

## NEOGOV SERVICES AGREEMENT NSA-v010119

You agree that by placing an order through a NEOGOV standard ordering document (the “Order” or “Ordering Document”) you agree to follow and be bound by the terms and conditions set forth herein. “Governmentjobs.com”, “NEOGOV”, “we”, and “our” means Governmentjobs.com, Inc.(dba “NEOGOV”) and, where applicable, its affiliates; “Customer”, “you”, “your” means the Governmentjobs.com client, customer or subscriber identified in the Ordering Document. If you are placing such an Order on behalf of a legal entity, you represent that you have the authority to bind such entity to the terms and conditions of the Ordering Document and these terms and, in such event, “you” and “your” as used in these agreement terms shall refer to such entity. “Agreement” shall be used to collectively refer to this NEOGOV Services Agreement NSA-v010119 (the “Services Agreement”), documents incorporated herein including the applicable Ordering Document and Schedule(s), and Special Conditions (if any).

1. **Provision of Services.** Subject to the terms of this Agreement NEOGOV hereby agrees to provide Customer with, and/or access its Cloud Services and Supplemental Services included or ordered by Customer in the applicable Ordering Document (collectively referred to as the “Services”). Customer hereby acknowledges and agrees that NEOGOV’s provision and performance of, and Customer’s access to, the Services is dependent and conditioned upon Customer’s full performance of its duties, obligations and responsibilities hereunder. This Agreement entered into as of the date of your signature on an applicable Ordering Document (“the “Effective Date”). The Agreement supersedes any prior and contemporaneous discussions, agreements or representations and warranties.
2. **Cloud Service License Grant.**
  - a) **Cloud License.** “Cloud Services” means the proprietary NEOGOV web-based products and services that may be set forth on an Order and subsequently made available by NEOGOV, and associated offline components as described in the Service Specifications made available to Customer by NEOGOV in connection with the provision of Cloud Services. Subject to and conditioned on Customer's and its Authorized Users' compliance with the terms and conditions of this Agreement, NEOGOV hereby grants to Customer a limited, non-exclusive, non-transferable, and non-sublicensable license to (a) access and use, and to permit Authorized Users to access and use, the Cloud Services specified in the Order solely for Customer’s internal purposes; (b) generate, print, copy, upload, download, store and otherwise process all Customer Data as may result from any access to or use of the Cloud Services; and (c) train Authorized Users in uses of the Cloud Services permitted hereunder. “Authorized Users” means (i) Customer employees, and (ii) Customer agents, contractors, consultants, and their respective employees, all of which are pre-approved by NEOGOV.
  - b) **Delivery and License Term.** NEOGOV delivers the Cloud Services by providing Customer with online access. When you access NEOGOV Cloud Services, you are accepting it for use in accordance with this Agreement. Unless otherwise specified in an applicable Ordering Document, Cloud Service license(s) shall commence on the Effective Date and remain in effect for twelve (12) consecutive months, unless terminated earlier in accordance with this Agreement (the “Initial Term”). Thereafter, Cloud Service license(s) shall automatically renew for successive twelve (12) month terms (each a “Renewal Term” and together with the Initial Term, collectively, the “Term”) unless a party delivers to the other party, at least thirty (30) days prior to the expiration of the Initial Term or the applicable Renewal Term, written notice of such party’s intention to not renew this Agreement, or unless terminated earlier in accordance with this Agreement. NEOGOV shall provide Customer access to the Cloud Services within a reasonable time following the Effective Date unless otherwise agreed.
  - c) **Content License.** Should Customer purchase access to Cloud Services containing audio-visual content (“Licensed Content”), NEOGOV grants to Customer a non-exclusive, non-transferable, and non-sublicensable license, during the applicable Term, for Authorized Users to access and view the Licensed Content. Customer shall not permit the Licensed Content to be, or appear to be, reproduced, performed, displayed, or distributed on, as part of or in connection with any website or other online area other than the NEOGOV Cloud Service. Customer shall not edit, alter, modify, combine with other content, or create any derivative works of the Licensed Content.
  - d) **Program Documentation.** Program Documentation shall mean all user guides, training and implementation material, and Service descriptions provided by NEOGOV to Customer in connection with the Services. NEOGOV hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use the Program Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services.
  - e) **Prohibited Access.** You may not access the Cloud Services if you are a direct competitor of NEOGOV or its affiliates. In addition, you may not access the Cloud Services for purposes of monitoring their availability, performance, or functionality, or for any other benchmarking or competitive purposes.
3. **Supplemental Services.** “Supplemental Services” shall mean professional consulting services purchased by Customer in an applicable Ordering Document or NEOGOV Scope of Work (SOW) relating to assistance, training, deployment, usage, customizations, accessory data processing, and best practices of and concerning the Cloud Services, Integrations, and

