, and regulations, and all guidelines, standards, and requirements that may be posted on https://api.neogov.com/connect/index.html and/or https://apidocs.powerdms.com from time to time. In addition, Customer will not use the API in connection with or to promote any products, services, or materials that constitute, promote, or are used primarily for the purpose of dealing in spyware, adware, or other malicious programs or code, counterfeit goods, items subject to U.S. embargo, unsolicited mass distribution of email ("spam"), multi-level marketing proposals, hate materials, hacking, surveillance, interception, or descrambling equipment, libelous, defamatory, obscene, pornographic, abusive, or otherwise offensive content, stolen products, and items used for theft, hazardous materials, or any illegal activities.

5. Cooperation. If applicable, Customer shall timely provide such cooperation, assistance, and information as NEOGOV reasonably requests to enable the API. NEOGOV is not responsible or liable for any late delivery or delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement. NEOGOV will provide Customer maintenance and support services for API issues arising from the information technology designed, developed, and under then current control of NEOGOV. NEOGOV shall have no obligation to provide maintenance or support for issues arising from the inaction or action of Customer or third parties of which are outside NEOGOV control.

6. Provision of Open API. In the event license fees or other payments are not due in exchange for the right to use and access the Open API, you acknowledge and agree that this arrangement is made in consideration of the mutual covenants set forth in this Agreement, including, without limitation, the disclaimers, exclusions, and limitations of liability set forth herein. Notwithstanding the foregoing, NEOGOV reserves the right to charge for access with effect from the start of each Renewal Term by giving Customer at least ninety (90) day notice prior to commencement of a Renewal Term.

7. API Key. In order to use and access the Open API, you must obtain an Open API key through the registration process. Customer agrees to monitor Customer Applications for any activity that violates applicable laws, rules and regulation, or any

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terms and conditions of this Agreement, including any fraudulent, inappropriate, or potentially harmful behavior. This Agreement does not entitle Customer to any support for the Open API. You acknowledge that NEOGOV may update or modify the Open API from time to time and at our sole discretion and may require you to obtain and use the most recent version(s). You are required to make any such changes to Customer Applications that are required for integration as a result of such Update at Customer sole cost and expense. Updates may adversely affect how Customer Applications communicate with the Services.

8. <u>Efficient Processing</u>. You must use efficient programming, which will not cause an overwhelming number of requests to be made in too short a period of time, as-determined solely by NEOGOV. If this occurs, NEOGOV reserves the right to throttle your API connections, or suspend or terminate your access to the Open API. NEOGOV shall use reasonable efforts to provide Customer notice and reasonable time to cure prior to taking such actions.

9. <u>Open API Limitations</u>. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL NEOGOV BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY UNDER ANY TORT, CONTRACT, NEGLIGENCE, STRICTLIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, LOST PROFITS, LOST OR CORRUPTED DATA, COMPUTER FAILURE OR MALFUNCTION, INTERRUPTION OF BUSINESS, OR OTHER SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THE USE OR INABILITY TO USE THE OPEN API; OR ANY DAMAGES, IN THE AGGREGATE, IN EXCESS OF FIFTY DOLLARS, EVEN IF NEOGOV HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES AND WHETHER OR NOT SUCH LOSS OR DAMAGES AREFORESEEABLE OR NEOGOV WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH CLAIM.

10. <u>Open API Termination</u>. Notwithstanding the additional Termination rights herein, NEOGOV may immediately terminate or suspend Customer access to Open APIs in our sole discretion at any time and for any reason, with or without notice or cause. In addition, your Open API subscription will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement.

EXHIBIT C

Data Processing Addendum

This Data Processing Addendum ("DPA") supplements and forms part of the NEOGOV Services Agreement or other written or electronic agreement between NEOGOV and Customer for the purchase of online services from NEOGOV (hereinafter defined as "Services") (the "Services Agreement"). The provisions herein shall apply solely to the extent that NEOGOV Processes Personal Data relating to Data Subjects located in the European Union, the European Economic Area, Switzerland, or the United Kingdom, and subject to Data Protection Laws and Regulations in connection with delivering the Services to Customer. Any references to the Services Agreement will be construed as including this DPA. All capitalized terms not defined herein shall have the meaning given to them in the Services Agreement. Notwithstanding anything to the contrary in this Addendum, nothing in the Addendum is intended to require Customer from taking any action which would conflict with its obligations under Florida law.

1.   DEFINITIONS

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Controller" means the entity which determines the purposes and means of the Processing of Personal Data.

"Personal Data" means any information relating to a Data Subject, where such information is provided to NEOGOV by or on behalf of Customer, generated through NEOGOV's Services, or otherwise processed on behalf of Customer by NEOGOV or its Sub-processors.

"Data Protection Laws and Regulations" means: (a) the UK Data Protection Act 2018 and UK General Data Protection Regulation 2021 ("UK GDPR"); (b) Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC ("General Data Protection Regulation" or "GDPR"); (c) as of January 1, 2020, the California Consumer Privacy Act of 2018, California Civil Code § 1798.100 et seq. ("California Consumer Privacy Act" or "CCPA"); and (d) any other data protection laws, rules, regulations, self-regulatory guidelines, or implementing legislation applicable to NEOGOV's processing of Customer Personal Data, in eachcase, to the extent applicable to NEOGOV's Processing of Personal Data under the Services Agreement.

"Data Subject" means, as applicable the identified or identifiable natural person to whom Personal Data relates as defined by Data Protection Laws and Regulations.
"NEOGOV Group" means NEOGOV and its Affiliates engaged in the Processing of Personal Data under the Services Agreement.

"Personal Data" means any information relating to a Data Subject where such information is provided to Processor by or on behalf of Controller, and maintained on behalf of, Controller by Processor within its Services environment, and is the type of information protected as "personal data" under Data Protection Laws and Regulations.

"Processing" means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

"Processor" means the entity which Processes Personal Data on behalf of the Controller.

"Standard Contractual Clauses" means the standard contractual clauses for Processors annexed to the European Commission's decision (EU) 2021/914 of June 4 2021, as may be amended, updated, superseded or replaced from time to time for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

"Sub-processor" means any Processor directly contracted by NEOGOV or a member of the NEOGOV Group to help NEOGOV provide the Services under the Services Agreement.

"Supervisory Authority" means an independent public authority which is established by an EU Member State pursuant to the GDPR.

2. Processing of Personal Data. To the extent NEOGOV Processes Personal Data on behalf of Customer in connection with the Services Agreement, it shall do so in accordance with the requirements of the Data Protection Laws and Regulations directly applicable to NEOGOV in the provision of its Services under the Services Agreement. The parties agree that with regard to the Processing of Personal Data by NEOGOV on behalf of Customer, Customer is the Controller, NEOGOV is the Processor and that NEOGOV and/or members of the NEOGOV Group will engage Sub-processors.

3. Customer Responsibilities. When using the Services, Customer shall Process Personal Data in accordance with Data Protection Laws and Regulations, including maintaining lawful basis (e.g., consent) and rights to use and provide Personal Data, as part of Customer Data. Customer's instructions for the Processing of Personal Data shall comply with Data Protection Laws and Regulations and NEOGOV's Processing of Persona Data shall not cause NEOGOV to violate Data Protection Laws and Regulations. For avoidance of doubt, deidentified data is not considered Personal Data. Customer is solely responsible for the accuracy, quality, and legality of Personal Data. Customer will: (i) maintain a clear and conspicuous privacy policy that discloses the data collection and usage (including third party tracking technologies) resulting from the services and that complies with Data Protection Laws and Regulations, provided that the privacy policy will not need to expressly identify the services unless otherwise required by Data Protection Laws and Regulations; and (ii) honor all individual rights and opt-out requests as required by applicable Data Protection Laws and Regulations.

4. NEOGOV's Responsibilities. NEOGOV shall treat Customer's Personal Data in a confidential manner, and shall only Process Personal Data for the following purposes: (i) Processing in accordance with the Services Agreement and applicable Order Form(s); (ii) Processing initiated by users in their use of the Services; and
(iii) Processing to comply with other documented reasonable instructions provided by Customer (e.g., via email) where such instructions are consistent with the terms of the Services Agreement.

5. Data Protection Impact Assessments. If, pursuant to Data Protection Laws and Regulations, Customer is required to perform a data protection impact assessment (or prior consultation with a regulator having appropriate jurisdiction), upon Customer's request, NEOGOV shall provide such relevant written documentation as is made available by NEOGOV pursuant to this DPA and the Services Agreement. Any additional assistance, should the written documentation specified in this Section be deemed insufficient, shall be subject to written agreement between the parties.

6. Data Subject Requests. If NEOGOV receives a request from a Data Subject to exercise the Data Subject's right of access, right to rectification, restriction of Processing, erasure, data portability, object to the Processing, or its right not to be subject to an automated individual decision making (a "Data Subject Request"), NEOGOV shall notify Customer or direct such Data Subject to Customer. NEOGOV shall assist Customer by appropriate technical and organizational measures, as is technically feasible and commercially reasonable, for the fulfilment of Customer's obligation to respond to a Data Subject Request under Data Protection Laws and Regulation.

7. Security. NEOGOV shall implement and maintain appropriate technical and organizational measures designed for protection of the security, confidentiality and integrity of Customer Data, taking into account the nature, scope, context, purpose of processing, and costs of implementation. NEOGOV regularly monitors compliance with these measures and will not materially decrease the overall security of the Services during a subscription term under the applicable Order Form and the Services Agreement.

