

**OKLAHOMA CONTRACT
FOR PRODUCTS AND RELATED SERVICES**

SKILLSOFT CORPORATION

This Oklahoma Contract for Products and Related Services (this “Agreement”) is entered into by and between the State of Oklahoma by and through the Office of Management and Enterprise Services (the “State of Oklahoma” or “Oklahoma”) and Skillssoft Corporation (“Contractor” or “Vendor”), effective as of the date of October 25, 2017. Oklahoma and Contractor are sometimes collectively referred to herein as the “Parties.”

RECITALS

- A. Oklahoma and the Texas Department of Information Resources (“DIR”) have entered into that certain Interlocal Procurement Participation Agreement, dated June 13, 2014, as amended and restated by that certain Revision No. Three to Interlocal Procurement Participation Agreement, dated June 30, 2017 (as amended and restated, the “IPPA”).
- B. Pursuant to the IPPA, certain DIR cooperative contracts may be utilized for procurement transactions of State of Oklahoma agencies and affiliates (each a “Customer”).
- C. DIR and Contractor entered into that certain Contract for Products and Related Services, a DIR cooperative contract also known as DIR Contract No. DIR-TSO-3899 (as amended from time to time, and, for the avoidance of doubt, inclusive of all Appendices thereto, the “DIR Contract”).
- D. Oklahoma desires to procure, purchase, or lease, as the case may be, from Contractor, and Contractor desires to provide, sell, or lease, as the case may be, to Oklahoma, certain products and services under the DIR Contract, each on a non-exclusive basis.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Scope.

The DIR Contract is incorporated herein by reference and made a part hereof. In connection with such incorporation by reference, the term “Contract” in the DIR Contract shall be interpreted to mean this Agreement unless the context clearly dictates otherwise. Pursuant to Section IV(B)(5) of the IPPA, the Parties agree to modify the terms and conditions of the DIR Contract as set forth in the sections that follow (such modifications shall apply only to procurement transactions of Oklahoma Customers under the IPPA and do not apply to DIR or DIR Customers other than State of Oklahoma state agencies and affiliates). With respect

to Oklahoma Customers, references to DIR Contract No. DIR-TSO-3899 in any and all contract documents shall mean DIR Contract No. DIR-TSO-3899 as modified.

2. DIR Contract, Section 6. Notification, is hereby modified to add the following:

If sent to the State of Oklahoma:

James L. Reese, II
Chief Information Officer
3115 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

With a copy to:

OMES-IS Deputy General Counsel
3115 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

3. Appendix A, Standard Terms and Conditions for Product and Related Service Contracts are modified as follows:

a. Section 3, Definitions, A. Customer is hereby replaced in its entirety with the following provision:

The defined term “Customer” shall include the State of Oklahoma and any governmental entity specified as a political subdivision of the State pursuant to the Governmental Tort Claims Act including any associated institution, instrumentality, board, commission, committee department or other entity designated to act in behalf of the political subdivision; a state county or local governmental entity in its state of origin; and entities authorized to utilize contracts awarded by the State via a multistate or multi-governmental contract.

b. Section 3, Definitions, is hereby modified to add the following provision:

Acquisition - Items, products, supplies, services, and equipment a state agency acquires by purchase, lease purchase, lease with option to purchase, or rental pursuant to the Oklahoma Central Purchasing Act.

c. Section 4, General Provisions, A. Entire Agreement is hereby replaced in its entirety with the following:

The Agreement, any Statement of Work issued pursuant to this Agreement, and the DIR Contract, including all Appendices and Exhibits, as modified and/or adopted into the Agreement, constitute the entire agreement between an Oklahoma Customer and Contractor. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in the Agreement, any Statement of Work issued pursuant to the Agreement or the DIR Contract as modified and/or

adopted into the Agreement, Appendices, or its Exhibits shall be binding or valid.

d. Section 4, General Provisions, B. Modification of Contract Terms and/or Amendments is hereby replaced in its entirety with the following:

