

TECHNOLOGY MASTER SERVICE AGREEMENT

THIS AGREEMENT for the **<EnterProjectNameAndNumber>** is made and entered into this _____ day of _____, 20____, by and between **City of Thornton**, a Colorado home rule municipality, located at 9500 Civic Center Drive, Thornton, CO, 80229 in the State of Colorado (hereinafter, "Thornton") and **<EnterVendorName>**, a **<WhatStatesTheVendorLocatedIn&WhatBusinessTypeAreThey>** whose principal place of business is located at **<Vendor'sHeadquarters>** (hereinafter, the "Licensor" or "Vendor"). Thornton and Vendor hereafter may be referred to collectively as, the "Parties" or individually as the "Party."

I. RECITALS

- A. Thornton has determined that over the term of this Agreement, from time to time, the need will exist for the provisioning of certain services in connection with the **<EnterProjectNameAndNumber>** (the Project); and
- B. Vendor has held itself out to Thornton as having the requisite expertise and experience to perform the required Services for the Project; and
- C. Thornton selected Vendor to provide a **<TypeofSystem>**, other services, and Deliverables for the Thornton **<EnterDepartmentName>**.

In consideration of the covenants and promises contained in this Agreement and Recitals incorporated herein, which their sufficiency is acknowledged by Vendor and Thornton, the Parties agree as follows:

II. DEFINITIONS

- A. Whenever used herein, any schedules, exhibits, order forms, or addenda to this Agreement, the following terms shall have the meanings assigned below unless otherwise defined therein. Other capitalized terms used in this Agreement are defined in the context in which they are used.
 - 1. **"Acceptance"** means the Deliverable demonstrates to Thornton's reasonable satisfaction that the Deliverable conforms to and operates in all material respects according to the Acceptance Criteria, and if required, has successfully completed Acceptance Testing in all material respects, and for Deliverables not requiring Acceptance Testing, that the Deliverable reasonably conforms in all material respects to the Acceptance Criteria or Thornton's requirements.
 - 2. **"Acceptance Certificate"** means a written instrument by which Thornton promptly notifies Vendor that a Deliverable has been Accepted or Accepted with exceptions, and Acceptance Criteria have been met or waived, in whole or in part.

3. **"Acceptance Criteria"** means functionality and performance requirements determined by Thornton and set forth on the Order Form for the applicable Product or Service, based upon the Specifications, which must be satisfied prior to Thornton's Acceptance of a Deliverable, or the System. Thornton and Vendor shall agree upon written Acceptance Criteria in the Order Form for the applicable Product or Service.
4. **"Acceptance Date"** means the date on which Thornton issues an Acceptance Certificate for the System or a Deliverable.
5. **"Acceptance Test"** means the evaluation and testing method, procedures, or both, that are set forth in the Order Form for the applicable Product or Service and are used to determine whether or not the System or a Deliverable requiring Acceptance Testing performs in accordance with the Acceptance Criteria.
6. **"City Data"** means all information, whether in oral or written (including electronic) form, created by or in any way originating with Thornton and all information that is the output of any computer processing or other electronic manipulation, or any information that was created by or in any way originating with Thornton in the course of using and configuring the Services provided under this Agreement, including all records relating to Thornton's use of Vendor Services. City Data also includes Confidential Information disclosed to Vendor.
7. **"Confidential Information"** means all records or data that is disclosed in written, graphic or machine recognizable form and is marked designated, labeled or identified at the time of disclosure as being confidential or its equivalent, or, if the information is in verbal form, it is identified as confidential or proprietary at the time of disclosure and is confirmed in writing within thirty (30) Calendar Days of the disclosure and is not subject to disclosure under CORA. Confidential Information shall include, but is not limited to, PII, PHI, PCI, federal or state tax information ("Tax Information"), Criminal Justice Information (CJI), personnel records, financial, statistical, personnel, human resources data or Personally Identifiable Information and/or Personal Information as described in the C.R.S 24-73-101, *et seq*; attorney/client privileged communications; information which is exempt per federal laws (including but not limited to copyright or HIPPA), all of which is not subject to disclosure under CORA. Confidential Information does not include information which: (a) is public or becomes public through no breach of the confidentiality obligations herein; (b) is disclosed by the party that has received Confidential Information (the "Receiving Party") with the prior written approval of the other party; (c) was known by the Receiving Party at the time of disclosure; (d) was developed independently by the Receiving Party without use of the Confidential Information; (e) becomes known to the Receiving Party from a source other than the disclosing party through lawful means; (f) is disclosed by the disclosing party to others without confidentiality obligations; or (g) is required by law to be disclosed.

8. **“CORA”** means the Colorado Open Records Act, §§ 24-72-200.1, *et seq.*, C.R.S.
9. **“Data Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of Thornton. Data Incidents include, without limitation (i) successful attempts to gain unauthorized access to a City system or Thornton information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a City system for the processing or storage of data; or (iv) changes to Thornton system hardware, firmware, or software characteristics without Thornton’s knowledge, instruction, or consent. It shall also include any actual or reasonably suspected unauthorized access to or acquisition of computerized City Data that compromises the security, confidentiality, or integrity of City Data, or the ability of Thornton to access City Data.
10. **“Deliverable”** means the Products or Services or documents or tangible work Products described in an Order Form to be provided to Thornton by Vendor or the outcome to be achieved or output to be provided, in the form of a tangible object or software that is produced as a result of Vendor’s work that is intended to be delivered to Thornton by Vendor under this Agreement.
11. **“Documentation”** means, collectively: (a) all materials published or otherwise made available to Thornton by Vendor that relate to the functional, operational and/or performance capabilities of the Services; (b) all user, operator, system administration, technical, support and other manuals and all other materials published or otherwise made available by Vendor, including marketing materials that describe the functional, operational and/or performance capabilities of the Services; (c) any Requests for Information and/or Requests for Proposals (or documents of similar effect) issued by Thornton, and the responses thereto from Vendor, and any document which purports to update or revise any of the foregoing; and (d) the results of any Vendor “Use Cases Presentation,” “Proof of Concept” or similar type presentations or tests provided by Vendor to Thornton or as required to be produced by Vendor subject to the terms of this Agreement.
12. **“Downtime”** means any period of time of any duration that the Services are not made available by Vendor to Thornton for any reason, including scheduled maintenance or Enhancements.
13. **“Effective Date”** means the date on which this Agreement is fully approved and signed by Thornton as shown on the Signature Page for this Agreement. The Effective Date for Services may be set out in an Order Form or similar exhibit.

14. **“End User”** means the Thornton employee logging into Vendor’s application and/or utilizing Vendor’s Services.
15. **“Enhancements”** means any improvements, modifications, upgrades, updates, fixes, revisions and/or expansions to the Services that Vendor may develop or acquire and incorporate into its standard version of the Services or which Vendor has elected to make generally available to its customers.
16. **“Equipment”** means any hardware, machinery, device, tool, computer, computer component, computer system, including add-ons, or peripherals of tangible form together with the necessary supplies for upkeep and maintenance, and other apparatus, to be provided to Thornton by Vendor under this Agreement.
17. **“Error”** means any defect, problem, condition, bug, or other partial or complete inability of a Product to operate in accordance with the applicable Specifications.
18. **“Intellectual Property Rights”** includes without limitation all right, title, and interest in and to all (a) Patent and all filed, pending, or potential applications for Patent, including any reissue, reexamination, division, continuation, or continuation in part applications throughout the world now or hereafter filed; (b) trade secret rights and equivalent rights arising under the common law, state law, and federal law; (c) copyrights, other literary property or authors rights, whether or not protected by copyright or as a mask work, under common law, state law, and federal law; and (d) proprietary indicia, trademarks, trade names, symbols, logos, and/or brand names under common law, state law, and federal law.
19. **“Order Form”** means a quote in the form attached hereto as an exhibit, setting forth certain Products and/or Services to be provided pursuant to this Agreement. Any reference to an "Order Form" in this Agreement includes Products and/or Services purchased by Thornton pursuant to Vendor's online ordering process. An Order Form can also be a statement of Work or Scope of Work if attached to this Agreement.
20. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or other credit card information as may be protected by state or federal law.
21. **“PII”** means personally identifiable information including, without limitation, any information maintained by Thornton about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records. PII includes, but is not limited to, all information defined as personally identifiable information in §§ 24-72-501 and 24-73-101, C.R.S.