8. Sub-Processors; Objection. Customer acknowledges that: (a) NEOGOV's Affiliates may be retained as Sub- processors; and (b) NEOGOV and its Affiliates may engage third-party Sub-processors in connection with the

provision and operation of the Services under the Services Agreement. Sub-processors used as of the date of this DPA are specified in Annex III of Schedule 1 attached to this DPA. Prior to engaging any third-party Sub-processors, NEOGOV or a NEOGOV Affiliate shall carry out appropriate due diligence on each Sub-processor and enter into a written agreement with each Sub-processor containing data protection obligations substantially similar to those in this Services Agreement with respect to the protection of Customer Data to the extent applicable to the nature of the Services provided by such Sub-processor. Customer may in good faith reasonably object to NEOGOV's use of a new Sub-processor by notifying NEOGOV promptly in writing

within ten (10) days after NEOGOV's notice. Such notice shall explain the Customer's good faith, reasonable grounds for the objection. In the event Customer objects to a new Sub-processor, NEOGOV will use commercially reasonable efforts to make available to Customer a change in the Services or recommend a commercially reasonable change to Customer's configuration or use of the Services to avoid Processing of Personal Data by the objected-to new Sub-processor without unreasonably burdening the Customer. If the parties are unable to resolve such objection or NEOGOV is otherwise unwilling to resolve or make available such change within a reasonable period of time, Customer may terminate the applicable Order Form(s) with respect to those Services which cannot be provided by NEOGOV without the use of the objected-to new Sub-processor by providing written notice to NEOGOV.

9. Data Transfers. Customer acknowledges and agrees that Personal Data may be transferred outside European Union countries to countries recognized by the European Commission as countries where there is an adequate level of protection as updated from time to time ("Authorized Location"). During the term of the Services Agreement, the parties shall comply with the terms and conditions of the Standard Contractual Clauses (Controller to Processor, a current copy is attached hereto as Schedule 1, and the Standard Contractual Clauses are fully incorporated into this DPA. In the event Customer agrees to a transfer of Personal Data outside an Authorized Location, such transfer shall be subject to the execution between the Parties of the EU Standard Contractual Clauses or any other alternative mean validated by GDPR.

   Other Data Transfer Mechanism. For the avoidance of doubt, should the transfer mechanism specified in this Section 9 be deemed invalid by a regulator or court with applicable authority, the parties shall endeavor in good faith to negotiate an alternative mechanism (if available) to permit the continued transfer of Personal Data.

10. Data Export; Deletion. Upon written request, NEOGOV shall return Customer Data or direct Customer to self-service export, if available and subject to technical feasibility, and/or, to the extent allowed by Data Protection Laws and Regulations or legal obligation, to protect its rights, or copies held in its back up systems solely for disaster recovery systems, delete and make irretrievable Customer Data.

11. Incident Notice. NEOGOV maintains incident management policies and procedures, and shall notify Customer, without undue delay, of any breach of its security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Data in connection with NEOGOV's provision of Services under the Services Agreement and of which NEOGOV becomes aware and which requires notification to be made to Customer, a Supervisory Authority and/or Data Subject under Data Protection Laws and Regulations (a "Breach Incident"). "Breach Incident(s)" will not include unsuccessful attempts or activities that do not compromise the security of Personal Data, including unsuccessful log-in attempts, and other network attacks on firewalls or networked systems. NEOGOV shall make reasonable efforts to identify the cause of such Breach Incident and take those steps as NEOGOV deems necessary and reasonable in order to remediate the cause of such a Breach Incident to the extent the remediation is within NEOGOV's reasonable control. Additionally, upon request, NEOGOV shall provide Customer with relevant information about the Breach Incident, as reasonably required to assist the Customer in ensuring Customer's compliance with its own obligations under Data Protection Laws and Regulations to notify any Supervisory Authority or Data Subject in the event of a Breach Incident. The obligations herein shall not apply to incidents that are caused by Customer or Customer's users or any non-NEOGOV products or services.

12. Liability Limits. Each party's and all of its Affiliates' liability, in the aggregate, arising out of or related to this DPA and NEOGOV, whether in contract, tort or under any other theory of liability, is subject to the 'Limitation of Liability' section of the Services Agreement, and any reference to the liability of a party means the total liability of that party and all of its Affiliates under the Services Agreement and all DPAs together.

13. Legal Effect and Conflict. This DPA shall become legally binding between Customer and NEOGOV upon execution of the Services Agreement. Once effective, this DPA shall be incorporated into and form part of the Services Agreement or applicable Order Form. For matters not addressed under this DPA, the terms of the Services Agreement apply. In the event of a conflict between the terms of the Services Agreement and this DPA, the terms of this DPA will control. In the event of a conflict between the terms of the DPA and the Standard Contractual Clauses, the Standard Contractual Clauses will control.

14. List of Schedules:

Schedule 1: Standard Contractual Clauses

Schedule 1 - Standard Contractual Clauses

EUROPEAN COMMISSION

Brussels, 4.6.2021

C(2021) 3972 final ANNEX

ANNEX

STANDARD CONTRACTUAL CLAUSES

<u>**SECTION I**</u>
Clause 1
Purpose and scope

a. The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)[1] for the transfer of personal data to a third country.

b. The Parties:

    i. the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter "entity/ies") transferring the personal data, as listed in Annex I.A. (hereinafter each "data exporter"), and

    ii. the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each "data importer")

have agreed to these standard contractual clauses (hereinafter: "Clauses").

c. These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.

d. The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

Clause 2
Effect and invariability of the Clauses

a. These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46 (2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.

b. These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

Clause 3
Third-party beneficiaries

a. Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:
    i. Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;
    ii. Clause 8 - Module One: Clause 8.5 (e) and Clause 8.9(b); Module Two: Clause 8.1(b), 8.9(a), (c), (d) and (e); Module Three: Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g); Module Four: Clause 8.1 (b) and Clause 8.3(b);
    iii. Clause 9 - Module Two: Clause 9(a), (c), (d) and (e); Module Three: Clause 9(a), (c), (d) and (e);
    iv. Clause 12 - Module One: Clause 12(a) and (d); Modules Two and Three: Clause 12(a), (d) and (f);
    v. Clause 13;
    vi. Clause 15.1(c), (d) and (e);
    vii. Clause 16(e);
    viii. Clause 18 - Modules One, Two and Three: Clause 18(a) and (b); Module Four: Clause 18.
b. Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

Clause 4
Interpretation

a. Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.
b. These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
c. These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

Clause 5
Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 6
Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

Clause 7 - Optional
Docking clause

a. An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
b. Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
c. The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

SECTION II – OBLIGATIONS OF THE PARTIES
Clause 8
Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

MODULE ONE: Transfer controller to controller

8.1 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B. It may only process the personal data for another purpose:

  i.   where it has obtained the data subject's prior consent;
  ii.   where necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
  iii. where necessary in order to protect the vital interests of the data subject or of another natural person.

8.2 Transparency

  a. In order to enable data subjects to effectively exercise their rights pursuant to Clause 10, the data importer shall inform them, either directly or through the data exporter:
     i.   of its identity and contact details;
     ii.   of the categories of personal data processed;
     iii. of the right to obtain a copy of these Clauses;
     iv.   where it intends to onward transfer the personal data to any third party/ies, of the recipient or categories of recipients (as appropriate with a view to providing meaningful information), the purpose of such onward transfer and the ground therefore pursuant to Clause 8.7.
  b. Paragraph (a) shall not apply where the data subject already has the information, including when such information has already been provided by the data exporter, or providing the information proves impossible or would involve a disproportionate effort for the data importer. In the latter case, the data importer shall, to the extent possible, make the information publicly available.
  c. On request, the Parties shall make a copy of these Clauses, including the Appendix as completed by them, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including personal data, the Parties may redact part of the text of the Appendix prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.
  d. Paragraphs (a) to (c) are without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.3 Accuracy and data minimisation

  a. Each Party shall ensure that the personal data is accurate and, where necessary, kept up to date. The data importer shall take every reasonable step to ensure that personal data that is inaccurate, having regard to the purpose(s) of processing, is erased or rectified without delay.

b. If one of the Parties becomes aware that the personal data it has transferred or received is inaccurate, or has become outdated, it shall inform the other Party without undue delay.

c. The data importer shall ensure that the personal data is adequate, relevant and limited to what is necessary in relation to the purpose(s) of processing.

8.4 Storage limitation

The data importer shall retain the personal data for no longer than necessary for the purpose(s) for which it is processed. It shall put in place appropriate technical or organisational measures to ensure compliance with this obligation, including erasure or anonymisation[2] of the data and all back-ups at the end of the retention period.