Upgrades. NEOGOV shall provide the Supplemental Services purchased in the applicable Order Form or SOW, as the case may be. Supplemental Services may be ordered by Customer pursuant to a SOW and Service Specifications describing the work to be performed, fees and any applicable milestones, dependencies and other technical specifications or related information. Each SOW must be signed by both parties before NEOGOV shall commence work under such SOW. If the parties do not execute a separate Statement of Work, the Services shall be provided as stated on the Order Form and this Agreement and documents incorporated herein shall control.

#### 4. E-Signatures.

- a) E-Signature Provisioning & Consent. NEOGOV E-Forms and other electronically signed services (“E-Signatures”) are provided by NEOGOV for two counterparties (generally a government employer (the “sending party”) subscribing to NEOGOV Services and Personnel or Job Seekers) to electronically sign documents. If you use E-Signatures offered by NEOGOV, you agree to the statements set forth in this Section. Whenever you sign a document using E-Signatures you affirmatively consent to using electronic signatures via the E-Signatures and consent to conducting electronic business transactions. You also confirm that you are able to access the E-Signatures and the document you are signing electronically. When using E-Signatures for a document, your consent applies only to the matter(s) covered by that particular document.
- b) Right to Opt-Out of E-Signatures. You are not required to use E-Signatures or accept electronic documents provided thereby. Personnel and Job Seekers can choose to not use E-Signatures and may sign the document manually instead by notifying the sending party they are choosing to do so and by obtaining a non-electronic copy of the document. NEOGOV assumes no responsibility for providing non-electronic documents. In the event a non-sending party elects to sign the document manually, do not use E-Signatures to sign the document.
- c) Electronic Download. If you have signed a document electronically using E-Signatures and transmitted it back to the sending party, NEOGOV provides the opportunity to download and print a paper copy of the document at no charge. If you later withdraw your consent to using E-Signatures, please notify the sending party and stop using E-Signatures. Note that the decision to stop using E-Signatures after you have already used it does not change the legality of the documents you have previously signed using an electronic signature.
- d) E-Signature Validity. PLEASE NOTE THAT NEOGOV’S STATEMENTS CONTAINED HEREIN OR ELSEWHERE CONCERNING THE VALIDITY OF ELECTRONIC DOCUMENTS AND/OR THE SIGNATURE LINES OF DOCUMENTS THAT ARE ELECTRONICALLY SIGNED ARE FOR INFORMATIONAL PURPOSES ONLY; THEY SHOULD NOT BE CONSTRUED AS LEGAL ADVICE. UNDER FEDERAL AND STATE LAWS GOVERNING ELECTRONIC SIGNATURES, ELECTRONIC SIGNATURES ON CERTAIN TYPES OF AGREEMENTS ARE NOT ENFORCEABLE. NEOGOV HEREBY DISCLAIMS ANY RESPONSIBILITY FOR ENSURING THAT DOCUMENTS ELECTRONICALLY SIGNED THROUGH E-SIGNATURE’S ARE VALID OR ENFORCEABLE UNDER THE LAWS OF THE UNITED STATES OF AMERICA, ANY PARTICULAR STATE, OR ANY OTHER LEGAL JURISDICTION. YOU SHOULD CONSULT WITH LEGAL COUNSEL CONCERNING THE VALIDITY OR ENFORCEABILITY OF ANY DOCUMENT YOU MAY SIGN ELECTRONICALLY USING NEOGOV’S E-SIGNATURE’S.

5. Relay of Content. NEOGOV relays content including but not limited to resumes, cover letters, applications, messages, questionnaire answers, responses, offer letters and other materials. You acknowledge that you are asking NEOGOV to send this content on your behalf. We process, monitor, review, store and analyze such content for data analysis, quality control, enforcement of the Terms of Use, security, content moderation, and to improve the Cloud Services. As a result, or due to technical malfunction, in certain circumstances such content may be delayed or may not be delivered to the intended recipient. NEOGOV may notify you in such an event.