22. **"PHI"** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act. If this Agreement involves the transmission of PHI a separate Business Associates Agreement will become a part of this Agreement.
23. **"Product(s)"** means software, Equipment, and supplies delivered, or to be delivered, pursuant to an Order Form.
24. **"Protected Information"** includes, but is not limited to, personally-identifiable information, student records, protected health information, criminal justice information or individual financial information and other data defined under § 24-72-101 *et seq.*, and personal information that is subject to local, state or federal statute, regulatory oversight or industry standard restricting the use and disclosure of such information. The loss of such Protected Information would constitute a direct damage to Thornton.
25. **"Services"** means all work, services, and Vendor obligations, including but not limited to, the Vendor's computing solutions, provided to Thornton pursuant to this Agreement, that provide the functionality and/or produce the results described in the Documentation, including without limitation all Enhancements thereto and all interfaces.
26. **"Service Level Agreement(s)"** mean the provisions set forth in **Exhibit _____** attached hereto, which are incorporated into this Agreement by this reference.
27. **"Specifications"** means the most current cumulative statement of capabilities, functionality, and performance requirements for the Products or Services as set out in the Acceptance Criteria, Order Forms, Documentation, Vendor's representations, Vendor's proposal, and Thornton's Request for Proposals.
28. **"Subcontractor"** means any Thornton-approved Third Party engaged by Vendor to aid in performance of the Work or the Service(s). Vendor shall provide to Thornton, upon request, a list of Subcontractors providing material services to the Service(s).
29. **"System"** means the operational combination of all Products and Services to be provided by Vendor to Thornton under this Agreement.

30. **“Third Party”** means persons, corporations and entities other than Vendor, Thornton or any of their employees, Vendors or agents.
31. **“Third-Party Host”** means the entity where the physical location of the server(s) of the Vendor’s software resides.

III. TERMS AND CONDITIONS

- A. **Description of Product, Solution.** Thornton is desirous of engaging **[Note to Editor: pick which solution) hosted third-party solution or a hosted hybrid solution or on-premise (“on-prem”)]** solution and the Vendor has agreed to provide the solution, services, and other deliverables under the terms and conditions set out below.
- B. **Commencement Date, Term.**
 1. This Agreement shall commence **[Note to Editor: pick what is appropriate - on the date as indicated above or last signed by the Parties]** and terminate on **Specific Date or December 31, <year>**, or upon Thornton providing Vendor with thirty (30) Calendar Days advance written notice, whichever occurs first.
 2. Should this Agreement terminate on the date listed above and Thornton has not found a suitable replacement of services from another Vendor, Thornton may request in writing that the Vendor continue the Service(s) on a month-to-month prorated basis for a continued use of the software, until a formal written notice of termination has been provided by Thornton.
- C. **Contract Documents.**
 1. The following documents, which include any exhibit and attachment listed, contained or referenced in the contract documents, by this reference, are incorporated, verbatim, and will hereafter be, the Agreement:
 - a. Approved Amendments to this Agreement;
 - b. Approved Change Orders;
 - c. This Technology Master Service Agreement (“MSA”); and
 - d. All Exhibits included within this Technology MSA.
 2. In the event there is a conflict between any of the above-listed documents, the provisions of the document listed first in order shall govern over those documents listed in descending order in subparagraph C.1.

3. Vendor may need additional documents to perform the required Work and Services, or to clarify certain aspects of the Work and Services, that are not listed in Section C.1 above. Such documents, unless specifically identified as such, are not Contract Documents. These documents, by way of example include, but are not limited to:
 - a. The Request for Proposals (including Addenda);
 - b. The Vendor's response to the Request for Proposals;
 - c. Other Thornton policies and procedures as applicable.

D. **Personnel**

1. Vendor shall perform the Services with the employees, Subcontractors, agents and all other persons ("Personnel"), unless otherwise authorized in writing by Thornton.
2. Vendor shall employ competent Personnel at all times during the performance of the Work. Vendor shall be responsible for acts and omissions of its Personnel working for Vendor. Vendor shall enforce strict discipline and good order among its Personnel performing the Work.
3. The person in charge shall represent Vendor and communications given to the person in charge shall be as binding as if given to Vendor. Important communications will be confirmed in writing. Other communications shall be similarly confirmed on written request.
4. Thornton, at any time, may revoke its approval of any person who is not performing in a manner satisfactory to Thornton, and Vendor shall remove the objectionable person from the Work and replace them with someone acceptable to Thornton.

E. **Compensation.**

1. **Remuneration.** Thornton agrees to pay Vendor for the satisfactory progression and completion of the Services:
 - a. The agreed upon unit prices as set forth in **Exhibit C** ("Unit Pricing"); and
 - b. The billable hourly rates set forth in the attached **Exhibit C**, Schedule of Charges ("Hourly Rates").

Notwithstanding which prescribed payment method is used, Thornton, in its reasonable discretion, may select one (1) or a combination of the

aforementioned payment methods to compensate Vendor. Likewise, the Parties by written amendment may convert from one (1) approved payment method to another under this Agreement. Vendor further understands any compensation received from Thornton is subject to a “NTE” amount as provided for in **Exhibit C**.

2. Purchase Order Required. No work shall be performed without a Purchase Order from Thornton issued to the Vendor.

3. Invoicing.

a. Unless directed otherwise by Thornton’s representative, Vendor shall submit and send a detailed invoice in .pdf format to ap.invoices@ThorntonCo.gov.

b. Due Date. Compensation shall be due and payable thirty (30) Calendar Days after date of receipt by Thornton of a complete and correct invoice.

c. Hourly Rate. Payments to Vendor based on billable hourly rate and eligible reimbursable expenses shall include hourly breakdowns for all personnel and shall show an itemization of other charges.

d. Required Invoice Information. Each invoice shall reference your assigned Purchase Order Number. Invoices shall also include a summary of the initial Agreement amount, amendments, total Agreement amount, and current billing and payment summaries.

4. Billable Rate Changes.

<Note to Editor: Make sure that your rate changes align with your Schedule of Charges and if there are allowable changes to pricing. 4.a-4.c below are options so delete, modify, and/or combine together as necessary.>

a. At the end of the initial term, the Parties may adjust the software subscription pricing based upon Thornton’s actual or anticipated usage.

b. The billable hourly rates shall remain fixed for, at a minimum, the initial twelve (12) month term, or the first anniversary of the Agreement, whichever one applies (“First Term”). Vendor may request an increase to the Billable Rate after the First Term and any subsequent Term provided Vendor gives Thornton written notice a minimum of sixty (60) Calendar Days before the upcoming term.

- c. Under no circumstances shall any software subscription costs, billable hourly rate increase, or Schedule of Charges exceed three percent (3.00%) of the annual cost for the renewal term. The revised Schedule of Charges shall only be effective by a written and approved Change Order of this Agreement executed by Thornton.

F. **Changes to Vendor's Scope of Services.**

1. A change in the Vendor's Scope of Services shall constitute any change or amendment of Services, which is different from or additional to Vendor's Scope of Work as defined in **Exhibit B** of this Agreement.
2. No change to the General Scope of Work, including any requested changes to contractually established billable/unit rates, shall be effective or paid unless authorized by a written Amendment or Change Order executed by Thornton's City Manager ("Manager") or Manager's designee(s) with the same formality as this agreement.
3. Except as expressly provided herein, no agent, employee, or representative of Thornton has the authority to change or modify - directly or by an implied course of action, the Scope of Work or the terms of this Agreement.
4. If Vendor proceeds without such written authorization, then Vendor shall be deemed to have waived any claim for additional compensation, including a claim based on a theory of promissory estoppel, unjust enrichment, quantum meruit, or implied Agreement.

IV. DATA

A. **Rights and License In and To Data.**

1. The Parties agree that as between them, all rights in and to City Data shall remain the exclusive property of Thornton, and Vendor has a limited, nonexclusive license to access and use City Data as provided in this Agreement solely for the purpose of performing its obligations hereunder.
2. All City Data created and/or processed by the Service(s) is and shall remain the property of Thornton and shall in no way become attached to the Service(s), nor shall Vendor have any rights in or to Thornton Data without the express written permission of Thornton, and may not include Protected Information.
3. This Agreement does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in the Agreement.

4. Thornton retains the right to use the Service to access and retrieve data stored on Vendor's Service infrastructure at any time during the term of this Agreement at its sole discretion.