8.5 Security of processing

a. The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the personal data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter "personal data breach"). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.

b. The Parties have agreed on the technical and organisational measures set out in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

c. The data importer shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

d. In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the personal data breach, including measures to mitigate its possible adverse effects.

e. In case of a personal data breach that is likely to result in a risk to the rights and freedoms of natural persons, the data importer shall without undue delay notify both the data exporter and the competent supervisory authority pursuant to Clause 13. Such notification shall contain i) a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), ii) its likely consequences, iii) the measures taken or proposed to address the breach, and iv) the details of a contact point from whom more information can be obtained. To the extent it is not possible for the data importer to provide all the information at the same time, it may do so in phases without undue further delay.

f. In case of a personal data breach that is likely to result in a high risk to the rights and freedoms of natural persons, the data importer shall also notify without undue delay the data subjects concerned of the personal data breach and its nature, if necessary in cooperation with the data exporter, together with the information referred to in paragraph (e), points ii) to iv), unless the data importer has implemented measures to significantly reduce the risk to the rights or freedoms of natural persons, or notification would involve disproportionate efforts. In the latter case, the data importer shall instead issue a public communication or take a similar measure to inform the public of the personal data breach.

g. The data importer shall document all relevant facts relating to the personal data breach, including its effects and any remedial action taken, and keep a record thereof.

8.6 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences (hereinafter "sensitive data"), the data importer shall apply specific restrictions and/or additional safeguards adapted to the specific nature of the data and the risks involved. This may include restricting the personnel permitted to access the personal data, additional security measures (such as pseudonymisation) and/or additional restrictions with respect to further disclosure.

8.7 Onward transfers

The data importer shall not disclose the personal data to a third party located outside the European Union[3] (in the same country as the data importer or in another third country, hereinafter "onward transfer") unless the third party is or agrees to be bound by these Clauses, under the appropriate Module. Otherwise, an onward transfer by the data importer may only take place if:

     i.   it is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
    ii.   the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 of Regulation (EU) 2016/679 with respect to the processing in question;
    iii.   the third party enters into a binding instrument with the data importer ensuring the same level of data protection as under these Clauses, and the data importer provides a copy of these safeguards to the data exporter;
    iv.   it is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings;
    v.   it is necessary in order to protect the vital interests of the data subject or of another natural person; or
    vi.   where none of the other conditions apply, the data importer has obtained the explicit consent of the data subject for an onward transfer in a specific situation, after having informed him/her of its purpose(s), the identity of the recipient and the possible risks of such transfer to him/her due to the lack of appropriate data protection safeguards. In this case, the data importer shall inform the data exporter and, at the request of the latter, shall transmit to it a copy of the information provided to the data subject.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.8 Processing under the authority of the data importer

The data importer shall ensure that any person acting under its authority, including a processor, processes the data only on its instructions.

8.9 Documentation and compliance

a. Each Party shall be able to demonstrate compliance with its obligations under these Clauses. In particular, the data importer shall keep appropriate documentation of the processing activities carried out under its responsibility.
b. The data importer shall make such documentation available to the competent supervisory authority on request.

MODULE TWO: Transfer controller to processor

8.1 Instructions

a. The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give such instructions throughout the duration of the contract.
b. The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B, unless on further instructions from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including the measures described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand the its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to erase or rectify the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the data exporter and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

a. The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter "personal data breach"). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
b. The data importer shall grant access to the personal data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
c. In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify the data exporter without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
d. The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter "sensitive data"), the data importer shall apply the specific restrictions and/or additional safeguards described in Annex I.B.

8.8 Onward transfers

The data importer shall only disclose the personal data to a third party on documented instructions from the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union[4] (in the same country as the data importer or in another third country, hereinafter "onward transfer") if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

    i.   the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;

    ii.   the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;

    iii.   the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or

    iv.   the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.9 Documentation and compliance

    a.   The data importer shall promptly and adequately deal with enquiries from the data exporter that relate to the processing under these Clauses.

    b.   The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the data exporter.

    c.   The data importer shall make available to the data exporter all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the data exporter's request, allow for and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non- compliance. In deciding on a review or audit, the data exporter may take into account relevant certifications held by the data importer.

    d.   The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.

    e.   The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

MODULE THREE: Transfer processor to processor

8.1 Instructions

   a. The data exporter has informed the data importer that it acts as processor under the instructions of its controller(s), which the data exporter shall make available to the data importer prior to processing.
   b. The data importer shall process the personal data only on documented instructions from the controller, as communicated to the data importer by the data exporter, and any additional documented instructions from the data exporter. Such additional instructions shall not conflict with the instructions from the controller. The controller or data exporter may give further documented instructions regarding the data processing throughout the duration of the contract.
   c. The data importer shall immediately inform the data exporter if it is unable to follow those instructions. Where the data importer is unable to follow the instructions from the controller, the data exporter shall immediately notify the controller.
   d. The data exporter warrants that it has imposed the same data protection obligations on the data importer as set out in the contract or other legal act under Union or Member State law between the controller and the data exporter[5].

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B., unless on further instructions from the controller, as communicated to the data importer by the data exporter, or from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including personal data, the data exporter may redact part of the text of the Appendix prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to rectify or erase the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal

data processed on behalf of the controller and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

a. The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter "personal data breach"). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter or the controller. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
b. The data importer shall grant access to the data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
c. In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify, without undue delay, the data exporter and, where appropriate and feasible, the controller after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the data breach, including measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
d. The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify its controller so that the latter may in turn notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural

person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and

offences (hereinafter "sensitive data"), the data importer shall apply the specific restrictions and/or additional

safeguards set out in Annex I.B.

8.8 Onward transfers

The data importer shall only disclose the personal data to a third party on documented instructions from the

controller, as communicated to the data importer by the data exporter. In addition, the data may only be disclosed to

a third party located outside the European Union[6] (in the same country as the data importer or in another third

country, hereinafter "onward transfer") if the third party is or agrees to be bound by these Clauses, under the

appropriate Module, or if:

  i.   the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of
        Regulation (EU) 2016/679 that covers the onward transfer;
  ii.   the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 of Regulation
        (EU) 2016/679;
  iii. the onward transfer is necessary for the establishment, exercise or defence of legal claims in the
        context of specific administrative, regulatory or judicial proceedings; or
  iv.   the onward transfer is necessary in order to protect the vital interests of the data subject or of another
        natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses,

in particular purpose limitation.

8.9 Documentation and compliance

  a. The data importer shall promptly and adequately deal with enquiries from the data exporter or the
      controller that relate to the processing under these Clauses.
  b. The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer
      shall keep appropriate documentation on the processing activities carried out on behalf of the controller.
  c. The data importer shall make all information necessary to demonstrate compliance with the obligations
      set out in these Clauses available to the data exporter, which shall provide it to the controller.
  d. The data importer shall allow for and contribute to audits by the data exporter of the processing
      activities covered by these Clauses, at reasonable intervals or if there are indications of non-
      compliance. The same shall apply where the data exporter requests an audit on instructions of the
      controller. In deciding on an audit, the data exporter may take into account relevant certifications held
      by the data importer.
  e. Where the audit is carried out on the instructions of the controller, the data exporter shall make the
      results available to the controller.
  f. The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits
      may include inspections at the premises or physical facilities of the data importer and shall, where
      appropriate, be carried out with reasonable notice.
  g. The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any
      audits, available to the competent supervisory authority on request.

Clause 9
Use of sub-processors

MODULE TWO: Transfer controller to processor

a. OPTION 2: GENERAL WRITTEN AUTHORISATION The data importer has the data exporter's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the data exporter in writing of any intended changes to that list through the addition or replacement of sub- processors at least 10 days in advance, thereby giving the data exporter sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the data exporter with the information necessary to enable the data exporter to exercise its right to object.

b. Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the data exporter), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects.[8] The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.

c. The data importer shall provide, at the data exporter's request, a copy of such a sub- processor agreement and any subsequent amendments to the data exporter. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.

d. The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub- processor to fulfil its obligations under that contract.

e. The data importer shall agree a third-party beneficiary clause with the sub-processor whereby - in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent - the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

MODULE THREE: Transfer processor to processor

a. OPTION 2: GENERAL WRITTEN AUTHORISATION The data importer has the controller's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the controller in writing of any intended changes to that list through the addition or replacement of sub- processors at least 10 days in advance, thereby giving the controller sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the controller with the information necessary to enable the controller to exercise its right to object. The data importer shall inform the data exporter of the engagement of the sub-processor(s).

b. Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the controller), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects.[9] The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.

c. The data importer shall provide, at the data exporter's or controller's request, a copy of such a sub-processor agreement and any subsequent amendments. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.

d. The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub- processor to fulfil its obligations under that contract.

e. The data importer shall agree a third-party beneficiary clause with the sub-processor whereby - in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent - the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