- 1) The terms and conditions of the Agreement shall govern all transactions by Customers under the Agreement. The Agreement may only be modified or amended upon mutual written agreement of Vendor and the State of Oklahoma.
- 2) Customers shall not have the authority to modify the terms of the Agreement; however, additional Customer terms and conditions that do not conflict with the Agreement and are acceptable to Vendor may be added in a Purchase Order and given effect. No additional term or condition added in a Purchase Order issued by a Customer can conflict with or diminish a term or condition of the Agreement. Pre-printed terms and conditions on any Purchase Order issued by Customer hereunder will have no force and effect. In the event of a conflict between a Customer's Purchase Order and the Agreement, the Agreement term shall control.
- 3) Customers and vendor will negotiate and enter into written agreements regarding statements of work, service level agreements, remedies, acceptance criteria, information confidentiality and security requirements, and other terms specific to their Purchase Orders under the Agreement with Vendor.

e. Section 4, General Provisions, C. Invalid Term or Condition is hereby replaced in its entirety with the following provisions:

- 1) To the extent any term or condition in the Agreement conflicts with an applicable Oklahoma and/or United States law or regulation, such Agreement term or condition is void and unenforceable. By executing a contract that contains such conflicting term or condition, the State of Oklahoma makes no representation or warranty regarding the enforceability of such term or condition, and the State of Oklahoma does not waive the applicable Oklahoma and/or United States law or regulation that conflicts with the Agreement term or condition.
- 2) If one or more term or condition in the Agreement, or application of any term or condition to any party or circumstance, is held invalid, unenforceable, or illegal in any respect by a final judgment or order of a court of competent jurisdiction with respect to procurement transactions for Customers, the remainder of the Agreement and the application of the term or condition to other parties or circumstances shall remain valid and in full force and effect.

- f. Section 4, General Provisions, D. Assignment is hereby replaced in its entirety with the following provisions:**

Vendor's obligations under the Agreement may not be assigned or transferred to any other person or entity without the prior written consent of the State of Oklahoma which may be withheld at Oklahoma's sole discretion. Should Vendor assign its rights to payment, in whole or in part, under the Agreement, Vendor shall provide the State of Oklahoma and all affected Customers with written notice of the assignment. Such written notice shall contain details sufficient for the State of Oklahoma and affected Customers to perform its payment obligations without any delay caused by the assignment.

- g. Section 4, General Provisions, F. Choice of Law is hereby replaced in its entirety with the following provision:**

Any claim, dispute, or litigation relating to the execution, interpretation, performance, or enforcement of this Agreement shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles.

Venue for any action, claim, dispute, or litigation relating in any way to the execution, interpretation, performance, or enforcement of the Agreement, shall be in Oklahoma County, Oklahoma.

- h. Section 4, General Provisions, G. Limitation of Authority is hereby replaced in its entirety with the following provision:**

Vendor shall have no authority to act for or on behalf of Customers or the State of Oklahoma, except as expressly provided for in this Agreement; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses or liabilities of any kind on behalf of Customers or the State of Oklahoma.

- i. Section 6, Terms and Conditions Applicable to State Agency Purchases Only, C. Electronic and Information Resources Accessibility Standards, As Required by 1 TAC Chapters 206 and 213 is hereby replaced in its entirety with the following provision:**

Oklahoma Information Technology Accessibility Standards

Vendor shall comply with federal and state laws, rules and regulations related to information technology accessibility, as applicable to Vendor as the provider of information technology products and services under the Agreement, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at http://www.ok.gov/cio/documents/isd_itas.pdf. If

products furnished by Vendor do not require additional development or customization, Contractor shall, upon request, but not later than thirty (30) calendar days after the State of Oklahoma's request, provide a Voluntary Product Accessibility Template ("VPAT") describing such compliance, which may be provided via a URL linking to the VPAT. If the products will require development or customization, the Vendor shall provide a VPAT describing such compliance without additional request by the applicable Oklahoma Customer. In such case, additional requirements and documentation may be required and compliance therewith shall be required of Vendor. Such requirements may be stated in appropriate documents, including, but not limited to, state bids, requests for proposals, statements of work, riders, agreements, purchase orders and amendments. Accordingly, in each statement of work or similar document issued pursuant to this Agreement, Vendor shall describe such compliance and identify, if and as applicable, (i) which exception to the Standards applies or (ii) a description of the tasks and estimated cost to make the proposed products and/or services compliant with applicable Standards.