B. Data Privacy.

1. Vendor will use City Data only for the purpose of fulfilling its duties under this Agreement and for Thornton's sole benefit, and will not share City Data with or disclose it to any Third Party without the prior written consent of Thornton or as otherwise required by law. By way of illustration and not of limitation, Vendor will not use City Data for Vendor's own benefit and, in particular, will not engage in "data mining" of City Data or communications, whether through automated or human means, except as specifically and expressly required by law or authorized in writing by Thornton.
2. Vendor will provide access to City Data only to those Vendor employees, Vendors and Subcontractors ("Vendor Staff") who need to access City Data to fulfill Vendor's obligations under this Agreement. Vendor will ensure that, prior to being granted access to City Data, Vendor Staff who perform work under this Agreement have all undergone and passed criminal background screenings; have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Agreement; and possess all qualifications appropriate to the nature of the employees' duties and the sensitivity of City Data they will be handling.
3. If Vendor receives Protected Information of a Colorado resident under this Agreement, Vendor shall implement and maintain reasonable written security procedures and practices that are appropriate to the nature of the personal identifying information and the nature and size of Vendor's business and its operations. Unless Vendor agrees to provide its own security protections for the information it discloses to a third-party Vendor, Vendor shall require all its third-party Vendors to implement and maintain reasonable written security procedures and practices that are appropriate to the nature of the personal identifying information disclosed and reasonably designed to help protect the personal identifying information subject to this Agreement from unauthorized access, use, modification, disclosure, or destruction. Vendor and its third-party Vendors that maintain electronic or paper documents that contain Protected Information under this Agreement shall develop a written policy for the destruction of such records by shredding, erasing, or otherwise modifying the Protected Information to make it unreadable or indecipherable when the records are no longer needed.
4. Vendor may provide City Data to its agents, employees, assigns, and Subcontractors as necessary to perform the work under this Agreement but shall restrict access to Confidential Information to those agents, employees,

assigns, and Subcontractors who require access to perform their obligations under this Agreement. Vendor shall ensure all such agents, employees, assigns, and Subcontractors sign, or have signed, agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign, or Subcontractor has access to any Confidential Information. Vendor shall provide copies of those signed nondisclosure provisions to Thornton upon execution of the nondisclosure provisions if requested by Thornton.

C. **Data Security and Integrity.**

1. All facilities, whether Vendor hosted or Third-Party Hosted, used to store and process City Data will implement and maintain administrative, physical, technical, and procedural safeguards and best practices at a level sufficient to provide the requested Service(s) availability and to secure City Data from unauthorized access, destruction, use, modification, or disclosure appropriate for City Data. Such measures, when applicable due to the presence of Protected Information, include, but are not limited to, all applicable laws, rules, policies, publications, and guidelines including, without limitation: (i) the most recently promulgated IRS Publication 1075 for all Tax Information, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, (iv) the Colorado Consumer Protection Act, (v) the Children's Online Privacy Protection Act (COPPA), (vi) the Family Education Rights and Privacy Act (FERPA), (vii) §24-72-101 et seq., (viii) the Telecommunications Industry Association (TIA) Telecommunications Infrastructure Standard for Data Centers (TIA-942); (ix) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Addendum attached to this Agreement, if applicable. Vendor shall submit to Thornton, within fifteen (15) Calendar Days of Thornton's written request, copies of Vendor's policies and procedures to maintain the confidentiality of protected health information to which Vendor has access, and if applicable, Vendor shall comply with all HIPAA requirements contained herein or attached as an exhibit.
2. Vendor warrants that all City Data will be encrypted in transmission (including via web interface) and in storage by a mutually agreed upon National Institute of Standards and Technology (NIST) approved strong encryption method and standard.
3. Vendor shall use industry-standard and up-to-date security tools, technologies and procedures including, but not limited to, anti-virus and anti-malware protections and intrusion detection and reporting in providing Services under this Agreement. Vendor shall ensure that any underlying or integrated software employed by the Service(s) is updated on a regular basis and does not pose a threat to the security of the Service(s).

4. Vendor shall, and shall cause its Subcontractors, to do all of the following:
 - a. Provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this Agreement.
 - b. Maintain network, system(s), and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or Enhancements consistent with evolving industry standards.
 - c. Comply with State and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing.
 - d. Provide that security is not compromised by unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments.
 - e. Promptly report all Data Incidents, including Data Incidents that do not result in unauthorized disclosure or loss of data integrity.
 - f. Comply with all rules, policies, procedures, and standards that are issued by Thornton's Technology Services Security Section.
 - g. Subject to Vendor's reasonable access security requirements and upon reasonable prior notice, Vendor shall provide Thornton with scheduled access for the purpose of inspecting and monitoring access and use of City Data, maintaining City systems, and evaluating physical and logical security control effectiveness.
 - h. Vendor shall perform current background checks in a form reasonably acceptable to Thornton on all of its respective employees and agents performing services or having access to City Data provided under this Agreement, including any Subcontractors or the employees of Subcontractors. A background check performed within thirty (30) Calendar Days prior to the date such employee or agent begins performance or obtains access to City Data shall be deemed to be current.
 - i. Vendor will provide notice to the security and compliance representative for Thornton indicating that background checks have been performed. Such notice will inform Thornton of any action taken in response to such background checks, including any decisions not to take action in response to negative information revealed by a background check.

- j. If Vendor will have access to Tax Information under the Agreement, Vendor shall comply with the background check requirements defined in IRS Publication 1075 and § 24-50-1002, C.R.S.
5. If applicable, Vendor shall use, hold, and maintain Confidential and Protected Information in compliance with all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all Confidential and Protected Information.
6. Prior to the Effective Date of this Agreement, Vendor will, at its expense, conduct or will have conducted the following, and thereafter, Vendor will, at its expense, conduct or will have conducted the following at least once per year, and immediately after any actual or reasonably suspected Data Incident:
 - a. A SSAE 16/SOC 2 or other mutually agreed upon audit of Vendor's security policies, procedures and controls;
 - b. A quarterly external and internal vulnerability scan of Vendor's Systems and facilities, to include public facing websites that are used in any way to deliver Services under this Agreement. The report must include the vulnerability, age and remediation plan for all issues identified as critical or high;
 - c. A formal penetration test, performed by a process and qualified personnel of Vendor's Systems and facilities that are used in any way to deliver Services under this Agreement.
7. Vendor will provide Thornton the reports or other Documentation resulting from the above audits, certifications, scans and tests within seven (7) Calendar Days of Vendor's receipt of such results, if requested by Thornton.
8. Based on the results and recommendations of the above audits, certifications, scans and tests, Vendor will, within thirty (30) Calendar Days of receipt of such results, promptly modify its security measures to meet its obligations under this Agreement and provide Thornton with written evidence of remediation.
9. Thornton may require, at its expense, that Vendor perform additional audits and tests, the results of which will be provided to Thornton within seven (7) Calendar Days of Vendor's receipt of such results.
10. Vendor shall protect data against deterioration or degradation of data quality and authenticity, including, but not limited to annual Third Party data integrity audits. Vendor will provide Thornton the results of the above audits, if requested by Thornton.

D. **Response to Legal Orders, Demands, or Requests for Data.**

1. Except as otherwise expressly prohibited by law, Vendor will:
 - a. If required by a court of competent jurisdiction or an administrative body to disclose City Data, Vendor will notify Thornton in writing immediately upon receiving notice of such requirement and prior to any such disclosure;
 - b. Consult with Thornton regarding its response;
 - c. Cooperate with Thornton's reasonable requests in connection with efforts by City to intervene and quash or modify the legal order, demand or request; and
 - d. Upon request, provide Thornton with a copy of its response.
2. If Thornton receives a subpoena, warrant, or other legal order, demand or request seeking data maintained by Vendor, Thornton will promptly provide a copy to Vendor. Vendor will supply Thornton with copies of data required for Thornton to respond within forty-eight (48) hours after receipt of copy from Thornton and will cooperate with Thornton's reasonable requests in connection with its response.

E. **Data Incident Response.**

1. Vendor shall maintain documented policies and procedures for Data Incident and breach reporting, notification, and mitigation. If Vendor becomes aware of any Data Incident, it shall notify Thornton immediately and cooperate with Thornton regarding recovery, remediation, and the necessity to involve law enforcement, as determined by Thornton. If there is a Data Incident impacting residents of Colorado or any other jurisdiction, Vendor shall cooperate with Thornton to satisfy notification requirements as currently defined in either federal, state, or local law. Unless Vendor can establish that neither Vendor nor any of its agents, employees, assigns or Subcontractors are the cause or source of the Data Incident, Vendor shall be responsible for the cost of notifying each person who may have been impacted by the Data Incident as required by law. After a Data Incident, Vendor shall take steps to reduce the risk of incurring a similar type of Data Incident in the future as directed by Thornton, which may include, but is not limited to, developing and implementing a remediation plan that is approved by Thornton at no additional cost to Thornton.
2. Vendor shall report, either orally or in writing, to Thornton any Data Incident involving City Data, or circumstances that could have resulted in unauthorized access to, disclosure, or use of City Data, not authorized by this Agreement

or in writing by Thornton, including any reasonable belief that an unauthorized individual has accessed City Data. Vendor shall make the report to Thornton immediately upon discovery of the unauthorized disclosure, but in no event more than forty-eight (48) hours after Vendor reasonably believes there has been such unauthorized use or disclosure. Oral reports by Vendor regarding Data Incidents will be reduced to writing and supplied to Thornton as soon as reasonably practicable, but in no event more than forty-eight (48) hours after oral report.