Clause 10
Data subject rights

MODULE ONE: Transfer controller to controller

a. The data importer, where relevant with the assistance of the data exporter, shall deal with any enquiries and requests it receives from a data subject relating to the processing of his/her personal data and the exercise of his/her rights under these Clauses without undue delay and at the latest within one month of the receipt of the enquiry or request.[10] The data importer shall take appropriate measures to facilitate such enquiries, requests and the exercise of data subject rights. Any information provided to the data subject shall be in an intelligible and easily accessible form, using clear and plain language.
b. In particular, upon request by the data subject the data importer shall, free of charge :
    i.   provide confirmation to the data subject as to whether personal data concerning him/her is being processed and, where this is the case, a copy of the data relating to him/her and the information in Annex I; if personal data has been or will be onward transferred, provide information on recipients or categories of recipients (as appropriate with a view to providing meaningful information) to which the personal data has been or will be onward transferred, the purpose of such onward transfers and their ground pursuant to Clause 8.7; and provide information on the right to lodge a complaint with a supervisory authority in accordance with Clause 12(c)(i);
    ii. rectify inaccurate or incomplete data concerning the data subject;
    iii. erase personal data concerning the data subject if such data is being or has been processed in violation of any of these Clauses ensuring third-party beneficiary rights, or if the data subject withdraws the consent on which the processing is based.
c. Where the data importer processes the personal data for direct marketing purposes, it shall cease processing for such purposes if the data subject objects to it.
d. The data importer shall not make a decision based solely on the automated processing of the personal data transferred (hereinafter "automated decision"), which would produce legal effects concerning the data subject or similarly significantly affect him/her, unless with the explicit consent of the data subject or if authorised to do so under the laws of the country of destination, provided that such laws lays down suitable measures to safeguard the data subject's rights and legitimate interests. In this case, the data importer shall, where necessary in cooperation with the data exporter:
    i.   inform the data subject about the envisaged automated decision, the envisaged consequences and the logic involved; and
    ii. implement suitable safeguards, at least by enabling the data subject to contest the decision, express his/her point of view and obtain review by a human being.
e. Where requests from a data subject are excessive, in particular because of their repetitive character, the data importer may either charge a reasonable fee taking into account the administrative costs of granting the request or refuse to act on the request.
f. The data importer may refuse a data subject's request if such refusal is allowed under the laws of the country of destination and is necessary and proportionate in a democratic society to protect one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679.
g. If the data importer intends to refuse a data subject's request, it shall inform the data subject of the reasons for the refusal and the possibility of lodging a complaint with the competent supervisory authority and/or seeking judicial redress.

MODULE TWO: Transfer controller to processor

a. The data importer shall promptly notify the data exporter of any request it has received from a data subject. It shall not respond to that request itself unless it has been authorised to do so by the data exporter.

b. The data importer shall assist the data exporter in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.

c. In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the data exporter.

MODULE THREE: Transfer processor to processor

a. The data importer shall promptly notify the data exporter and, where appropriate, the controller of any request it has received from a data subject, without responding to that request unless it has been authorised to do so by the controller.

b. The data importer shall assist, where appropriate in cooperation with the data exporter, the controller in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.

c. In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the controller, as communicated by the data exporter.

Clause 11
Redress

a. The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

b. In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.

c. Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:
   i. lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;
   ii. refer the dispute to the competent courts within the meaning of Clause 18.

d. The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.

e. The data importer shall abide by a decision that is binding under the applicable EU or Member State law.

f. The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

Clause 12
Liability

MODULE ONE: Transfer controller to controller

MODULE FOUR: Transfer processor to controller

    a. Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

    b. Each Party shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages that the Party causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter under Regulation (EU) 2016/679.

    c. Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.

    d. The Parties agree that if one Party is held liable under paragraph (c), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.

    e. The data importer may not invoke the conduct of a processor or sub-processor to avoid its own liability.

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

    a. Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

    b. The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights under these Clauses.

    c. Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.

    d. The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.

    e. Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.

    f. The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.

    g. The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

Clause 13
Supervision

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

a. [Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation (EU) 2016/679:] The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.

b. The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES
Clause 14
Local laws and practices affecting compliance with the Clauses

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

a. The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.
b. The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
    i. the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;
    ii. the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards[12];
    iii. any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.
c. The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.

d. The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.

e. The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a). The data exporter shall forward the notification to the controller.

f. Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation, if appropriate in consultation with the controller

• . The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed bythe controller or

• the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

Clause 15
Obligations of the data importer in case of access by public authorities

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

15.1 Notification

a. The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:
   i. receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or
   ii. becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer. The data exporter shall forward the notification to the controller.

b. If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.

c. Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.). The data exporter shall forward the information to the controller.

d. The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.

e. Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

a. The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).

b. The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request. The data exporter shall make the assessment available to the controller.

c. The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS
Clause 16
Non-compliance with the Clauses and termination

a. The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.

b. In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).

c. The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:
    i. the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
    ii. the data importer is in substantial or persistent breach of these Clauses; or
    iii. the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

- In these cases, it shall inform the competent supervisory authority and the controller of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

d.   Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

e.   Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

Clause 17
Governing law

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

[OPTION 1: These Clauses shall be governed by the law of one of the EU Member States, provided such law allows

for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify Member State*).]

Clause 18
Choice of forum and jurisdiction

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

a.   Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.
b.   The Parties agree that those shall be the courts of _____ (*specify Member State*).
c.   A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.
d.   The Parties agree to submit themselves to the jurisdiction of such courts.

_____

[1]   Where the data exporter is a processor subject to Regulation (EU) 2016/679 acting on behalf of a Union

institution or body as controller, reliance on these Clauses when engaging another processor (sub-processing) not

subject to Regulation (EU) 2016/679 also ensures compliance with Article 29(4) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295 of 21.11.2018, p. 39), to the extent these Clauses and the data protection obligations as set out in the contract or other legal act between the controller and the processor pursuant to Article 29(3) of Regulation (EU) 2018/1725 are aligned. This will in particular be the case where the controller and processor rely on the standard contractual clauses included in Decision […].

[2]   This requires rendering the data anonymous in such a way that the individual is no longer identifiable by anyone, in line with recital 26 of Regulation (EU) 2016/679, and that this process is irreversible.

[3]   The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

[4]   The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

[5]   See Article 28(4) of Regulation (EU) 2016/679 and, where the controller is an EU institution or body, Article 29(4) of Regulation (EU) 2018/1725.

[6]   The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purposes of these Clauses.

[7]   This includes whether the transfer and further processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data or biometric data for the

purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences.

[8] This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

[9] This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

[10] That period may be extended by a maximum of two more months, to the extent necessary taking into account the complexity and number of requests. The data importer shall duly and promptly inform the data subject of any such extension.

[11] The data importer may offer independent dispute resolution through an arbitration body only if it is established in a country that has ratified the New York Convention on Enforcement of Arbitration Awards.

[12] As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

APPENDIX

EXPLANATORY NOTE:

It must be possible to clearly distinguish the information applicable to each transfer or category of transfers and, in this regard, to determine the respective role(s) of the Parties as data exporter(s) and/or data importer(s). This does

not necessarily require completing and signing separate appendices for each transfer/category of transfers and/or

contractual relationship, where this transparency can [be] achieved through one appendix. However, where

necessary to ensure sufficient clarity, separate appendices should be used.

ANNEX I

A. LIST OF PARTIES

Data exporter(s): The entity identified as "Customer" in the DPA or Services Agreement

Data importer(s): Governmentjobs.com, Inc. (D/B/A/ NEOGOV), parent company of PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360) (collectively, "NEOGOV")

1. Name: NEOGOV
   2120 Park Place, Suite 100, El Segundo, CA 90245

   Contact Anurag Ojha, CISO and contact details: Tel.: 310-426-6304 Fax: 310-426-6305
   privacy@governmentjobs.com
   Activities relevant to the data transferred under these Clauses: NEOGOV provides cloud-based human resource software services and support solutions which process Personal Data upon the written instruction of the data exporter in accordance with the terms of the Services Agreement and this DPA.
   Role (controller/processor): processor

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

Data exporter may submit Personal Data to the SCC Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:
   • Customers, business partners, prospects, vendors, job applicants, employees, agents, advisors, freelancers, or contact persons of data exporter (who are natural persons), as well as employees or contact persons of all of the foregoing
   • Any other users (who are natural persons) authorized by data exporter to use the SCC Services

Categories of personal data transferred

Data exporter may submit Personal Data to the SCC Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:
   • First and last name
   • Title
   • Position
   • Employer
   • Contact information (company, email, phone, physical business address)
   • ID data
   • Professional life data
   • Personal life data
   • Connection data
   • Localisation data
   • Driver's license, social security number, other government identifiers
   • Address
   • Work and education history
   • Age
   • Signature

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

> • Data exporter may submit special categories of data to the Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which is for the sake of clarity Personal Data with information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

Transfer is continuous

Nature of the processing

Collecting, storing, deleting, altering, transferring and other processing as set forth in the agreement between the data exporter and data importer or data importer's affiliate for the provision of data importer's cloud-based human resource software services and support solutions, and related support, maintenance, implementation and training services

Purpose(s) of the data transfer and further processing

The objective of Processing of Personal Data by data importer is in furtherance of servicing the Customer, as well as the performance and operation of the SCC Services pursuant to the Services Agreement.

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

Duration of the processing shall correspond to the duration of the Services Agreement except where otherwise required by applicable law or legal obligation, or for NEOGOV to protects its rights or those of a third party.

For transfers to (sub-)processors, also specify subject matter, nature and duration of the processing

When sub-processors are involved (see list provided), transfer is limited to transfer necessary for the performance of the agreement, and for its duration.

C. COMPETENT SUPERVISORY AUTHORITY

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

Identify the competent supervisory authority/ies in accordance with Clause 13

…

ANNEX II - TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

EXPLANATORY NOTE:
The technical and organisational measures must be described in specific (and not generic) terms. See also the general comment on the first page of the Appendix, in particular on the need to clearly indicate which measures apply to each transfer/set of transfers.

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

Data importer will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of any Personal Data uploaded to the SCC Services or otherwise maintained on behalf of data exporter (as Data Controller). Data importer reserves the right to update the security controls from time-to-time, provided that at no time shall data importer materially and to the adverse impact of data exporter, decrease the overall security of the SCC Services during a subscription term.