Vendor acknowledges and agrees that all representations contained in the VPAT provided by the Vendor will be relied upon by the Oklahoma Customer for accessibility-compliance purposes. Skillsoft's most current information on accessibility features is gathered and provided voluntarily, in compliance with Section 508 format and guidance, at:

http://documentation.skillsoft.com/en_us/support/index.htm#topics/support_for_administrators/web_accessibility/spt_web_accessibility.htm

- j. Section 6, Terms and Conditions Applicable to State Agency Purchases Only, D. Purchase of Commodity Items shall be deleted in its entirety**
- k. Section 7, Contract Fulfillment and Promotion, E. Internet Access to Contract, shall be deleted in its entirety.**
- l. Section 7, Contract Fulfillment and Promotion, F. DIR Logo, is hereby modified to add the following provision:**

The utilization of this Agreement by Oklahoma Customer is not in any way an endorsement by the Oklahoma Customer of Vendor or the products or services and shall not be so construed by Vendor in any advertising or publicity materials. Vendor agrees to submit to the Oklahoma Customer all advertising, sales promotion, and other publicity matters relating to this Agreement wherein the Oklahoma Customer's name is mentioned or language used from which the connection of the Oklahoma Customer's name therewith may, in the Oklahoma Customer's sole judgment, be inferred or implied as an endorsement. Vendor further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases,

research reports, or similar public notices concerning this Agreement without obtaining the prior written approval of the Oklahoma Customer.

- m. Section 7, Contract Fulfillment and Promotion, G. Vendor and Order Fulfiller Logo, references to the “DIR” are hereby replaced with “the State of Oklahoma and Oklahoma Customers”.**
- n. Section 7, Contract Fulfillment and Promotion, H. Trade Show Participation, references to the “DIR” are hereby replaced with “the State of Oklahoma and Oklahoma Customers”.**
- o. Section 7, Contract Fulfillment and Promotion, I. Orientation Meeting, is hereby deleted in its entirety.**
- p. Section 7, Contract Fulfillment and Promotion, J. Performance Review Meetings is hereby modified to add the following provision:**

The State of Oklahoma reserves the right, but shall have no obligation, to require the Vendor to attend periodic meetings to review the Vendor’s performance under the Agreement with respect to Oklahoma transactions. Upon request by a Customer, Vendor shall provide such Customer with a detailed report of a representative sample of products sold or leased under the Contract to Oklahoma Customers.

- q. Section 7, Contract Fulfillment and Promotion, K. DIR Cost Avoidance, references to the “DIR” and “State” are hereby replaced with “the State of Oklahoma”.**
- r. Section 8, Pricing, Purchase Orders, Invoices, and Payments, E. Tax-Exempt is hereby replaced in its entirety with the following:**

Pursuant to Section 6.A. of the Oklahoma Constitution and 68 O.S. §§ 1404, 1352, and 1356, Customers under this Agreement that are Oklahoma state agencies are exempt from the assessment of State sales, use and excise taxes. Further, such Customers and Customers that are political subdivisions of the State of Oklahoma are exempt from Federal Excise Taxes, 26 U.S.C. Sections 4253(i). Customers will provide Contractor with a tax exemption certificate upon request.

- s. Section 8, Pricing, Purchase Orders, Invoices, and Payments, F. Travel Expense Reimbursement is hereby replaced in its entirety with the following:**

Pursuant to 74 O.S. § 85.40, Vendors that may incur travel expenses pursuant to an acquisition by an Oklahoma state agency from the Vendor shall include travel expenses in the total acquisition price in the Vendor’s bid, proposal, or

quotation. A state agency shall not pay any Vendor travel expenses in addition to the total price of the acquisition.

- t. **Section 8, Pricing, Purchase Orders, Invoices, and Payments, H. Purchase Orders is hereby modified to delete the second paragraph in its entirety.**
- u. **Section 8, Pricing, Purchase Orders, Invoices, and Payments, I. Invoices, the section is modified to delete references to compliance with Chapter 2251, Texas Government Code.**
- v. **Section 8, Pricing, Purchase Orders, Invoices, and Payments is hereby modified to the following provision:**

As applicable, the parties shall comply with applicable Oklahoma law in invoicing and making payments. Payments for goods and services are due forty-five (45) days after receipt of a proper invoice. Vendor agrees that payment received in accordance with applicable Oklahoma law allowing forty-five (45) days shall not constitute default hereunder nor entitle Vendor to late payment fees or interest. Any applicable late fees or interest incurred after forty-five (45) days of nonpayment shall be paid only in accordance with Oklahoma law. Payment made under the Agreement shall not foreclose the right to recover wrongful payments.