3. Immediately upon becoming aware of any such Data Incident, Vendor shall fully investigate the circumstances, extent and causes of the Data Incident, and report the results to Thornton and continue to keep Thornton informed daily of the progress of its investigation until the issue has been effectively resolved.
4. Vendor's report discussed herein shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the data used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure (if known), (iv) what Vendor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Vendor has taken or shall take to prevent future similar unauthorized use or disclosure.
5. Within five (5) Calendar Days of the date the Vendor becomes aware of any such Data Incident, the Vendor shall have completed implementation of corrective actions to remedy the Data Incident, restore Thornton's access to the Services as directed by Thornton, and prevent further similar unauthorized use or disclosure.
6. Vendor, at its expense, shall cooperate fully with Thornton's investigation of and response to any such Data Incident.
7. Except as otherwise required by law, Vendor will not disclose or otherwise provide notice of the incident directly to any person, regulatory agencies, or other entities, without prior written permission from Thornton.
8. Notwithstanding any other provision of this Agreement, and in addition to any other remedies available to Thornton under law or equity, Vendor will promptly reimburse Thornton in full for all costs incurred by Thornton in any investigation, remediation or litigation resulting from any such Data Incident, including but not limited to, providing notification to Third Parties whose data were compromised and to regulatory bodies, law-enforcement agencies or other entities as required by law or contract; establish and monitor call center(s), and credit monitoring and/or identity restoration services to assist each person impacted by a Data Incident in such a fashion that, in Thornton's sole discretion, could lead to identity theft; and the payment of legal fees and expenses, audit costs, fines and penalties, and other fees imposed by regulatory agencies, courts of law, or contracting partners as a result of the Data Incident.

F. **Data Retention and Disposal.**

1. Using appropriate and reliable storage media, Vendor will regularly backup data and retain such backup copies consistent with Thornton's data retention policies.
2. At Thornton's election, Vendor will either securely destroy or transmit to Thornton's repository any backup copies of City Data. Vendor will supply Thornton a certificate of destruction, indicating the records disposed of, the date disposed of, and the method of disposition used.
3. Vendor will immediately preserve the state of the data at the time of the request and place a "hold" on data destruction or disposal under its usual records retention policies of records that include data, in response to an oral or written request from Thornton indicating that those records may be relevant to litigation that Thornton reasonably anticipates. Oral requests by Thornton for a hold on record destruction will be reduced to writing and supplied to Vendor for its records as soon as reasonably practicable under the circumstances. Thornton will promptly coordinate with Vendor regarding the preservation and disposition of these records. Vendor shall continue to preserve the records until further notice by Thornton.

G. **Data Transfer Upon Termination Or Expiration.**

1. Upon expiration or earlier termination of this Agreement or any Services provided in this Agreement, Vendor shall accomplish a complete transition of the Services from Vendor to Thornton or any replacement provider designated solely by Thornton, without any interruption of or adverse impact on the Services or any other services provided by Third Parties in this Agreement. Vendor shall cooperate fully with Thornton or such replacement provider and promptly take all steps required to assist in effecting a complete transition of the Services designated by Thornton. All services related to such transition shall be performed at no additional cost beyond what would be paid for the Service(s) in this Agreement. Vendor shall extend the Agreement monthly if additional time is required beyond the termination of the Agreement, if necessary, to effectuate the transition and Thornton shall pay a proration of the subscription fee.
2. Upon the expiration or termination of this Agreement, Vendor shall return City Data provided to Vendor in a common and readily usable electronic format if requested by Thornton or destroy City Data and certify to Thornton that it has done so with a Certificate of Destruction, as directed by Thornton. If Vendor is prevented by law or regulation from returning or destroying Confidential Information, Vendor warrants it will guarantee the confidentiality of, and cease to use, such Confidential Information. To the extent that Vendor is requested to perform any services beyond the return of Thornton's Data in connection

with termination assistance, the same shall be performed pursuant to a written Statement of Work under this Agreement and paid for by Thornton, applying Vendor's then-current rates for daily/hourly work, as the case may be.

V. ADDITIONAL TERMS AND CONDITIONS

A. **Service Level Agreements; Interruptions In Service; Suspension And Termination Of Service; Changes To Service.** Vendor shall provide a Service Level Agreement that has been found to be mutually acceptable by both Parties which shall become an Exhibit to and incorporated into this Agreement by this reference.

B. **Technology Accessibility Compliance.**

[Note to Vendors: After July 1, 2024, Vendor shall be required to meet the rules and standards of Colorado's HB 21-1110 regarding Technology Accessibility Compliance, as it may be amended; Vendor's noncompliance may result in termination with this Agreement's Section F.2. Termination for Cause]

1. **Compliance and Testing.** All Vendor managed or operated public-facing digital experiences (e.g., websites and webpages) must be compliant with Section 508 of the Rehabilitation Act of 1973 and the WCAG 2.1 Level AA guidelines (collectively, "Guidelines"). Prior to launching to the public, Vendor shall test all public-facing digital experiences, both manually and in an automated fashion, as applicable, to confirm and maintain compliance with the Guidelines, and then subsequently, no more than once per each term year thereafter. Such manual and automated testing may only be performed by a Third-Party vendor approved by the Department of Justice. Thornton may provide a list of approved Third-Party vendors. Thornton does not warrant the work of any Third-Party vendor. All testing under this section shall be performed by Third Party vendors at the Vendor's expense.
2. **Validation, Review and Remediation.** Vendor will notify Thornton when its digital experience is ready for Thornton review and validation. Thornton will then validate, prior to launch and each term year thereafter, to confirm that the digital experience is compliant with the Guidelines. Manual testing of the Vendor's digital experience will be verified by Thornton with approved vendors and individuals of varying disabilities which shall include individuals who are blind, deaf or hard of hearing, and who have mobility or dexterity limitations. Upon completion of all testing, a review will be performed by Thornton's personnel (e.g., Web Accessibility Coordinator, etc.) to confirm completion of all accessibility requirements. In the event that any deficiencies are discovered in the Vendor's digital experience, Thornton will promptly notify Vendor, and Vendor will remediate prior to launch. A digital experience will not launch until all deficiencies are remediated. All digital experiences must

include a statement on the site that the experience is accessible, will maintain accessibility, and will provide a mechanism for users to submit feedback about accessibility issues.

3. **Solution Failure.** In the event that the digital experience fails compliance at any time, Vendor shall bring the digital experience into compliance within ninety (90) Calendar Days, which may be extended by mutual written agreement of the Parties. Failure to bring the digital experience into compliance for any reason within such time, except as may be mutually extended by the written agreement of the parties, shall be a breach of this Agreement.

C. **Warranties, Representations, And Covenants.** Vendor represents and warrants that:

1. The Service will conform to applicable Specifications, and operate and produce results substantially in accordance with the Documentation and the Exhibits attached hereto, and will be free from deficiencies and defects in materials, workmanship, design and/or performance during the Term of this Agreement;
2. All technology related services will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards;
3. Vendor has the requisite ownership, rights and licenses to perform its obligations under this Agreement fully as contemplated hereby and to grant to Thornton all rights with respect to the software and Services free and clear from all liens, adverse claims, encumbrances and interests of any Third Party;
4. There are no pending or threatened lawsuits, claims, disputes or actions: (i) alleging that any software or service infringes, violates or misappropriates any Third-Party rights; or (ii) adversely affecting any software, service or supplier's ability to perform its obligations hereunder;
5. The Service(s) will not violate, infringe, or misappropriate any patent, copyright, trademark, trade secret, or other intellectual property or proprietary right of any Third Party;
6. The software and Services will contain no malicious or disabling code that is intended to damage, destroy or destructively alter software, hardware, systems or data. Vendor's obligations for breach of the Services Warranty shall be limited to using its best efforts, at its own expense, to correct or replace that portion of the Services which fail to conform to such warranty, and, if Vendor is unable to correct any breach in the Services Warranty by the date which is sixty (60) Calendar Days after Thornton provides notice of such

breach, Thornton may, in its sole discretion, either extend the time for Vendor to cure the breach or terminate this Agreement and receive a full refund of all amounts paid to Vendor under this Agreement.

7. Disabling Code Warranty. Vendor represents, warrants and agrees that the Services do not contain, and Thornton will not receive from the Vendor, any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design, or other malicious, illicit or similar unrequested code, including surveillance software or routines which may, or is designed to, permit access by any person, or on its own, to erase, or otherwise harm or modify any City system or Data (a "Disabling Code"). In the event a Disabling Code is identified, Vendor shall take all steps necessary, at no additional cost to Thornton, to: (a) restore and/or reconstruct all City Data lost by Thornton as a result of Disabling Code; (b) furnish to Thornton a corrected version of the Services without the presence of Disabling Codes; and, (c) as needed, re-implement the Services at no additional cost to Thornton. This Warranty shall remain in full force and effect as long as this Agreement remains in effect.
8. Third-Party Warranties and Indemnities. Vendor will assign to Thornton all Third-Party warranties and indemnities that Vendor receives in connection with any Products provided to Thornton. To the extent that Vendor is not permitted to assign any warranties or indemnities through to Thornton, Vendor agrees to specifically identify and enforce those warranties and indemnities on behalf of Thornton to the extent Vendor is permitted to do so under the terms of the applicable Third-Party agreements.
9. Vendor warrants it has complied and shall comply with all applicable federal, state, and local laws and regulations of its domicile and wherever performance occurs during the term of this Agreement.
10. Delivery of Products shall not be construed to represent Acceptance nor shall Delivery of Products relieve the Vendor from its responsibility under any representation or warranty. If Thornton makes a payment for a Product prior to Acceptance, the payment does not grant a waiver of any representation or warranty by Vendor.