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

7. **Service Specifications.** “Service Specifications” means the following documents, as applicable to the Services under your Order: Program Documentation, Service Level Warranties, Malicious Traffic, Terms of Use, Security and Incident Response statements, Retention, Cookie and Privacy Policy. The Service Specifications describe and govern the Services. Online Service Specifications may be made available at <https://www.neogov.com/service-specifications> or provided upon Customer request. All applicable Service Specifications are incorporated into this Agreement. During the Term, NEOGOV may update the Service Specifications to reflect changes in, among other things, laws, regulations, rules, technology, industry practices, patterns of system use, Updates and Upgrades, and availability of third-party services. NEOGOV retains the right to modify or amend the Service Specifications at any time by making an updated version available online or providing Customer an updated version.
8. **Segmentation.** The purchase of any Service is separate from any other order for any other Service. Customer may purchase certain Services independently of other Services. Your obligation to pay for any Service is not contingent on performance of any other Service or delivery of any other Service.
9. **Customer Compliance.** Customer shall be responsible for ensuring that Customer’s use of the Services and the performance of Customer’s other obligations hereunder comply with all applicable rules, regulations, laws, code and ordinances. Customer is responsible for Customer’s information technology infrastructure, including computers, software, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services equipment and facilities required to access the Services. Customer shall be responsible for procuring all licenses of third-party software necessary for Customer’s use of the Services. Customer is responsible and liable for all uses of the Services, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. All users of the Services are obligated to abide by the Terms of Use available at <https://www.neogov.com/terms-of-use>. Customer shall take reasonable efforts to make all users, whether Authorized or unauthorized, aware of this Agreement’s provisions as applicable to such user’s use of the Services and shall cause users to comply with such provisions.
10. **Maintenance, Modifications and Support Services.**
  - a) **Maintenance.** NEOGOV maintains NEOGOV’s hardware and software infrastructure for the Services and is responsible for maintaining the NEOGOV server operation, software delivery, NEOGOV database security, and integrity of Customer Data stored in the NEOGOV database. Preventive system maintenance is conducted by NEOGOV from time to time and is addressed in a variety of methods including scalable architecture and infrastructure, log checking, performance maintenance, and other preventative tasks.
  - b) **Modifications, Updates, and Upgrades.** NEOGOV may in its sole discretion, periodically modify, Update, and Upgrade the features, components and functionality of the Services during the Term. “Update” means any update, bug fix, patch or correction of the Services or underlying NEOGOV software that NEOGOV makes generally available to its customers of the same module, excluding Upgrades. Updates are automatic and available upon Customer’s next login to the Services following an Update at no additional cost to Customer. “Upgrade” means any update of the Services or underlying NEOGOV software such as platform updates, and major product enhancements and/or new features that NEOGOV makes commercially available. NEOGOV shall have no obligation to provide Upgrades to customers and retains the right to offer Upgrades free of cost or on a per customer basis at additional cost. NEOGOV shall have no liability for, or any obligations to, investments in, or modifications to Customer’s hardware, systems or other software which may be necessary to use or access the Services due to a modification, Update, or Upgrade of the Services.
  - c) **Training Materials.** Primary training of NEOGOV Services is conducted by self-review of online materials. NEOGOV’s pre-built, online training, consists of a series of tutorials to introduce the standard features and functions (the “Training Materials”). The Training Materials may be used as reference material by Customer Personnel conducting day-to-day activities.
  - d) **Implementation.** For Services requiring implementation, NEOGOV implementation supplements the Training Materials and is conducted off-site, unless otherwise agreed in the Ordering Document. NEOGOV personnel will provide dedicated consultation on best practices for setting up the Services, answer Customer questions during the implementation period, and ensure Personnel grasp the system.
  - e) **Support.** Phone support for the Services is available to Customer between the hours of 6:00AM and 6:00PM, Pacific Time, Monday through Friday, excluding NEOGOV holidays. Online support for the Services is available 24 hours a day, seven days a week. The length of time for a resolution of any problem is fully dependent on the type of case (i.e., High/Medium/Low priority, question, enhancement request).
  - f) **Limitations.** Unless otherwise specified in the Ordering Document, this Agreement does not obligate NEOGOV to render any maintenance or support services that are not expressly provided herein, including, but not limited to data uploads,

manual data entry, migration services, data conversion, refinement, purification, reformatting, SQL dump, or process consultation.