- w. **Section 9, Contract Administration, B. Reporting and Administrative Fees, is hereby replaced in its entirety with the following:**

For Oklahoma Customers, Vendor agrees to submit a Contract Usage Report to the State of Oklahoma on a quarterly basis. Each "Contract Usage Report" shall include the following: (i) the applicable state contract number, (ii) report amount(s), (iii) reporting period covered, and (iv) the applicable state agency name(s). Contract Usage Reports shall also include usage of the Agreement by any other governmental entities (i.e. county, city, etc.). Continuous failure to submit Contract Usage Reports as required herein may result in termination of the Agreement with respect to Oklahoma Customers.

All Contract Usage Reports shall meet the following criteria:

- a) Must be submitted electronically in Microsoft Excel format.
- b) Reports shall be submitted quarterly, regardless of whether this Contract has been used during the applicable quarterly reporting period.
- c) Must be submitted within forty five (45) calendar days of the end of each quarterly reporting period.
- d) Quarterly reporting periods shall be as follows:
 - January 01 through March 31 – State of Oklahoma Quarter 3
 - April 01 through June 30 – State of Oklahoma Quarter 4
 - July 01 through September 30 – State of Oklahoma Quarter 1
 - October 01 through December 31 – State of Oklahoma Quarter 2

All Contract Usage Reports shall be delivered electronically (format: .xls) to:
E-mail: strategic.sourcing@omes.ok.gov

- x. **Section 9, Contract Administration, C. Records and Audit, is hereby modified to reflect that references to “State Auditor’s Office” shall mean and refer to the Oklahoma State Auditor’s Office and the fourth sentence of the first paragraph is hereby replaced in its entirety with the following:**

A Vendor that is the subject of an audit or investigation by the State of Oklahoma’s Auditor's Office must provide the Auditor's Office with access to any invoice, statement of work, or purchase order records or other such information the Auditor's Office considers relevant to the investigation or audit. The records may be provided electronically, and the state agrees that in absence of fraud, the state may audit no more than once per year.

- y. **Section 9, Contract Administration, C. Records and Audit, paragraph 2 is hereby replaced in its entirety with the following:**

As used in this clause, “records” includes an invoice, statement of work, purchase order records or such other documents related to this Agreement and kept by Contractor in the ordinary course of business, regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any contract with an Oklahoma Customer, Vendor agrees any pertinent state or federal agency shall have the right to examine and audit all such records relevant to execution and performance of this Agreement. Notwithstanding the foregoing, the parties agree that the State of Oklahoma’s Auditor's Office shall not have access to any Contractor records which contain the confidential information of other Contractor customers.

Vendor is required to retain records relative to this Agreement and kept in the ordinary course of business for the duration of this Agreement and for a period of seven (7) years following completion and/or termination of this Agreement. If an audit, litigation, or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues related to or arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

- z. **Section 9, Contract Administration, C. Records and Audit, paragraphs 2 and 3 are hereby modified to reflect that any and all references to “DIR” shall mean and refer to the “State of Oklahoma”**
- aa. **Section 9, Contract Administration, C. Records and Audit, paragraph 4 is hereby deleted in its entirety.**

- bb. Section 10, Vendor Responsibilities, A. Indemnification, 1) Independent Contractor is hereby modified to reflect that references to the “State of Texas” shall mean and refer to the “State of Oklahoma”.**
- cc. Section 10, Vendor Responsibilities, A. Indemnification, 2) Acts or Omissions is hereby modified to replace the second sentence of the paragraph with the following provision:**

IN CONNECTION WITH INDEMNIFICATION OF A CUSTOMER WHEN AN OKLAHOMA STATE AGENCY IS A NAMED DEFENDANT IN ANY LAWSUIT, THE DEFENSE OF THE OKLAHOMA STATE AGENCY SHALL BE COORDINATED BY THE ATTORNEY GENERAL OF OKLAHOMA. THE ATTORNEY GENERAL OF OKLAHOMA MAY, BUT HAS NO OBLIGATION TO, AUTHORIZE CONTRACTOR TO CONTROL THE DEFENSE AND ANY RELATED SETTLEMENT NEGOTIATIONS; PROVIDED, HOWEVER, THAT, IN SUCH EVENT, VENDOR SHALL NOT AGREE TO ANY SETTLEMENT OF CLAIMS AGAINST THE STATE OF OKLAHOMA WITHOUT FIRST OBTAINING A CONCURRENCE FROM THE ATTORNEY GENERAL OF OKLAHOMA. IF THE ATTORNEY GENERAL OF OKLAHOMA DOES NOT AUTHORIZE SOLE CONTROL OF THE DEFENSE AND SETTLEMENT NEGOTIATIONS FOR VENDOR, VENDOR SHALL BE GRANTED AUTHORIZATION TO EQUALLY PARTICIPATE IN ANY PROCEEDING RELATED TO THIS SECTION. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, VENDOR SHALL, AT ALL TIMES, HAVE AN OBLIGATION TO INDEMNIFY THE CUSTOMER IN ACCORDANCE WITH AND TO THE EXTENT VENDOR PROVIDES SUCH INDEMNIFICATION IN THIS CONTRACT.