D. **Confidentiality.**

1. Vendor shall keep confidential, and cause all Subcontractors to keep confidential, all City Data, unless City Data is publicly available. Vendor shall not, without prior written approval of Thornton, use, publish, copy, disclose to any Third Party, or permit the use by any Third Party of any City Data, except as otherwise stated in this Agreement, permitted by law, or approved in writing by Thornton. Vendor shall provide for the security of all Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines.

2. The Receiving Party agrees to exercise the same degree of care and protection with respect to the Confidential Information that it exercises with respect to its own similar Confidential Information and not to directly or indirectly provide, disclose, copy, distribute, republish or otherwise allow any Third Party to have access to any Confidential Information without prior written permission from the disclosing party. However, (a) either party may disclose Confidential Information to its employees and authorized agents who have a need to know; (b) either party may disclose Confidential Information if so required to perform any obligations under this Agreement; and (c) either party may disclose Confidential Information if so required by law (including court order or subpoena). Nothing in this Agreement shall in any way limit the ability of Thornton to comply with any laws or legal process concerning disclosures by public entities. Vendor acknowledges that any responses, materials, correspondence, documents or other information provided to Thornton are subject to applicable state and federal law, including the Colorado Open Records Act, and that the release of Confidential Information in compliance with those acts or any other law will not constitute a breach or threatened breach of this Agreement.
3. The Receiving Party will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of the Receiving Party under this Agreement shall survive the expiration or earlier termination of this Agreement. The Receiving Party shall not disclose City Data or Confidential Information to Subcontractors unless such Subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement.

E. Software As A Service, Support, And Services To Be Performed.

1. Vendor, under the general direction of, and in coordination with, Thornton's Information Technology Director or other designated supervisory personnel (the "IT Director") agrees to provide the Services listed on Exhibit B and perform the technology related services described on attached Exhibit B (the "Vendor's Scope of Work" or "SOW"). The Parties acknowledge that Vendor and Thornton may work to further define the SOW, in which case that Work product ("Follow-Up SOW") will become a part of this Agreement by incorporation. If the Follow-Up SOW materially alters the attached SOW the Parties agree to amend this Agreement in writing through a written change order.
2. As the IT Director directs, the Vendor shall diligently undertake, perform, and complete all of the technology related services and produce all the Deliverables set forth in the Agreement's Exhibits listed below and to Thornton's satisfaction.
3. Vendor is ready, willing, and able to provide the technology related services and the Services required by this Agreement.

4. Vendor shall faithfully perform the technology related services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.
5. User ID Credentials. Internal corporate or customer (tenant) user account credentials shall be restricted as per the following, ensuring appropriate identity, entitlement, and access management and in accordance with established policies and procedures:
 - a. Identity trust verification and service-to-service application (API) and information processing interoperability (e.g., SSO and Federation);
 - b. Account credential lifecycle management from instantiation through revocation;
 - c. Account credential and/or identity store minimization or re-use when feasible; and
 - d. Adherence to industry acceptable and/or regulatory compliant authentication, authorization, and accounting (AAA) rules (e.g., strong/multi-factor, expirable, non-shared authentication secrets).
6. Vendor Supported Releases. Vendor shall maintain the currency of all Third-Party software used in the development and execution or use of the Service(s) including, but not limited to: all code libraries, frameworks, components, and other products (e.g., Java JRE, code signing certificates, .NET, jQuery plugins, etc.), whether commercial, free, open-source, or closed-source, with Third-Party vendor approved and supported releases.
7. Identity Management. Thornton's Identity and Access Management (IdM) system is an integrated infrastructure solution that enables many of Thornton's services and online resources to operate more efficiently, effectively, economically and securely. All new and proposed applications must utilize the authentication and authorization functions and components of the IdM (e.g., Two and Multifactor Authentication, Active Directory Federation Services, etc.). Strong authentication is required for privileged accounts or accounts with access to sensitive information. This technical requirement applies to all solutions, regardless of where the application is hosted.

F. Grant Of License; Restrictions.

1. Vendor hereby grants to Thornton a right and license to display, perform, and use the Services and use all Intellectual Property Rights necessary to use the Services as authorized.

2. Title to and ownership of the Service(s) will remain with Vendor. Thornton will not reverse engineer or reverse compile any part of the Service(s). Thornton will not remove, obscure or deface any proprietary notice or legend contained in the Service(s) or Documentation without Vendor's prior written consent.

G. **Delivery and Acceptance.**

1. **Right to Perform Acceptance Testing.** Prior to accepting Deliverables, Thornton shall have the right to perform Acceptance Testing to evaluate the Deliverable(s) to ensure they meet Acceptance Criteria, if any, set forth on the applicable Order Form or Statement of Work. Vendor shall cooperate with Thornton in the development of Acceptance Criteria that shall be codified in the applicable Order Form or Statement of Work that will set forth the location, date, and other specifications of the Acceptance Testing, if any. Acceptance Testing may occur in one or more phases, depending on the integration of contingent products, scalability, performance tuning or other measurable features or milestones.
2. After an Acceptance Test and if at any time the Service(s) does not conform, Thornton will notify Vendor in writing within sixty (60) Calendar Days of learning of such nonconformance and will specify in reasonable detail the identified failures and possible reasons for failure. Vendor will, at its expense, repair or replace the nonconforming product within fifteen (15) Calendar Days after receipt of Thornton's notice of deficiency.
3. If Thornton issues an Acceptance Certificate for an "Acceptance with Exception(s)" Thornton will list the exception(s) and the date for Vendor's correction of the Error(s). If Error(s) are corrected by the listed date(s), Thornton agrees to commence further Acceptance Testing of the Deliverable or affected portion(s). If the Deliverable passes the Acceptance Tests, Thornton will issue an Acceptance Certificate.
4. If a Deliverable fails a second or subsequent Acceptance Test (or in the event of a single Acceptance Test, the "Acceptance Test") in no event shall there be an increase to the original price agreed to by the Parties for the Deliverable.
5. The foregoing procedure will be repeated until Thornton accepts or finally rejects the Deliverable, in whole or part, in its sole discretion. In the event that the Service(s) does not perform to Thornton's satisfaction, Thornton reserves the right to repudiate Acceptance. If Thornton finally rejects the Service(s), or repudiates Acceptance of it, Vendor will refund to Thornton all fees paid, if any, by Thornton with respect to the Service(s).
6. If Thornton is not satisfied with Vendor's performance of the technology related services described in the Statement of Work, Thornton will so notify Vendor within thirty (30) Calendar Days after Vendor's performance thereof. Vendor will, at its own expense, re-perform the service within fifteen (15)

Calendar Days after receipt of Thornton's notice of deficiency. The foregoing procedure will be repeated until Thornton accepts or finally rejects the technology related service in its sole discretion. If Thornton finally rejects any technology related service, Vendor will refund to Thornton all fees paid by Thornton with respect to such technology related service.

7. Vendor warrants that during the term of this Agreement that the Service(s) and any associated components will not materially diminish during the subscription Term.

H. **Compliance for In-Scope Services.**

1. Vendor covenants and agrees to comply with all information security and privacy obligations imposed by any federal, state, or local statute or regulation, or by any industry standards or guidelines, as applicable based on the classification of the data relevant to Vendor's performance under the Agreement. Such obligations may arise from:
 - a. Health Information Portability and Accountability Act (HIPAA);
 - b. IRS Publication 1075;
 - c. Payment Card Industry Data Security Standard (PCI-DSS);
 - d. FBI Criminal Justice Information Service Security Addendum;
 - e. CMS Minimum Acceptable Risk Standards for Exchanges and further covenants and agrees to maintain compliance with the same when appropriate for the data and Services provided under the Agreement. Vendor further agrees to exercise reasonable due diligence to ensure that all of its Vendors, agents, business partners, Vendor's, Subcontractors and any person or entity that may have access to City Data under this Agreement maintain compliance with and comply in full with the terms and conditions set out in this Section.
2. Notwithstanding a Force Majeure event, the respective processing, handling, and security standards and guidelines referenced by this section may be revised or changed from time to time or City Data may be utilized within the Services that change the compliance requirements. If compliance requirements change, Vendor and Thornton shall collaborate in good faith and use all reasonable efforts to become or remain compliant as necessary under this section. If compliance is required or statutory and no reasonable efforts are available, Thornton at its discretion may terminate the Agreement for cause.