[Examples of possible measures:

- *Measures of pseudonymisation and encryption of personal data*
- *Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services*
- *Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident*
- *Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing*
- *Measures for user identification and authorisation*
- *Measures for the protection of data during transmission*
- *Measures for the protection of data during storage*
- *Measures for ensuring physical security of locations at which personal data are processed*
- *Measures for ensuring events logging*
- *Measures for ensuring system configuration, including default configuration*
- *Measures for internal IT and IT security governance and management*
- *Measures for certification/assurance of processes and products*
- *Measures for ensuring data minimisation*
- *Measures for ensuring data quality*
- *Measures for ensuring limited data retention*
- *Measures for ensuring accountability*
- *Measures for allowing data portability and ensuring erasure]*

For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter

ANNEX III – LIST OF SUB-PROCESSORS

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

EXPLANATORY NOTE:
This Annex must be completed for Modules Two and Three, in case of the specific authorisation of sub-processors (Clause 9(a), Option 1).

The controller has authorised the use of the following sub-processors:
https://public.powerdms.com/PowerDMS/tree/documents/1654687

EXHIBIT D

PROFESSIONAL SERVICES ADDENDUM

1.   **DEFINITIONS.**

"*NEOGOV Intellectual Property*" shall have the meaning set forth in the Agreement.

2.   **PROFESSIONAL SERVICES PROVISIONS.**

2.1   Description of Professional Services. NEOGOV will provide the Professional Services to Customer as described in the applicable Order Form and/or Statement of Work.

2.2   Customer's Obligations. Customer agrees to provide assistance, cooperation, information, equipment, and data reasonably necessary to enable NEOGOV to perform the Professional Services (collectively, "*Customer Cooperation*"). Customer acknowledges that NEOGOV's ability to provide Professional Services as set forth herein may be affected if Customer does not provide Customer Cooperation.

2.3   Project Management. Each party shall designate a project manager who shall work together with the other party's project manager to facilitate the efficient delivery of the Professional Services.

2.4   Change Order. In order to change the description of Professional Services under a Statement of Work, Customer will submit a written request to NEOGOV specifying the proposed changes in detail and NEOGOV will provide an estimate of the charges and anticipated changes in the delivery schedule that will result from the proposed change. NEOGOV will continue performing the Professional Services in accordance with this *Addendum* and the applicable Statement of Work until the parties agree in writing on the change in scope of work, scheduling, and fees. NEOGOV shall not be responsible for a delay in the performance of the Services resulting from such change order.

2.5   Proprietary Rights. NEOGOV shall own and retain all right, title and interest in and to the NEOGOV Intellectual Property and/or any and all derivatives, enhancements or modifications to the NEOGOV Intellectual Property, and all intellectual property and proprietary rights worldwide relating thereto. NEOGOV grants to Customer, for Customer's internal business purpose only, a non-exclusive, non-transferable, royalty-free license to use such NEOGOV Intellectual Property solely in connection with Customer's use of the services; provided, however, that the forgoing license does not include the right to modify, reverse engineer or otherwise alter the NEOGOV Intellectual Property or develop, offer or otherwise provide any product or service intended to replace or otherwise compete with the Services provided by NEOGOV in the Statement of Work.

2.6   Warranty. NEOGOV warrants for 90 days from the completion of any Professional Services by NEOGOV, including but not limited to the implementation of the software, that such Professional Services shall be performed in a professional and workmanlike manner consistent with generally accepted industry standards. Customer must report in writing any breach of this warranty to NEOGOV during the relevant warranty period, and Customer's exclusive remedy and NEOGOV's entire liability for any breach of such warranty shall be the reperformance of the nonconforming Professional Services, or if NEOGOV is unable to perform the Professional Services as warranted, Customer shall be entitled to a refund of the fees paid to NEOGOV for the nonconforming Professional Services.

3.   **PAYMENT PROVISIONS.**

3.1   Fees. Professional Services shall be provided under this *Addendum* at the rates set forth in the applicable Statement of Work or Order Form.

3.2   Payment Type. Unless otherwise stated in an applicable Order Form or Statement of Work, the Professional Services are provided on a fixed fee basis. Customer shall pay NEOGOV the fees stated in the applicable Statement of Work or Order Form plus all pre-approved travel and living expenses ("*Expenses*").

NEOGOV™   PowerDMS
                                           Digital Management Software
                                           A NEOGOV Company

Exhibit E

ADDENDUM TO AGREEMENT BETWEEN THE CITY OF DORAL AND GOVERNMENTJOBS.COM, INC. DBA NEOGOV

Contract. As used herein, the term Contract shall mean the entire agreement between the parties, inclusive of the Service Agreement Terms and the Purchase Order Form.

City. As used in the Contract, "City" shall mean the City of Doral, including its authorities, separate units of government established by law, ordinance or resolution, partners, elected and non-elected officials, employees, agents and volunteers.

Non-Appropriation. Notwithstanding any other term or provision of this Contract, the continuation of this Contract beyond a single fiscal year of the City is subject to the appropriation and availability of funds in accordance with Chapter 129, Florida Statutes. Termination by the City due to non-appropriation shall be without a termination charge by Contractor, provided that the Contractor shall not be required to refund any and all fees paid by the City in advance to Contractor under the Contract and the City provides no less than ninety (90) days advance written notice to Contractor of such lack of funding and termination of the Contract as a result thereof.

Indemnification. Subject to the terms of the Services Agreement Contractor shall indemnify, defend and hold harmless the City, its boards, authorities, separate units of government established by law, ordinance or resolution, partners, elected and non-elected officials, employees, agents and volunteers and the State of Florida from and against all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the gross negligence or willful misconduct of the Contractor or its employees, or any persons employed or utilized by the Contractor in the performance of the Contractor's obligations or services under the Contract, including but not limited to failure to comply with Chapter 119, Florida's public records law.

Sovereign Immunity. The City expressly retains all rights, benefits, and immunities of sovereign immunity in accordance with section 768.28, Florida Statutes, as amended. Notwithstanding anything set forth in the Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages, regardless of the number or nature of claims in tort, equity, or Contract, shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

Public Records Law. The Contractor shall be required to comply with the following requirements under Florida's Public Records Law:

(i.) Contractor shall keep and maintain public records required by the City to perform the service.

(ii.) Upon request from the City, Contractor shall provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

(iii.) Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

(iv.) Contractor shall, upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided by Contractor to the City, upon request from the

City, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT (305) 593-6730, CityClerk@CITYOFDORAL.COM, 8401 NW 53RD TERRACE, DORAL, FLORIDA 33166.

Scrutinized Companies. Pursuant to Sections 287.135 and 215.473, Florida Statutes, the Contractor certifies by signing below that the Contractor is not participating in a boycott of Israel. For contracts for goods or services of one million dollars or more, Contractor also certifies that it is not on the Scrutinized Companies that Boycott Israel List, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or has not been engaged in business operations in Cuba or Syria. Subject to limited exceptions provided in state law, the City will not Contract for the provision of goods or services with (i) any company participating in a boycott of Israel, and, (ii) for Contracts for goods or services of one million dollars or more, any other scrutinized company as described above. Breach of this section constitutes a material breach of this Contract.

No Code Violation or Past Due Debt. Contractor warrants and represents that neither the business, nor any officer or significant stakeholder of the business is in violation of the City of Doral Code of Ordinances and does not owe the City any past due debt. Any breach of the foregoing warranty and representation shall be a material breach of this Contract and the City shall have the right to terminate this Contract as set forth herein.

Nondiscrimination and Americans with Disabilities Act. Contractor shall not unlawfully discriminate against any person in the operations and activities in the use or expenditure of the funds or any portion of the funds provided by this Contract. In performing under this Contract, Contractor agrees that it shall not commit an unfair employment practice in violation of any state or federal law and that it shall not discriminate against any member of the public, employee or applicant for employment for work under this Contract because of race, color, religion, gender or gender identity, sexual orientation, age, national origin, political affiliation, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability.

E-VERIFY. Section 448.095, Florida Statutes directs all public employers, including municipal governments, and private employer with 25 or more employees to verify the employment eligibility of all new employees through the U.S. Department of Homeland Security's E-Verify System, and further provides that a public entity may not enter into a contract unless each party to the contract registers with and uses the E-Verify system. Section 448.095, Florida Statutes further provides that if a Contractor enters into a contract with a subcontractor, the subcontractor must provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. In accordance with Section 448.095, Florida Statutes, HERA, if it employs more than 25 employees, is required to verify employee eligibility using the E-Verify system for all existing and new employees hired by HERA during the contract term. Further, HERA must also require and maintain the statutorily required affidavit of its subcontractors. It is the responsibility of HERA to ensure compliance with E-Verify requirements (as applicable). To enroll in E-Verify, employers should visit the E-Verify website (https://www.e-verify.gov/employers/enrolling-in-e-verify) and follow the instructions.

Exhibit F

INSURANCE ADDENDUM

The CONTRACTOR shall secure and maintain throughout the duration of this Agreement

insurance of such type and in such amounts as listed herein:

1) General Liability Insurance on a comprehensive basis in an amount not less than

$1,000,000 per person per occurrence for bodily injury and property damage;

2) Professional liability coverage, including errors and omissions in the amount of

$3,000,000;

3) Business Automobile Liability Insurance covering all owned, non-owned, and hired

vehicles used in connection with the Services, in an amount not less than $1,000,000 per

person per occurrence;

4) Worker's Compensation Insurance in the amount of $1,000,000 unless contractor has three (3) nor fewer employees or has an exemption filed with the Staten of Florida.