## 11. Data Processing and Privacy.

- a) **Customer Data.** “Customer Data” shall mean all data that is owned or developed by Customer, whether provided to NEOGOV by Customer or provided by a third party to NEOGOV in connection with NEOGOV’s provision of Services to Customer, including Personnel or Job Seeker Profile Data collected, loaded into, or located in, Customer data files maintained by NEOGOV. NEOGOV intellectual property, including but not limited to the Services and all derivative works thereof, NEOGOV Confidential Information, and Platform Data do not fall within the meaning of the term “Customer Data”. Customer exclusively own all right, title and interest in and to all Customer Data. Customer grants NEOGOV a license to host, use, process, display and transmit Customer Data to provide the Services.
- b) **Platform Data.** “Platform Data” shall mean any data reflecting the access or use of the Services by or on behalf of Customer or any Authorized User, including any end user visit, session, impression, clickthrough or click stream data, non-personal Usage Data, Account, Log, Device, Publication, Tracking, and Transaction Data as defined in NEOGOV’s Privacy Policy, and any statistical or other analysis, information, or data based on or derived from any of the foregoing. NEOGOV shall exclusively own all right, title and interest in and to all Platform Data. NEOGOV grants to Customer a limited, non-perpetual, non-exclusive, non-transferable, and non-sublicensable license during the Term to use and access, and to permit Authorized Users to use and access, Platform Data of which NEOGOV makes available through the web-based software Services solely for Customer’s internal purposes.
- c) **Privacy.** NEOGOV shall process all data in accord with the NEOGOV Privacy Policy available at <https://www.neogov.com/privacy-policy>. The defined terms in the NEOGOV Privacy Policy shall have the same meaning in this Agreement unless otherwise specified herein.
- d) **Data Responsibilities.** NEOGOV will have no responsibility or liability for the accuracy of the Customer Data prior to receipt of such data into the Services. Customer shall be solely responsible for, and shall comply with all applicable laws and regulations relating to (i) the accuracy and completeness of all information input, submit, or uploaded to the Services, (ii) the privacy of users of the Services, including, without limitation, providing appropriate notices to and obtaining appropriate consents from any individuals to whom Customer Data relates; and (iii) the collection, use, modification, alteration, extraction, retention, copying, storage, security, disclosure, transfer, disposal, and other processing of any Customer Data inside and outside the Services (including any personally identifiable information), and (iv) Customer database(s). NEOGOV is not responsible for lost data caused by the action or inaction of Customer or Authorized Users. NEOGOV recommends Customer backup their Customer Data outside the Services if necessary. Unless vital to provide the Services or otherwise mutually agreed in writing, Customer shall not maintain any health, payment card or similarly sensitive data that imposes specific data security or data protection obligations within the Services.
- e) **Service Usage.** NEOGOV may set forth Fees for designated levels of usage and data storage (each a “Storage Quota”), beginning with the Fees payable by Customer for the levels of usage and data storage in effect as of the Effective Date. NEOGOV will use commercially reasonable efforts to notify Customer in writing if Customer has reached 80 percent of its then current Storage Quota and Customer may increase its Storage Quota and corresponding Fee obligations in accordance with NEOGOV’s then current usage price tiers. Customer acknowledges that exceeding its then-current Service Allocation may result in service degradation for Customer and other NEOGOV customers and agrees that (i) NEOGOV has no obligation to permit Customer to exceed its then-current Storage Quota and (ii) Customer is not entitled to any Service Level Credit for periods during which Customer exceeds its then-current Storage Quota, regardless of whether the Services fail to meet any availability requirement during such period.
- f) **External Breach.** In the event of a security breach, as defined by applicable law, by anyone other than your employee, contractor or agent, upon discovery of such breach, NEOGOV will: (a) initiate remedial actions that are in compliance with applicable law and consistent with industry standards; and (b) notify you of the security breach, its nature and scope, the remedial actions NEOGOV will undertake as determined solely by NEOGOV.
- g) **Internal Breach.** In the event of a security breach, as defined by applicable law, by your Personnel, Authorized, or unauthorized user, contractor or agent, you shall have sole responsibility for initiating remedial actions and you shall notify NEOGOV immediately of the breach and steps you will take to remedy the breach.

12. **NEOGOV Intellectual Property.** NEOGOV shall exclusively own all right, title and interest in and to all pre-existing and future intellectual property developed or delivered by NEOGOV including all Services, products, systems, software (including any source code or object code) or Service Specifications related thereto, Updates or Upgrades, trademarks, service marks, logos and other distinctive brand features of NEOGOV and all proprietary rights embodied therein (collectively, the “NEOGOV Intellectual Property”). This Agreement does not convey or transfer title or ownership of the NEOGOV

Intellectual Property to Customer or any of its users. All rights not expressly granted herein are reserved by NEOGOV. Other than recommendation use or as required by law, all use of NEOGOV Trademarks must be pre-approved by NEOGOV prior to use. Trademarks shall include any word, name, symbol, color, designation or device or any combination thereof that functions as a source identifier, including any trademark, trade dress, service mark, trade name, logo, design mark or domain name, whether or not registered.