I. **Online Agreement Disclaimer.** Notwithstanding anything to the contrary herein, Thornton shall not be subject to any provision included in any terms, conditions, or agreements appearing on Vendor's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

J. **PCI DSS Compliance [Only for Credit Card Interface]**

1. If Vendor is directly involved in the processing, storage, or transmission of cardholder data on behalf of Thornton as part of this Agreement, this Section applies. Any Vendor who provides or has access to software, systems, hardware, or devices which process and/or interact with payment card information or payment cardholder data, must be compliant with the current version of the Payment Card Industry Data Security Standard (PCI DSS).
2. Vendor covenants and agrees to comply with Visa's Cardholder Information Security Program (CISP), MasterCard's Site Data Protection Rules (SDP), and with all other credit card association or National Automated Clearing House Association (NACHA) rules or rules of member organizations ("Association"), and further covenants and agrees to maintain compliance with the PCI DSS, SDP, and (where applicable) the Payment Application Data Security Standard (PA-DSS) (collectively, the "Security Guidelines"). Vendor represents and warrants that all of the hardware and software components utilized for Thornton or used under this Agreement are now, and will be PCI DSS compliant during the term of this Agreement. All Vendors that Vendor uses under the Agreement must be recognized by Visa as PCI DSS compliant. Vendor further agrees to exercise reasonable due diligence to ensure that all of its Vendors (as defined by the PCI Security Council), agents, business partners, Vendors, Subcontractors and any person or entity that may have access to credit card information under this Agreement maintain compliance with the Security Guidelines and comply in full with the terms and conditions set out in this Section. Vendor further certifies that the Equipment, as described herein, will be deployed in a manner that meets or exceeds the PA DSS and/or PCI certification and will be deployed on a network that meets or exceeds PCI standards. Vendor shall demonstrate its compliance with PCI DSS by annually providing Thornton an executed Attestation of Compliance (AOC). Vendor must provide verification to Thornton, prior to start up and ongoing annually during the term of this Agreement, that all modules of Vendor's System(s) that interface with or utilize credit card information in any manner or form of collection are PCI DSS compliant. If the Vendor is a Vendor involved in the processing, storage or transmission of cardholder data or sensitive authentication data (collectively "Data Handling") on behalf of Thornton that would result in Data Handling being included in Thornton's PCI scope through connected software or components, then the Vendor must provide a PCI Responsibility Matrix ("Matrix") to be attached to this Agreement as an exhibit. The Matrix must identify where responsibility resides for each

PCI control requirement, whether it be with the Vendor, Thornton or shared by both. Any PCI control requirements that do not apply should be indicated along with any pertinent notes.

3. Vendor shall not retain or store CAV2/CVC2/CVV2/CID or such data prohibited by PCI DSS subsequent to authorization of a credit card transaction, shall prohibit disclosure of any and all cardholder information, and in the event of a compromise of credit card information of any kind, Vendor shall notify Thornton in writing consistent with the Data Incident response notification requirements of this Agreement, and shall provide, at Vendor's sole expense, all necessary and appropriate notification to parties and persons affected by such disclosure and compromise.
4. If any Association requires an audit of Vendor or any of Vendor's Vendors, agents, business partners, or Subcontractors due to a data security compromised event related to this Agreement, Vendor agrees to cooperate with such audit. If, as a result of an audit of Thornton it is determined that any loss of information is attributable to Vendor, Vendor shall pay Thornton's reasonable costs relating to such audit, including attorney's fees. No review, approval, or audit by Thornton shall relieve Vendor from liability under this section or under other provisions of this Agreement.
5. In addition to all other defense and indemnity obligations undertaken by Vendor under this Agreement, Vendor, to the extent that its performance of this Agreement includes the allowance or utilization by members of the public of credit cards to pay monetary obligations to Thornton or Vendor, or includes the utilization, processing, transmittal and/or storage of credit card data by Vendor, shall defend, release, indemnify and save and hold harmless Thornton against any and all fines, penalties, assessments, costs, damages or other financial obligations, however denominated, assessed against Thornton and/or Vendor by credit card company(s), financial institution(s) or by the National Automated Clearing House Association (NACHA) or successor or related entity, including but not limited to, any credit card company fines, regardless of whether considered to be consequential, special, incidental or punitive damages, costs of notifying parties and persons affected by credit card information disclosure, the cost of replacing active credit cards, and any losses associated with fraudulent transaction(s) occurring after a security breach or loss of information with respect to credit card information, and shall defend, release, indemnify, and save and hold harmless Thornton from any and all claims, demands, suits, actions, liabilities, causes of action or legal or equitable proceedings of any kind or nature, of or by anyone whomsoever, in any way affected by such credit card data or utilizing a credit card in the performance by Vendor of this Agreement. In furtherance of this, Vendor covenants to defend and indemnify Thornton, and Vendor shall maintain compliance with PCI DSS and with all other requirements and obligations related to credit card data or utilization set out in this Agreement.

K. **Colorado Open Records.** The Parties understand that all the material provided or produced under this Agreement, including items marked Proprietary or Confidential, may be subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, C.R.S. In the event of a request to Thornton for disclosure of such information, Thornton shall advise Vendor of such request in order to give Vendor the opportunity to object to the disclosure of any of its documents which it marked as proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, Thornton will tender all such material to the court for judicial determination of the issue of disclosure and Vendor agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. Vendor further agrees to defend, indemnify and save and hold harmless Thornton, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of Vendor's intervention to protect and assert its claim of privilege against disclosure under this Article, including but not limited to, prompt reimbursement to Thornton of all reasonable attorney fees, costs and damages that Thornton may incur directly or may be ordered to pay by such court.

L. **Compliance with All Laws and Regulations.**

1. To the extent these laws and regulations apply, all of the Services performed under this Agreement by Vendor shall comply with all applicable laws, rules, regulations, and codes of the United States and the State of Colorado and with the charter, ordinances, and rules and regulations of Thornton.
2. The Vendor's attention is directed to the fact that all applicable state and federal laws, county and city ordinances, licenses and regulations of all authorities having jurisdiction over this Agreement and the Services shall apply to this Agreement throughout and they will be deemed to be included in this Agreement the same as though herein written out in full.

M. **Confidentiality Obligations.**

1. To the extent Vendor requires Thornton to provide Vendor with its reports and other data ("Confidential Information") as may be available to Thornton and reasonably required for Vendor to perform the Services, Vendor will keep Thornton's Confidential Information secret and will not disclose it to any Third Party, take or misuse any of the Thornton's Confidential Information, or any other information Vendor acquires or has access to because of its provision of Services.
2. At all times this Agreement is in effect, Vendor will not use or seek to use any of Thornton's Confidential Information for the Vendor's own benefit or for the benefit of any other person or business or in any way adverse to Thornton's interests.

3. Thornton's Confidential Information is Thornton's exclusive property, therefore, on Thornton's request or the termination of this Agreement, Vendor will promptly return Thornton's Confidential Information including all documents, disks or other computer media or other materials in the Vendor's possession or control containing any of Thornton's Confidential Information.
4. After this Agreement terminates, the Vendor will preserve and not disclose directly or indirectly to any Third-Party Thornton's Confidential Information and will promptly advise Thornton of any unauthorized disclosure or use of its Confidential Information by any person or entity.
5. Vendor is authorized by Thornton to retain copies of its documents at Vendor expense.
6. In regard to any electronic devices with data storage capability, including but not limited to, computers and copiers used by the Vendor in connection with the performance of Services pursuant to this Agreement, Vendor represents the following:
 - a. All devices, such as copiers or fax machines that are not intended to be a data storage device for purposes of performing the Services shall be routinely scrubbed, either manually or automatically, to delete any Confidential Information related to the Services.
 - b. When any electronic device with data storage capacity is taken out of service, all such devices will be securely scrubbed of all data related to Thornton's Project and all data storage drives will be physically destroyed before disposing of the device to ensure no Confidential Information belonging to Thornton could ever be retrieved from such device.

N. **Intellectual Property.** Neither party shall acquire any rights, neither express or implied, to the intellectual property of the other unless expressly acknowledged in writing as a "Work For Hire" in this Agreement or another written Agreement between the parties.

1. **Ownership of Intellectual Property.** Each party shall retain ownership of its respective pre-existing intellectual property, which is all Intellectual Property Rights owned or controlled by a party prior to the effective date of this Agreement and neither party shall acquire any rights, either express or implied, to the other party's pre-existing intellectual property without an express written agreement.
2. **Trademarks/Copyrights.** Each party to this Agreement acknowledges the validity of the other party's service marks, trademarks, trade names, patents, or copyrights, if any, and will not in any way infringe upon or otherwise harm the other party's rights or interests in such property.