- dd. Section 10, Vendor Responsibilities, A. Indemnification, 3) Infringements a) the second, third, and fourth sentence in this provision are hereby replaced in their entirety with the following provision:**

IN CONNECTION WITH INDEMNIFICATION OF A CUSTOMER WHEN AN OKLAHOMA STATE AGENCY IS A NAMED DEFENDANT IN ANY LAWSUIT, THE DEFENSE OF THE OKLAHOMA STATE AGENCY SHALL BE COORDINATED BY THE ATTORNEY GENERAL OF OKLAHOMA. THE ATTORNEY GENERAL OF OKLAHOMA MAY, BUT HAS NO OBLIGATION TO, AUTHORIZE CONTRACTOR TO CONTROL THE DEFENSE AND ANY RELATED SETTLEMENT NEGOTIATIONS; PROVIDED, HOWEVER, THAT, IN SUCH EVENT, VENDOR SHALL NOT AGREE TO ANY SETTLEMENT OF CLAIMS AGAINST THE STATE OF OKLAHOMA WITHOUT FIRST OBTAINING A CONCURRENCE FROM THE ATTORNEY GENERAL OF OKLAHOMA. IF THE ATTORNEY GENERAL OF OKLAHOMA DOES NOT AUTHORIZE SOLE CONTROL OF THE DEFENSE AND SETTLEMENT NEGOTIATIONS FOR VENDOR,

VENDOR SHALL BE GRANTED AUTHORIZATION TO EQUALLY PARTICIPATE IN ANY PROCEEDING RELATED TO THIS SECTION. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, VENDOR SHALL, AT ALL TIMES, HAVE AN OBLIGATION TO INDEMNIFY THE CUSTOMER IN ACCORDANCE WITH AND TO THE EXTENT VENDOR PROVIDES SUCH INDEMNIFICATION IN THIS CONTRACT.

- ee. **Section 10, Vendor Responsibilities, B. Taxes/Worker's Compensation/ UNEMPLOYMENT INSURANCE, subsection 2) the third and fourth sentence are hereby replaced in their entirety with the following provision:**

IN CONNECTION WITH INDEMNIFICATION OF A CUSTOMER WHEN AN OKLAHOMA STATE AGENCY IS A NAMED DEFENDANT IN ANY LAWSUIT, THE DEFENSE OF THE OKLAHOMA STATE AGENCY SHALL BE COORDINATED BY THE ATTORNEY GENERAL OF OKLAHOMA. THE ATTORNEY GENERAL OF OKLAHOMA MAY, BUT HAS NO OBLIGATION TO, AUTHORIZE CONTRACTOR TO CONTROL THE DEFENSE AND ANY RELATED SETTLEMENT NEGOTIATIONS; PROVIDED, HOWEVER, THAT, IN SUCH EVENT, VENDOR SHALL NOT AGREE TO ANY SETTLEMENT OF CLAIMS AGAINST THE STATE OF OKLAHOMA WITHOUT FIRST OBTAINING A CONCURRENCE FROM THE ATTORNEY GENERAL OF OKLAHOMA. IF THE ATTORNEY GENERAL OF OKLAHOMA DOES NOT AUTHORIZE SOLE CONTROL OF THE DEFENSE AND SETTLEMENT NEGOTIATIONS FOR VENDOR, VENDOR SHALL BE GRANTED AUTHORIZATION TO EQUALLY PARTICIPATE IN ANY PROCEEDING RELATED TO THIS SECTION. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, VENDOR SHALL, AT ALL TIMES, HAVE AN OBLIGATION TO INDEMNIFY THE CUSTOMER IN ACCORDANCE WITH AND TO THE EXTENT VENDOR PROVIDES SUCH INDEMNIFICATION IN THIS CONTRACT.