The insurance carrier shall be qualified to do business in the State of Florida and have agents

upon whom service of process may be made in the State of Florida.

The City shall be named as an additional insured on the general liability insurance.

In the event that the coverage is cancelled or not renewed and the coverage limits are changed,

Contractor shall provide written notice to the City Manager of the change, cancellation and/or notice of

non-renewal within thirty (30) days of the change. cancellation, or non-renewal. Contractor shall furnish

a evidence of the insurance upon request of the City Manager within ten (10) days of

written request.

Certificates of Insurance shall be provided to the City at the time of execution of this Agreement

and certified copies provided if requested.

Organization	00150005 - GENERAL GOVERNMENT
Object	500340 - CONTRACTUAL SERVICES - OTHER
Account Type	Expense

LINE ITEMS	COUNCIL APPROVED 20221 - FY 2022 OPERATING BUDGET	DEPT. REQ. 20231 - FY 2023 OPERATING BUDGET	CM APPROVED 20231 - FY 2023 OPERATING BUDGET	COUNCIL APPROVED 20231 - FY 2023 OPERATING BUDGET
ARMORED SERVICES DEPOSIT	6,000.00	6,000.00	6,000.00	6,000.00
COBRA SERVICES ($300 X 12)	6,300.00	6,300.00	6,300.00	6,300.00
CRM STORAGE FEES - ALL DEPARTMENTS		0.00	0.00	47,400.00
Executive Physicals	24,000.00	24,000.00	24,000.00	24,000.00
FIXED ASSET SOFTWARE	2,250.00	2,250.00	2,250.00	2,250.00
FSA SERVICES	2,000.00	2,000.00	2,000.00	2,000.00
Grant Writer	50,000.00	50,000.00	50,000.00	50,000.00
HRIS Implementation Support Services	40,000.00	0.00	0.00	0.00
INSURANCE TRACKING	8,500.00	8,500.00	8,500.00	8,500.00
MERCHANT SVS.CREDIT CARD SERVICES	185,000.00	185,000.00	185,000.00	185,000.00
PAYROLL PROCESSING - PAYCOM		170,000.00	170,000.00	170,000.00
PAYROLL PROCESSING-ADP	150,000.00			
Procurement Comodity Codes	15,000.00	15,000.00	15,000.00	15,000.00
STAFFING AGENCY SERVICES / TEMP AGENCY	15,000.00	15,000.00	15,000.00	15,000.00
Vendor Management & Bid Posting Services	2,600.00	2,600.00	2,600.00	2,600.00
Grand Total	**506,650.00**	**486,650.00**	**486,650.00**	**534,050.00**

ACORD®	**CERTIFICATE OF LIABILITY INSURANCE**	**DATE (MM/DD/YYYY)** 9/7/2023

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: Cert Request	
Newfront Insurance Services 777 Mariners Island Blvd Suite 250 San Mateo, CA 94404		PHONE (A/C, No, Ext): 650-488-8565	FAX (A/C, No):
		E-MAIL ADDRESS: TechCertRequest@newfront.com	
www.newfront.com		**INSURER(S) AFFORDING COVERAGE**	NAIC #
		INSURER A : Berkley National Insurance Company	38911
INSURED Governmentjobs.com, Inc. (NEOGOV) 2120 Park Pl, Suite 100 El Segundo CA 90245		INSURER B : Berkley Regional Insurance Company	29580
		INSURER C :	
		INSURER D : Steadfast Insurance Company	26387
		INSURER E :	
		INSURER F :	

COVERAGES   **CERTIFICATE NUMBER:** 76178361   **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	**COMMERCIAL GENERAL LIABILITY** ☐ CLAIMS-MADE ✓ OCCUR	✓		TCP 7011473	9/25/2022	9/25/2023	EACH OCCURRENCE	$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
							MED EXP (Any one person)	$15,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: ✓ POLICY ☐ PRO-JECT ☐ LOC						GENERAL AGGREGATE	$3,000,000
							PRODUCTS - COMP/OP AGG	$3,000,000
	OTHER:							$
B	**AUTOMOBILE LIABILITY** ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ✓ HIRED AUTOS ONLY ✓ NON-OWNED AUTOS ONLY	✓		TCA 7011474	9/25/2022	9/25/2023	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	✓ **UMBRELLA LIAB** ✓ OCCUR ☐ **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED RETENTION $10,000	✓		TCP 7011473	9/25/2022	9/25/2023	EACH OCCURRENCE	$4,000,000
							AGGREGATE	$4,000,000
								$
A	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	✓	TWC 7011475	9/25/2022	9/25/2023	✓ PER STATUTE ☐ OTH-ER	
							E.L. EACH ACCIDENT	$1,000,000
							E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000
D	Errors & Omissions/ Cyber incl. Privacy			EOC 6219893 - 03	9/25/2022	9/25/2023	Limit : $5,000,000 aggregate	

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

RE: All Operations of the Named Insured.
City of Doral is included as an additional insured as respects to General Liability, Automobile Liability and Umbrella Liability coverage, but only to the extent required by written contract or written agreement. General Liability is Primary and Non-Contributory. Waiver of Subrogation applies to Workers Compensation policy.

CERTIFICATE HOLDER	CANCELLATION
City of Doral c/o JDi Data Corporation 100 W Cypress Creek Rd., Suite 1052 Ft Lauderdale, FL 33309	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 Rod Sockolov

ACORD 25 (2016/03)   The ACORD name and logo are registered marks of ACORD

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY EXTENSION FOR TECHNOLOGY COMPANIES ENDORSEMENT

This Endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

This endorsement broadens coverage. The following schedule of coverage extensions is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement along with your entire policy carefully to determine the extent of coverage afforded.

SCHEDULE OF COVERAGE EXTENSIONS

A.	Additional Insured – Lessors of Leased Equipment	K.	Duties in the Event of Occurrence, Offense, Claim or Suit
B.	Additional Insured – Owners, Managers or Lessors of Premises	L.	Expected or Intended Injury or Damage (Property Damage)
C.	Additional Insured – Vendors	M.	Medical Payments
D.	Additional Insured – Written Contract or Agreement	N.	Non-owned Aircraft
E.	Aggregate Limit Per Location	O.	Non-owned Watercraft
F.	Amateur Athletic Participants	P.	Newly Acquired or Formed Organizations
G.	Bodily Injury Definition	Q.	Supplementary Payments
H.	Broadened Named Insured	R.	Unintentional Omission
I.	Damage to Property – Borrowed Equipment, Customer Goods, Use of Elevators	S.	Waiver of Subrogation - Blanket
J.	Good Samaritan Services		

A. ADDITIONAL INSURED - LESSORS OF LEASED EQUIPMENT

Under **Section II - Who Is An Insured**, the following is added:

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

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

B. ADDITIONAL INSURED - OWNERS, MANAGERS OR LESSORS OF PREMISES

Under **Section II - Who Is An Insured**, the following is added:

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

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

1. Any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal and advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or

2. Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.

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C. ADDITIONAL INSURED - VENDORS

Under **Section II - Who Is An Insured**, the following is added:

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

1. Is caused by an "occurrence" that takes place after you have signed and executed that contract or agreement; and

2. Arises out of "your products" which are distributed or sold in the regular course of such vendor's business.

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

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

2. The insurance provided to such vendor does not apply to:

    a. Any express warranty not authorized by you;

    b. Any change in "your products" made by such vendor;

    c. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of part under instructions from the manufacturer, and then repackaged in the original container;

    d. Any failure to make such inspections, adjustments, tests or servicing as vendors agree to perform or normally undertake to perform in the regular course of business, in connection with the distribution or sale of "your products";

    e. Demonstration, installation, servicing or repair operations, excepts such operations performed at such vendor's premises in connection with the sale of "your products"; or

    f. "Your products" which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or on behalf of such vendor.

Coverage under this provision does not apply to:

1. Any person or organization from whom you have acquired "your products", or any ingredient, part or container entering into, accompanying or containing such products; or

2. Any vendor for which coverage as an additional insured specifically is scheduled by endorsement.

D. ADDITIONAL INSURED - WRITTEN CONTRACT OR AGREEMENT

Under **Section II - Who Is An Insured**, the following is added:

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

1. Is caused by an "occurrence" that takes place after you have signed and executed that contract or agreement; and

2. Is caused, in whole or in part, by your acts or omissions in performance of your ongoing operations to which that contract or agreement applies or the acts or omissions of any person or organization performing such operations on your behalf.

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

E. AGGREGATE LIMIT PER LOCATION

1. Under **Section III - Limits Of Insurance,** the following is added:

The General Aggregate Limit applies separately to each of your "locations" owned by or rented or leased to you.

2. Under **Section V - Definitions**, the following is added:

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

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F. AMATEUR ATHLETIC PARTICIPANTS

Under **Section II - Who Is An Insured**, the following is added:

Any person representing you while participating in amateur athletic activities that you sponsor. However, no such person is an insured for:

1. "Bodily injury" to:

   a. A co-participant, your "employee" or "volunteer worker" while participating in amateur athletic activities that you sponsor; or

   b. You, any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company), or any "executive officer" (if you are an organization other than a partnership, joint venture, or limited liability company); or

2. "Property damage" to property owned by, occupied or used by, rented to, in the care, custody, or control of, or over which physical control is being exercised for any purpose by:

   a. A co-participant, your "employee" or "volunteer worker"; or

   b. You, any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company), or any "executive officer" (if you are an organization other than a partnership, joint venture, or limited liability company); or

G. BODILY INJURY

Under **Section V - Definitions**, the definition of "bodily injury" is deleted and replaced by the following:

"Bodily injury" means physical injury, sickness, or disease sustained by a person, including death resulting from any of these. "Bodily injury" also means mental injury, mental anguish, humiliation, or shock sustained by a person, if directly resulting from physical injury, sickness, or disease sustained by that person.