3. Protection of Intellectual Property. At all times while this Agreement is in effect, neither party will use, in any adverse way or for its own benefit or for the benefit of any Third Party, the intellectual property belonging to the other party without the express written consent of that party. All intellectual property, whether or not designated as propriety or confidential, received by any party shall be accordingly treated as this Agreement requires, and the failure by a party to identify information as a party's intellectual property is neither a waiver that the intellectual property is not confidential or propriety nor shall it operate as a loss of any party's rights with respect to that intellectual property. However, violating any party's Intellectual Property Rights, any information or materials that are generally available or is in the public domain, is excluded from any obligation under this Agreement.
 4. Third Party Intellectual Property. Vendor agrees to secure permission in writing from any Third Parties whose intellectual property is utilized in whole or in part by Vendor and notify Thornton to what degree the Third Party's intellectual property was used as well as any limitations placed on the use of it.
 5. Use of Intellectual Property. The recording, reproduction or transmission of Vendor Services is prohibited unless otherwise approved by Vendor except Thornton is authorized to reproduce portions of Vendor's service to the extent it is needed to use Vendor's services.
 6. Use of Work Product. Vendor grants Thornton a license to use all services, data, drawings, designs, plans, reports, studies, computer programs (nonproprietary), computer input and output, analyses, tests, maps, surveys, or any other materials developed by Vendor as Work for this Project ("Work Product"). Thornton will not use Work Product other than for the specific intended purpose of this Agreement without written authorization by Vendor.
 7. Disposal of Work Product. Before disposing of any Work Product materials provided to Thornton, Vendor shall provide Thornton with a ten (10) Calendar Day written notice indicating it has Work Product materials, to give Thornton a reasonable opportunity to take physical possession of Work Product materials.
- O. **Full Disclosure Required.** If Vendor requires licensed users to agree to additional terms and conditions, other use agreements or understandings it did not expressly disclose as part of this Agreement, whether it is by reference to a hyperlink, electronically clicking assent, by verbal or written acknowledgement, or it is implied by access and use of the Service ("Undisclosed Terms"), the Parties agree those terms that adversely conflict with, or are detrimental to this Agreement shall not bind or control Licensee or its licensed users. By entering into this Agreement, Licensee disclaims any responsibility for any Undisclosed Terms found in any privacy policy or terms of service purporting to bind and obligate Licensee contractually now or in the future, whether incorporated by reference, a hyperlink or referral to a website.

Accordingly, unless the Undisclosed Terms were fully disclosed and mutually agreed to in writing before the effective date of this Agreement, the Parties agree those Undisclosed Terms are unenforceable in any action at law or in equity, by way of complaint, defense, or otherwise and are rendered null and void by the operation of this provision. To the extent the remainder of this Agreement is capable of execution, it will be enforced.

VI. MISCELLANEOUS TERMS

- A. **General Indemnification.** To the fullest extent permitted by law, Vendor agrees to defend, indemnify and hold harmless Thornton, its officers, agents and employees, from and against all liability, judgments, damages or losses which arise out of, result from, or are in any manner connected with the Services to be performed under this Agreement, to the extent it is determined such liability, judgments, damages or losses were caused by the negligent acts, errors, or omissions of Vendor, any Subcontractor of Vendor, or any officer, employee or agent of Vendor, or anyone else employed directly or indirectly by any of them or anyone for whose acts any of them may be liable and will pay to Thornton any expenses incurred by reason of such liability, judgments, damages or losses, including, but not limited to, court costs and reasonable attorneys' fees incurred in defending or investigating such claims. Such payments on behalf of Thornton shall be in addition to any and all other legal remedies available to Thornton and shall not be considered Thornton's exclusive remedy.
- B. **Intellectual Property Infringement.** If a Third Party makes a claim against Licensee that the Services infringe any patent, copyright, or trademark or misappropriate any trade secret or other intellectual property right ("IP Claim"), Vendor will indemnify the Licensee against the IP Claim and pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Licensee by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Vendor arising out of such IP Claim, provided that: (i) Licensee promptly notifies Vendor in writing after the Licensee's receipt of notification of a potential claim; (ii) Vendor assumes sole control of the defense of such claim and all related settlement negotiations; and (iii) Licensee provides Vendor, at Vendor's request and expense, with the assistance, information and authority necessary to perform Vendor's obligations under this Section.
- C. **Insurance.** The Vendor agrees to procure and maintain in force during the term of this Agreement, at its own cost, all the following coverages, which are listed in United States dollars (\$USD):
1. **Worker's Compensation Insurance.** Workers' Compensation Insurance as required by the Labor Code of the State of Colorado and Employer's Liability Insurance. Statutory limits are required. Evidence of qualified self-insured status may be substituted.

2. Commercial General Liability Insurance (MINIMUM LIMITS)

[NOTE TO EDITOR: MODIFY LIMITS FOR PROJECT SPECIFIC RISK. \$1M limits shown are for low risk projects. Increase the per occurrence and general aggregate limit for medium and high risk projects. For medium risk projects use \$2M limits. Check with Risk Management for limits for high risk projects.]

a.	Each Occurrence	\$2,000,000
b.	Products/Completed Operations Aggregate	\$2,000,000
c.	Personal and Advertising Injury	\$2,000,000
d.	General Aggregate	\$2,000,000

The policy shall include coverage protecting against bodily injury, property damage, and personal injury claims arising from the exposures of (i) premises-operations; (ii) Products and completed operations including materials designed, furnished, and/or modified in any way by Vendor; (iii) independent Subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, liability resulting from explosion, collapse, or underground exposures. The coverage shall not exclude faulty workmanship as a covered occurrence.

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall provide for a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

3. Professional Liability Insurance (MINIMUM LIMITS)

a.	Each Claim	\$1,000,000
b.	Aggregate	\$1,000,000

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall provide for a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

4. Automobile Liability Insurance. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000) for any one (1) occurrence. This insurance will insure against bodily injury and/or property damage arising out of the Vendor's operation, maintenance, use, loading or unloading of any auto including owned, non-owned, hired, and employee autos.

5. Technology Errors & Omissions. Vendor shall maintain Technology Errors and Omissions insurance including cyber liability, network security, privacy liability and product failure coverage with limits of one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) policy aggregate.
6. Additional Insured. The Vendor shall name Thornton, its officers, agents, and employees as additional insureds with respect to the Commercial General Liability and Auto Liability coverages required herein.
7. Certificates of Insurance. A Certificate of Insurance shall be completed and forwarded, along with the Additional Insured Endorsement, to Thornton by the Vendor's Insurance Agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect and shall be subject to review and approval by Thornton prior to commencement of any Services under this Agreement. The initial completed Certificate of Insurance and Additional Insured Endorsement shall include the Vendor's e-mail address for future inquires and updates, and shall be sent to:

City of Thornton
Attention: **<Enter PA Name and Title>**
9500 Civic Center Drive
Thornton, CO 80229-4326

Subsequent Certificates of Insurance indicating renewal of coverage(s) shall be sent to Thornton's Risk Manager at certificatesofinsurance@ThorntonCo.gov no later than thirty (30) Calendar Days prior to the expiration date along with the renewal Additional Insured Endorsement, and shall indicate "Renewal COI" and the Project Number in the e-mail subject line. Thornton reserves the right to request and receive a certified copy of any policy and any endorsement thereto. Vendor agrees to execute any and all documents necessary to allow Thornton access to any and all required insurance policies and endorsements pertaining to this particular Project.

8. Failure to Insure. Failure on the part of the Vendor or Subcontractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of Agreement upon which Thornton may immediately terminate this Agreement, or at its discretion, Thornton may procure, or renew any such policy, or any extended reporting period thereto, and may pay any and all premiums in connection therewith, and all monies so paid by Thornton shall be repaid by Vendor to Thornton upon demand, or Thornton may offset the cost of the premiums against any monies due to Vendor from Thornton.

9. Other Insurance Requirements.

- a. Vendor shall procure and maintain and shall cause any Subcontractor of the Vendor to procure and maintain the minimum insurance coverages listed herein. Such coverages shall be procured and maintained with forms and insurers acceptable to Thornton. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Vendor pursuant to this section. The coverage shall not exclude faulty workmanship as a covered occurrence. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
- b. Every policy required above shall be primary insurance and any insurance carried by Thornton, its officers, or its employees shall be excess and not contributory insurance to that provided by the Vendor. The Vendor shall be solely responsible for any deductible losses under the policies required above.
- c. Vendor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure and maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.
- d. All policies shall include a provision that the coverages afforded under the policies shall not be canceled or materially changed prior to the natural termination date or until at least thirty (30) Calendar Days prior written notice has been sent to Thornton. The Certificate(s) shall indicate the form used, if any, under which this provision is included.

D. Independent Contractor.

1. It is understood and agreed by and between the Parties that the status of the Vendor shall be that of an independent Vendor and of a person retained on a contractual basis to perform professional and/or technical services for limited periods of time and it is not intended, nor shall it be construed, that the Vendor is an employee or officer of Thornton under Chapter VII of Thornton Charter, or Chapter 54 of Thornton Code, or for any purpose whatsoever.
2. Without limiting the foregoing, the Parties hereby specifically acknowledge that the Vendor is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the Vendor or some other entity besides Thornton, that the Vendor is not entitled to Workers' Compensation benefits from Thornton and that the Vendor is obligated to pay federal and state income tax on any monies earned pursuant to this

Agreement. The Parties further acknowledge that the provisions of this paragraph are consistent with the Vendor's insurance obligations that are set forth in this Agreement.