- ff. **Section 10, Vendor Responsibilities, C. Vendor Certifications is hereby modified to add the following provision:**

For Oklahoma-based transactions and Customers, in connection with its performance of obligations under the terms of the Contract, Vendor shall comply with all applicable federal, state, and local laws, rules, regulations, ordinances and orders, as amended, that are, by their terms, expressly applicable to Vendor's delivery of products and/or services under the Contract and impose obligations upon Vendor in its role as an information technology products and services provider, including, but not limited to, the following:

- a) Drug-Free Workplace Act of 1988 and as implemented at 45 C.F.R. part 76, Subpart F;

- b) Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use under nonexempt Federal contract, grant or loans of facilities included on the EPA List of Violating Facilities;
- c) Title VII of the 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 and Executive Orders 11246 and 11375; and
- d) Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93.

Without limiting the generality of the foregoing, Vendor shall, at all times during the term of this Contract, be registered as a business entity licensed to do business in the State of Oklahoma, have obtained and shall maintain a sales tax permit in the State of Oklahoma, and shall be current on all franchise- and/or other business-tax payments to the State of Oklahoma, as applicable.

Vendor certifies that the Vendor and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal, state or local department or agency;
- 2) Have not within a three-year period preceding the Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract; for violation of federal or state antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the foregoing offenses enumerated in this certification; and
- 4) Have not within a three-year period preceding this Contract had one or more public (federal, state or local) contracts terminated for cause or default.

gg. Section 10, Vendor Responsibilities, D. Ability to Conduct Business in Texas is hereby replaced in its entirety with the following:

Vendor and its subcontractors shall be authorized and validly existing under the laws of their state of organization, and shall be authorized to do business in the State of Oklahoma.

hh. Section 10, Vendor Responsibilities, F. Use of Subcontractors is hereby replaced in its entirety with the following:

If the Vendor is permitted to utilize subcontractors in support of the Agreement, the Vendor shall remain solely responsible for its obligations under the terms of the Agreement and for its actions and omissions and those of its agents, employees and subcontractors who are performing services specifically for the State of Oklahoma under this Agreement. Any subcontractors producing off-the-shelf products for Vendor are expressly excluded from the obligations set forth in this Section. Any proposed subcontractor shall be identified by entity name, and by employee name if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. Prior to a subcontractor being utilized by the Vendor, the Vendor shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Vendor. Such approval is within the sole discretion of the State. As part of the approval request, the Vendor shall provide a redacted copy of a written agreement executed by the Vendor and subcontractor setting forth that such subcontractor is bound by and agrees to perform, as applicable, the same covenants and be subject to the same conditions, and make identical certifications to the same facts and criteria, as the Vendor under the terms of all applicable Contract Documents. Vendor agrees that maintaining such agreement with any subcontractor and obtaining prior approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

All payments under the Contract shall be made directly to the Vendor. No payment shall be made to the Vendor for performance by unapproved or disapproved employees of the Vendor or a subcontractor.

ii. Section 10, Vendor Responsibilities, H. Confidentiality is hereby replaced in its entirety with the following:

- 1) Vendor acknowledges that Oklahoma state agency and certain affiliate Customers are subject to the Oklahoma Open Records Act. Vendor also acknowledges that such Customers will comply with the Oklahoma Open Records Act and with all opinions of the Oklahoma Attorney General concerning such Act.
- 2) Under the terms of this Agreement, the State of Oklahoma may provide Vendor with information related to Customers. Vendor shall not re-sell or otherwise distribute or release Customer information to any party in any manner.

jj. Section 10, Vendor Responsibilities, K. Limitation of Liability is hereby modified to reflect that references to the “State” shall mean and refer to the “State of Oklahoma”.

kk. Section 10, Vendor Responsibilities, L. Required Insurance Coverage is hereby replaced in its entirety with the following:

As a condition of this Contract with the State, Vendor shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set forth below. Such proof of coverage shall be provided to the State as designated by the State system if Services will be provided by any of Vendor’s employees, agent or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of work for Customers. Vendor may not commence performance hereunder until such proof has been provided. Additionally, Vendor shall promptly provide proof to the State of any renewals of or materially adverse changes or modifications to such insurance coverage. Vendor’s obligation to maintain insurance coverage under the Contract is a continuing obligation through the term of the Contract and each purchase order issued to Vendor in connection with the Contract. The minimum acceptable insurance limits of liability are as follows:

- 1) Workers’ Compensation and Employer’s Liability Insurance in accordance with and to the extent required by applicable law;
- 2) Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
- 3) Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence and in the aggregate, with coverage, if applicable, for all owned vehicles, all non-owned vehicles, and all hired vehicles;
- 4) Professional Errors and Omissions Insurance which shall include Consultant’s Computer Errors and Omissions Coverage with limits not less than \$1,000,000 per claim and in the aggregate.

ll. Section 10, Vendor Responsibilities, P. Public Disclosure is hereby replaced in its entirety with the following:

No public disclosures or news releases pertaining to this Agreement shall be made without prior with approval of the State of Oklahoma.

- mm. Section 10, Vendor Responsibilities, Q. Product and/or Services Substitutions is hereby replaced in its entirety with the following:**

Substitutions are not permitted without the written permission of State of Oklahoma or Oklahoma Customer.

- nn. Section 10, Vendor Responsibilities, V. Accessibility of Public Information is hereby deleted in its entirety.**

- oo. Section 11, Contract Enforcement, A. Enforcement of Contract and Dispute Resolution is hereby replaced in its entirety with the following:**

A party's failure to require strict performance of any provision of the Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision.

- pp. Section 11, Contract Enforcement, B. Termination, 1) Termination for Non-Appropriation, subsection a) Termination for Non-Appropriation by Customer, the first sentence is hereby replaced in its entirety with the following:**

Customer may terminate any Purchase Order if funds sufficient to pay its obligations under the Agreement are not appropriated by the applicable state legislature, federal government or other appropriate government entity or received from an intended third-party funding source.

- qq. Section 11, Contract Enforcement, B. Termination, 3) Termination for Convenience is hereby modified to reflect that references to the "DIR" shall mean and refer to the "State of Oklahoma".**

- rr. Section 11, Contract Enforcement, B. Termination, 4) Termination for Cause, subsection a) Contract, is hereby replaced in its entirety with the following:**

Vendor may terminate the Contract in the event (i.) it has provided the State with written notice of material breach and (ii.) the State fails to cure such material breach within thirty (30) days of receipt of written notice. The State may terminate the Contract in whole or in part in the event (i.) it has provided Vendor with written notice of material breach, and (ii.) Vendor fails to cure such material breach within thirty (30) days of receipt of written notice. Similarly, a Customer may terminate its obligations, in whole or in part, to Vendor if it has provided Vendor with written notice of material breach and Vendor fails to cure such material breach within thirty (30) days of receipt of written notice.

The State may terminate the Contract in whole or in part immediately with written notice to Vendor of breach, only if such breach by its nature cannot be cured within such thirty (30) day period. The Customer may terminate a Purchase Order under the Contract in whole or in part immediately with written notice to Vendor of breach, only if such breach by its nature cannot be cured within such thirty (30) day period.

If the Contract or certain obligations under the Contract are terminated, the Customer shall be liable only for payment for products or services delivered and accepted prior to the date of such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. In no event shall a Customer be liable to the Vendor for compensation for any products that were not requested by the Customer. In no event shall the State's exercise of its right to terminate the Contract for cause relieve the Vendor of any liability to the State or a Customer for claims arising under the Contract.

- ss. Section 11, Contract Enforcement, B. Termination, 5) Immediate Termination or Suspension, is hereby modified to reflect that references to “DIR” shall mean and refer to the “State of Oklahoma”.**
- tt. Section 11, Contract Enforcement, C. Force Majeure, is hereby modified to reflect that references to “DIR” shall mean and refer to the “State of Oklahoma”.**

- 4. Appendix B, Historically Underutilized Business (HUB) Subcontracting Plan is hereby deleted in its entirety.**
- 5. No amendment is effective unless signed by both parties to this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below intending it to become effective on the Effective Date and thereby agreeing to its terms.

SKILLSOFT CORPORATION

Bmi
Signature

**Brian Prusak
Vice President
Finance Operations**

Name (please print)

Title

300 Innovative Way Suite 201 Nashua, N.H. 03062
Address

November 27, 2017
Date

The State of Oklahoma by and through the Office of Management and Enterprise Services

James L. Reese II
Signature

James L. Reese II
Name (please print)

Chief Information Officer
Title

315 N. Lincoln Blvd. OKC, OK 73105
Address

11-29-17
Date