H. BROADENED NAMED INSURED

Under **Section II - Who Is Insured**, the following is added:

Any person or organization named in the Declarations and any organization you own, newly acquire or form, other than a partnership, joint venture, or limited liability company, and over which you maintain more than 50% of the interests entitled to vote generally in the election of the governing body of such organization will qualify as a Named Insured if there is no other similar insurance available to such organization until the end of the policy period.

Coverage under this provision does not apply to any person or organization for which coverage is excluded by endorsement.

I. BROADENED PROPERTY DAMAGE - BORROWED EQUIPMENT, CUSTOMERS' GOODS AND USE OF ELEVATORS

The insurance for "property damage" liability is subject to the following:

1. Under **Section I - Coverages**, **Coverage A**, **Bodily Injury and Property Damage Liability**, paragraph **2.**, **Exclusions**, item **j.**, **Damage To Property** is amended as follows:

   a. The exclusion for personal property in the care, custody or control of the insured does not apply to "property damage" to equipment you borrow while at a job site and provided it is not being used by anyone to perform operations at the time of loss.

   b. The exclusions for:

      (1) Property loaned to you;

      (2) Personal property in the care, custody or control of the insured; and

      (3) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it;

      do not apply to "property damage" to "customers' goods" while on your premises nor do they apply to "property damage" arising from the use of elevators at premises you own, rent, lease or occupy.

2. Subject to the Each Occurrence Limit, the most we will pay for "property damage" to "customers' goods" is $25,000 per "occurrence".

3. Under **Section V - Definitions**, the following is added:

   "Customers' goods" means goods of your customer on your premises for the purpose of being:

   a. Repaired; or

   b. Used in your manufacturing process.

4. Under **Section IV - Commercial General Liability Conditions**, the insurance afforded by this provision is excess over any other valid and collectible property insurance (including any deductible) available to the insured whether such insurance is primary, excess, contingent or on any other basis. Any payments by us will follow the Other Insurance - Excess Insurance provisions.

J. GOOD SAMARITAN SERVICES

1. Under **Section II - Who Is Insured**, paragraph **2.**, item **d.**, the following is added:

This exclusion does not apply to your employees or volunteer workers, other than an employed or volunteer physician, rendering "Good Samaritan services".

2. Under **Section V - Definitions**, the following definition is added:

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

K. DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

Under **Section IV - Commercial General Liability Conditions**, paragraph **2.**, **Duties In The Event Of Occurrence, Claim or Suit** is amended to include the following:

1. The requirements that you must:

    a. Notify us of an "occurrence" offense, claim or "suit"; and

    b. Send us documents concerning a claim or "suit" apply only when such accident claim, "suit" or loss is known to:

        (1) You, if you are an individual;

        (2) A partner, if you are a partnership;

        (3) An executive officer of the corporation or insurance manager, if you are a corporation; or

        (4) A manager, if you are a limited liability company.

2. The requirement that you must notify us as soon as practicable of an "occurrence" or an offense that may result in a claim does not apply if you report an "occurrence" to your workers compensation insurer which later develops into a liability claim for which coverage is provided by this policy. However, as soon as you have definite knowledge that the particular "occurrence" is a liability claim rather than a workers' compensation claim, you must comply with the Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition.

L. EXPECTED OR INTENDED INJURY OR DAMAGE (PROPERTY DAMAGE)

Under **Section I - Coverages**, **Coverage A**, **Bodily Injury And Property Damage Liability**, paragraph **2.**, **Exclusions**, item **a.**, **Expected Or Intended Injury**, is deleted and replaced by the following:

a. Expected or Intended Injury

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

This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

M. MEDICAL PAYMENTS

1. Under **Section I - Coverages**, **Coverage C**, **Medical Payments**, paragraph **1.**, **Insuring Agreement**, the requirement that expenses are incurred and reported to us within one year of the date of the accident is changed to three years.

2. The Medical Expense Limit is $15,000 per person or the amount shown in the Declarations as the Medical Expense Limit, whichever is greater.

3. This provision **M.** does not apply if **Coverage C**, **Medical Payments**, is otherwise excluded either by the provisions of the Coverage Form or by endorsement.

N. NON-OWNED AIRCRAFT

1. Under **Section I - Coverages**, **Coverage A**, **Bodily Injury and Property Damage Liability**, item **2.**, **Exclusions**, item **g.**, **Aircraft, Auto Or Watercraft**, does not apply to an aircraft that is:

    a. Hired, chartered or loaned with a paid crew; and

    b. Not owned by any insured.

2. The insurance afforded by this provision **N.** is excess over any other valid and collectible insurance (including any deductible or Self Insured Retention) available to the insured, whether such insurance is primary, excess, contingent or on any other basis. Any payments by us will follow the Other Insurance - Excess Insurance provisions in the Commercial General Liability Conditions.

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O. NON-OWNED WATERCRAFT

1. Under **Section II - Who Is Insured**, is amended as follows:

   To include as an insured for any watercraft that is covered by this policy, any person who, with your expressed or implied consent, either uses or is responsible for the use of a watercraft. However, no person or organization is an insured with respect to:

   a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or

   b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

2. In the exception to the **Aircraft, Auto Or Watercraft** exclusion under **Coverage A**, **Bodily Injury And Property Damage Liability**, the limitation on the length of a watercraft is increased to 75 feet.

3. The insurance afforded by this provision **O.** is excess over any other valid and collectible insurance (including any deductible or Self Insured Retention) available to the insured, whether such insurance is primary, excess, contingent or on any other basis. Any payments by us will follow the Other Insurance - Excess Insurance provisions in the Commercial General Liability Conditions.

P. NEWLY ACQUIRED OR FORMED ORGANIZATIONS

Under **Section II - Who Is An Insured**, item **3.a.** is deleted and replaced by the following:

a. Coverage under this provision is afforded only until the end of the current policy period.

Q. SUPPLEMENTARY PAYMENTS

Under **Section I - Coverages**, **Supplementary Payments - Coverages A and B** is amended as follows:

1. The limit for the cost of bail bonds is amended to $2,500; and

2. The limit for reasonable expenses incurred by the "insured" is amended to $500 a day.

R. UNINTENTIONAL OMISSION

Under **Section IV - Commercial General Liability Conditions**, paragraph **6.**, **Representations**, the following is added:

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

S. WAIVER OF SUBROGATION - BLANKET

Under **Section IV - Commercial General Liability Conditions**, paragraph **8.**, **Transfer of Rights of Recovery Against Others to Us** the following is added:

We will waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations done under a written contract or agreement with that person or organization and included in "your work" or the "products-completed operations hazard". This waiver applies only to persons or organizations with whom you have a written contract, executed prior to the "bodily injury" or "property damage", that requires you to waive your rights of recovery.

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COMMERCIAL GENERAL LIABILITY
CG 83 63 01 12

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY NON-CONTRIBUTORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERICAL GENERAL LIABILITY COVERAGE PART

Under Section IV, Commercial General Liability Conditions, paragraph 4., Other Insurance, item a., Primary Insurance is amended to include the following:

However, if you are obligated pursuant to a written contract or agreement entered into prior to a loss to provide a person or organization that is included in the Who Is An Insured section of this insurance with primary insurance such as is afforded by this policy, then this insurance is primary and we will not seek contribution from insurance available to such person or organization.

THIS ENDORSEMENT MUST BE ATTACHED TO A CHANGE ENDORSEMENT WHEN ISSUED AFTER THE POLICY IS WRITTEN.

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COMMERCIAL AUTO ENHANCEMENT ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

The following provides a broad range of coverage in addition to that provided by the basic policy. In some instances a higher limit or broader coverage is available. Should the policy indicate broader coverage or higher limits than provided by this endorsement, the broader coverage or higher limits shall apply.

SCHEDULE OF COVERAGES

	Coverage	**Limit/Deductible/ Included**
A.	Blanket Additional Insured – Lessor When Required By Written Contract	Included
B.	Employees As Insureds	Included
C.	Fellow Employee Coverage	Included
D.	Employee Hired Autos	Included
E.	Extended Coverage Bail Bonds	$3,000
F.	Extended Coverage – Loss Of Earnings	$500
G.	Coverage Extension As A Consequence Of Theft Of An Auto Per Day	$75
	Maximum	$2,500
H.	Glass Deductible	Included
I.	Rental Reimbursement Number of Days	45
	Limit	$1,500
J.	Electronic Equipment Coverage	$1,000
K.	Unintentional Omission Or Disclosure	Included
L.	Knowledge And Notice Of Occurrence	Included
M.	Blanket Waiver Of Subrogation	Included
N.	Blanket Loss Payable Clause	Included

A. BLANKET ADDITIONAL INSURED – LESSOR WHEN REQUIRED BY WRITTEN CONTRACT

1. Coverage

A. Any "leased auto" will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.

B. For a "leased "auto", **Who Is An Insured** is changed to include as an "insured" any person or organization to whom you become obligated to include as an additional insured under this policy as a result of any written contract you enter into, excluding contracts for professional services, which require you to furnish insurance of the type provided by this policy for a "leased auto". However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from acts or omissions by:

1. You;

2. Any of your "employees" or agents; or

3. Any person, except the lessor or any "employee" or agent of the lessor, operating a "leased auto" with the permission of any of the above.