E. **Governmental Immunity.** The Parties hereto understand and agree that Thornton, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to Thornton, its agents, officers, or employees.

F. **Grounds for Termination.**

1. **Termination for Convenience by Thornton.** Thornton may terminate this Agreement at any time for any reason or for no reason at all (i.e., for convenience). In the event this Agreement is terminated for convenience, Thornton shall issue a written Notice to Terminate and Vendor will be paid for all Services previously authorized and completed up to the date of Termination. Vendor shall not be entitled to profit or overhead on uncompleted Services.
2. **Termination for Cause.** If Vendor substantially or materially breaches the terms of this Agreement, or defaults in fulfilling the applicable terms and conditions of this Agreement shall be cause to terminate this Agreement and Thornton may seek to exercise all available legal and/or equitable remedies.
3. **Termination for Non-Appropriations.** In the event that Thornton City Council fails to appropriate funds for the continuation of this Agreement for any fiscal year past the initial year, Thornton may, at the beginning of the fiscal year for which Thornton Council does not appropriate such funds and upon prior written notice as provided for, terminate this Agreement without penalty and be released of further obligations.
4. **Effect of Termination.** Except as set forth in this Agreement, in the event of termination or expiration of this Agreement, the rights and obligations hereunder, shall terminate immediately; provided, however, that any payment or other obligation that has accrued as of such termination or expiration date shall survive such termination or expiration; provided, further, that in the event of the termination or expiration of this Agreement the rights and the obligations of the parties set forth in Sections for (Data), (Confidentiality), and (General, and Intellectual Property Indemnifications), along with any other provision of this Agreement which is required to enforce the parties' rights and obligations hereunder or by its terms continues after the termination of this Agreement, shall survive the termination or expiration of this Agreement and shall continue in effect as described therein.

- G. **Notice.** Any notice or communication between Vendor and Thornton which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class, United States mail, addressed as follows:

THORNTON: City of Thornton
Attention: Megan deGrood, CPPB, Purchasing Manager
9500 Civic Center Drive
Thornton, CO 80229-4326

VENDOR: **Vendor Name**
Attention:
Vendor Street Address
Vendor City, State, Zip

- H. **Applicable Law, Venue, Statute of Limitations.** This Agreement shall be governed by the laws of the State of Colorado. Any legal action concerning the provisions hereof shall be brought in the District Court, County of Adams, State of Colorado. Any action arising out of or relating to this Agreement or the Services asserted by the Vendor against Thornton shall be brought within two (2) years from when the action accrued, pursuant to C.R.S. § 13-80-102(h).
- I. **Assignment.** Vendor agrees not to assign, pledge, or transfer its duties and rights in this Agreement, in whole or in part, without first obtaining the written consent of the Manager.
- J. **No Waiver of Rights.** No assent, expressed or implied, to any breach of any one (1) or more of the terms and conditions of this Agreement shall be deemed to be or taken to be by Thornton a waiver of any subsequent breach of any such terms and conditions.
- K. **Inspection of Records.** In connection with the Services performed hereunder, Thornton and any of its duly authorized representatives shall have access to all of Vendor's books, documents, papers, and any other records of Vendor which relate to the Services. Vendor further agrees that such records shall contain information concerning the personnel who performed the Services, the specific tasks they performed, and the hours they worked. Vendor shall retain these records for three (3) years after termination of this Agreement.
- L. **Conflict of Interest.** Vendor agrees that it and its subsidiaries, affiliates, Subcontractors, principals, or employees shall not engage in any transaction, activity, or conduct which would result in a conflict of interest. Vendor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities, or conduct that would affect the judgment, actions, or services of Vendor by placing Vendor's own interests, or the interest of any party with whom Vendor has a contractual arrangement, in conflict with those of

Thornton. Thornton, in its sole discretion, will determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict exists after it has given Vendor written notice that describes the conflict. Vendor shall have twenty (20) Calendar Days after the notice is received to eliminate or cure the conflict of interest in a manner acceptable to Thornton.

- M. **Coordination of Services.** Vendor shall fully coordinate its services with other Vendors, Subcontractors or other entities performing Services on the Project that interface with or are affected in any way by Vendor's services, and with any interested city or other governmental agencies.
- N. **Non-Discrimination.** Vendor, its agents, employees, and Subcontractors shall not discriminate on the basis of race, color, creed, national origin, ancestry, age, gender, religion, or mental or physical disability in any policy or practice.
- O. **Advertising, Public Disclosure.** Vendor shall not include any reference to this Agreement or to Services performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the City Manager or his designee.
- P. **Time is of The Essence.** The Parties agree that in the performance of the terms and requirements of this Agreement by Vendor that time is of the essence.
- Q. **Inurement.** The rights and obligations of the Parties set forth herein shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns permitted under this Agreement.
- R. **Headings.** The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.
- S. **Joint Venture.** If the Vendor is a Joint Venture, participants shall be jointly and severally liable to Thornton for the performance of all duties and obligations of Vendor set forth in this Agreement.
- T. **Taxes and Licenses.** Vendor shall promptly pay, when they are due, all taxes, excises, license fees, and permit fees of whatever nature applicable to the services and shall take out and keep current all required municipal, county, state, or federal licenses required to perform the work. Vendor shall furnish Thornton, upon request, duplicate receipts or other satisfactory evidence showing or certifying to the proper payment of all required licenses and taxes. Vendor shall promptly pay, when due, all bills, debts, and obligations it incurs performing the Services and allow no lien, mortgage, judgment, or execution to be filed against land, facilities, or improvements owned by Thornton.

- U. **Severability.** In the event any of the provisions, or applications thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or applications thereof, shall not be affected.
- V. **Survival of Certain Provisions.** The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement, shall survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, Vendor's obligations to provide insurance and to indemnify Thornton will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.
- W. **Force Majeure.** Neither party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, unreasonable delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unreasonable unavailability of Equipment or software from suppliers, default of a Subcontractor or Vendor (if such default arises out of causes beyond their reasonable control), the actions or omissions of the other party or its officers, directors, employees, agents, Vendors or elected officials and/or other substantially similar occurrences beyond the party's reasonable control ("Excusable Delay") herein. In the event of any such Excusable Delay, time for performance shall be extended for a period of time as may be reasonably necessary to compensate for such delay.
- X. **No Third Party Beneficiaries.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to Thornton and Vendor. Nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of Thornton and Vendor that Subcontractors and any other persons other than Thornton or Vendor receiving any benefits from this Agreement shall be deemed to be incidental, and not intended, beneficiaries only.
- Y. **Electronic Signatures and Electronic Records.** The Parties consent to the use of electronic signatures. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the Parties in the manner specified by any applicable City regulation, rule, and/or ordinance. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

- Z. **Entire Agreement.** The Parties acknowledge and agree that the provisions contained herein constitute this entire Agreement and that all representations made by any officer, agent, or employee of the respective Parties unless included herein are null and void and of no effect. No alterations, amendments, changes, or modifications to this Agreement, except those that are expressly reserved herein to the City Manager or his designee, shall be valid unless they are contained in an instrument that is executed by the Parties with the same formality as this Agreement.

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SAMPLE

This Agreement is expressly subject to and will not become effective or binding on Thornton until it is fully approved and executed by Thornton.

APPROVED AS TO LEGAL FORM:
Tami Yellico, City Attorney

CITY OF THORNTON, COLORADO:

Reviewing City Attorney's Name
City Attorney's Title

Kimberly Newhart
Finance Director

Kristen Rosenbaum, City Clerk

Sean Saddler, PE
Support Services Director
[If contract amount exceeds \$100k,
replace Sean with:
Chris Molison
Executive Director - Management
Services

Also if over \$100k, add signature line for
Kevin Woods, City Manager

ATTESTATION FOR SIGNATURE:	NAME OF COMPANY:
(Separate from right-side signature)	
_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Title	_____ Title

EXHIBIT A

VENDOR DOCUMENTS

1. This should include at minimum, a Service Level Agreement (SLA).
2. Other Vendor documents as necessary. Examples include:
 - a. Vendor Terms and Conditions;
 - b. Vendor End User License Agreement (EULA);
 - c. Vendor “one-click” or click through agreements.
3. If multiple Vendor documents exist, label each one different as:
 - a. Exhibit A-1 – SLA;
 - b. Exhibit A-2 – EULA;
 - c. Etc., etc.

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EXHIBIT B

VENDOR'S SCOPE OF WORK

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EXHIBIT C
SCHEDULE OF CHARGES

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EXHIBIT D

FUNCTIONALITY MATRIX

[NOTE TO EDITOR – INCLUDE AS NECESSARY. REFERENCE IN BODY OF AGREEMENT IF USED.]

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