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COMMERCIAL AUTO ENHANCEMENT ENDORSEMENT

C. The insurance afforded to these additional insureds applies any "leased auto":

    1. During the policy period; and

    2. Subsequent to the execution of the written contract or written agreement; and

    3. Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured or when the lessor or his or her agent takes possession of the "leased auto", whichever occurs first.

D. The insurance afforded to these additional insureds ends at the earliest of:

    1. The expiration of the period of time that the written contract or written agreement requires such insurance to be provided to the additional insured;

    2. The lessor or his or her agent takes possession of the "leased auto";

    3. The expiration date of this policy.

E. In the event the limits of liability stated in the policy exceed the limits of liability required by the written contract or written agreement, the insurance provided by this endorsement shall be limited to the limits of liability required by the written contract or written agreement. This endorsement shall not increase the limits stated in **C. Limits Of Insurance** under **SECTION II – COVERED AUTOS LIABILITY COVERAGE.**

2. Loss Payable Clause

A. We will pay, as interest may appear, you and the lessor of the "leased auto" for "loss" to a "leased auto".

B. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.

C. If we make any payment to the lessor, we will obtain his or her rights against any other party.

3. Cancellation

A. Cancellation ends this agreement.

B. The lessor is not liable for the payment of your premiums.

4. Definitions

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

B. EMPLOYEES AS INSUREDS

The following is added to the **SECTION II – COVERED AUTOS LIABILITY COVERAGE,** Paragraph **A.1. Who Is An Insured** Provision:

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Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. FELLOW EMPLOYEE COVERAGE

The Fellow Employee Exclusion contained in **SECTION II – COVERED AUTOS LIABILITY COVERAGE** does not apply. This coverage is excess over any other collectable insurance.

D. EMPLOYEE HIRED AUTOS

1. Changes in Liability Coverage

The following is added to the **Who Is An Insured** Provision:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. Changes in General Conditions

Paragraph **5.b.** of the **Other Insurance** Condition in the Business Auto Coverage Form, is replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

a. Any covered "auto" you lease, hire, rent or borrow; and

b. Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

E. EXTENDED COVERAGE – BAIL BONDS

SECTION II – COVERED AUTOS LIABILITY COVERAGE, Paragraph A.2.a.(2) is deleted and replaced by the following:

(2) We provide up to the limit shown in the Schedule of Coverages above, for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

F. EXTENDED COVERAGE – LOSS OF EARNINGS

SECTION II – COVERED AUTOS LIABILITY COVERAGE, Paragraph A.2.a.(4) is deleted and replaced by the following:

(4) We provide up to the limit shown in the Schedule of Coverages above, all reasonable expenses incurred by the "insured" at our request, including actual loss of earnings because of time off work.

G. COVERAGE EXTENSION AS A CONSEQUENCE OF THEFT OF AN AUTO

4. **Coverage Extensions, a. Transportation Expenses** under **SECTION III – PHYSICAL DAMAGE COVERAGE** is deleted in its entirety and replaced by the following:

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a. Transportation Expenses

We provide up to the limits shown in the Schedule of Coverages above, for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

H. GLASS DEDUCTIBLE

1. Under **SECTION III – PHYSICAL DAMAGE COVERAGE,** item D, Deductible is deleted in its entirety and replaced by the following:

   ### a. Deductible

   For each covered "auto" our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to:

   1. "Loss" caused by fire or lightning; or

   2. "Loss" when you elect to patch or repair glass rather than replace.

I. RENTAL REIMBURSEMENT COVERAGE

1. We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto". No deductibles apply to this coverage.

2. We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:

   a. The number of days reasonably required to repair or replace the covered "auto". If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and return it to you.

   b. The number of days shown in the Schedule of Coverage above.

3. Our payment is limited to the lesser of the following amounts:

   a. Necessary and actual expenses incurred.

   b. The limit shown in the Schedule of Coverage above.

4. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.

5. If "loss results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only the amount of your rental reimbursement expenses which is not already provided for under the **PHYSICAL DAMAGE COVERAGE** Coverage Extension.

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J. ELECTRONIC EQUIPMENT COVERAGE

The following is added to **Paragraph A.4. Coverage Extensions** under **SECTION III – PHYSICAL DAMAGE COVERAGE:**

Physical Damage Coverage on a covered "auto" also applies to "loss" to any electronic equipment that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound, subject to the following additional provisions:

1. This coverage applies only if the equipment is permanently installed in the covered "auto" at the time of the "loss" or the equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto".

2. Coverage also applies to antennas and other accessories necessary for the use of the electronic equipment described in paragraph **C.1.** above. However, this does not include tapes, records or discs.

3. The most we will pay for all "loss" to such audio, visual or data electronic equipment and any accessories used with that equipment as a result of any one "accident" is the lesser of:

    a. The actual cash value of the damaged or stolen electronic equipment and/or its accessories as of the time of the "loss";

    b. The cost of repairing or replacing the damaged or stolen electronic equipment and/or it accessories with other equipment or accessories of like kind and quality; or

    c. The limit shown in the Schedule of Coverages above.

    The insurance afforded by this provision does not apply to any equipment for which Audio, Visual, and Data Electronic Coverage, or any similar or equivalent coverage, has been provided by a separate endorsement issued by us and made a part of this coverage part or policy.

K. UNINTENTIONAL OMISSION OR DISCLOSURE

The following is added to **B. General Conditions, 2. Concealment, Misrepresentation or Fraud** of **SECTION IV – BUSINESS AUTO CONDITIONS:**

    e. However, the unintentional omission of any information given or provided by you shall not prejudice your rights under this insurance. This provision does not affect our right to collect additional premium or to exercise our right of cancellation or non-renewal.

    This provision does not apply to any known injury or damage which is excluded under any other provision of this policy.

L. KNOWLEDGE AND NOTICE OF OCCURRENCE

Paragraph **a.** under **A. Loss Conditions, 2. Duties In The Event of Accident, Claim, Suit Or Loss** in **SECTION IV – BUSINESS AUTO CONDITIONS** is deleted in its entirety and replaced by the following:

    a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss" including:

    (1) How, when and where the "accident" or "loss" occurred;

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COMMERCIAL AUTO ENHANCEMENT ENDORSEMENT

(2) The "insured's" name and address; and

(3) To the extent possible, the names and addresses of any injured persons or witnesses.

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

(1) You, if you are an individual;

(2) A partner, if you are a partnership**;**

(3) A manager, if you are a limited liability company; or

(4) An executive officer or the "employee" designated by you to give such notice, if you are an organization other than a partnership or limited liability company.

M. BLANKET WAIVER OF SUBROGATION

The following is added to **A. Loss Conditions, 5. Transfer Of Rights Of Recovery Against Others To Us** under **SECTION IV – BUSINESS AUTO CONDITIONS:**

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. The waiver applies only to the person or organization in such contract.

N. BLANKET LOSS PAYABLE CLAUSE

1. We will pay, as interest may appear, you and the loss payee for "loss" to a covered "auto" when the named insured is required by specific written contractual agreement to include such entity as a loss payee.

2. The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embezzlement on your part.

3. We may cancel the policy as allowed by the **CANCELLATION** Common Policy Condition. Cancellation ends this agreement as to the loss payee's interest. We are not required to provide notice of cancellation or non-renewal to any such loss payee.

4. If we make any payments to the loss payee, we will obtain his or her rights against any other party.

THIS ENDORSEMENT MUST BE ATTACHED TO A CHANGE ENDORSEMENT WHEN ISSUED AFTER THE POLICY IS WRITTEN

(3) Any person or organization having proper temporary custody of your property if you die, but only:

    (a) With respect to liability arising out of the maintenance or use of that property; and

    (b) Until your legal representative has been appointed.

(4) Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

c. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

(1) Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

(2) Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

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

2. Only with respect to liability arising out of the ownership, maintenance or use of "covered autos":

a. You are an insured.

b. Anyone else while using with your permission a "covered auto" you own, hire or borrow is also an insured except:

(1) The owner or anyone else from whom you hire or borrow a "covered auto". This exception does not apply if the "covered auto" is a trailer or semitrailer connected to a "covered auto" you own.

(2) Your "employee" if the "covered auto" is owned by that "employee" or a member of his or her household.

(3) Someone using a "covered auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.

(4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from a "covered auto".

(5) A partner (if you are a partnership), or a member (if you are a limited liability company) for a "covered auto" owned by him or her or a member of his or her household.

(6) "Employees" with respect to "bodily injury" to:

    (a) Any fellow "employee" of the insured arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or

    (b) The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph **(a)** above.

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

3. Any additional insured under any policy of "underlying insurance" will automatically be an insured under this insurance.

Subject to Section **III** – Limits Of Insurance, if coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

a. Required by the contract or agreement, less any amounts payable by any "underlying insurance"; or

b. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

Additional insured coverage provided by this insurance will not be broader than coverage provided by the "underlying insurance".

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.