13. Trial and Beta Services. The following terms shall apply to the extent that Customer utilizes Trial Services. NEOGOV may make services available which Customer may use for evaluation purposes only (“Trial Services”). Trial Services are for evaluation purposes, are not supported, and may be subject to additional terms. Unless otherwise specified, Customer has fifteen (15) days from obtaining access to the trial service to evaluate NEOGOV services (the “Evaluation Period”). If Customer decides not to obtain a license for any service after the Evaluation Period, Customer will cease using such services. Services licensed for evaluation purposes are provided “as is” and NEOGOV does not provide technical support or offer any warranties for these services. Customer will not use the Trial Services for any purpose other than evaluating and testing such services internally in connection with assessing whether Customer desires to enter into a license agreement with NEOGOV for the proposed Service. This section does not provide a commercial license and Customer’s use of the Trial Services after the Evaluation Period is subject to the parties’ entering into and executing a separate commercial license agreement. NEOGOV has no obligation to provide support, maintenance, upgrades, modifications, professional services, data conversions, bulk downloads, or new releases for Trial Services, nor does NEOGOV have any obligation to migrate data from the Trial Service environment to a commercial Service. From time to time, NEOGOV may invite Customer to try services not generally available to customers (“Beta Services”) at no charge. You may accept or decline any such Beta Services in your sole discretion. Beta Services will be designated as beta, limited release, developer preview, non-production, evaluation or by similar description. Beta Services are not considered “Services” under this Agreement and may be subject to additional terms. NEOGOV may discontinue Beta Services at any time in its sole discretion and may or may not make them generally available. NEOGOV will have no liability for any harm or damage arising out of or in connection with a Beta Service.
14. Open APIs. The following terms supplement the terms and conditions set forth in this Services Agreement and shall apply to the extent that Customer utilizes a system integration between the Services and an unaffiliated third-party service (“Customer Application”) integrated using NEOGOV’s open API (“Open API”).
  - a) Provision of Open API. In the event license fees or other payments are not due in exchange for the right to use and access the Open API, you acknowledge and agree that this arrangement is made in consideration of the mutual covenants set forth in this Agreement, including, without limitation, the disclaimers, exclusions, and limitations of liability set forth herein. Notwithstanding the foregoing, NEOGOV reserves the right to start charging for access to and use of the Open API at any time.
  - b) API Key. In order to use and access the Open API, you must obtain an Open API key through the registration process. Customer agrees to monitor Customer Applications for any activity that violates applicable laws, rules and regulation or any terms and conditions of this Agreement, including any fraudulent, inappropriate, or potentially harmful behavior. This Agreement does not entitle Customer to any support for the Open API. You acknowledge that NEOGOV may update or modify the Open API from time to time and at our sole discretion and may require you to obtain and use the most recent version(s). You are required to make any such changes to Customer Applications that are required for integration as a result of such Update at Customer sole cost and expense. Updates may adversely affect how Customer Applications communicate with the Services.
  - c) Efficient Processing. You must use efficient programming, which will not cause an overwhelming number of requests to be made in too short a period of time, as-determined solely by NEOGOV. If this occurs, NEOGOV reserves the right to throttle your API connections, or suspend or terminate your access to the Open API.
  - d) Open API Limitations. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL NEOGOV BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY UNDER ANY TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, LOST PROFITS, LOST OR CORRUPTED DATA, COMPUTER FAILURE OR MALFUNCTION, INTERRUPTION OF BUSINESS, OR OTHER SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THE USE OR INABILITY TO USE THE OPEN API; OR ANY DAMAGES, IN THE AGGREGATE, IN EXCESS OF FIFTY DOLLARS, EVEN IF NEOGOV HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES AND WHETHER OR NOT SUCH LOSS OR DAMAGES ARE FORESEEABLE OR NEOGOV WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH CLAIM.
  - e) Open API Termination. Notwithstanding the additional Termination rights herein, NEOGOV may immediately terminate or suspend Customer access to Open APIs in our sole discretion at any time and for any reason, with or without notice



or cause. In addition, your Open API license will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement.

## 15. Representations, Warranties and Disclaimers.

- a) **Service Performance Warranty.** NEOGOV warrants that it will perform the Services in a manner consistent with industry standards reasonably applicable to the performance thereof.
- b) **No Other Warranty.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS WARRANTY SECTION, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE, OR THAT ANY ERROR WILL BE CORRECTED.
- c) **Disclaimer of Actions Caused by and/or Under the Control of Third Parties.** NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIALY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.
- d) **Configurable Services.** The Services can be used in ways that do not comply with applicable laws and it is Customer's sole responsibility to monitor the use of the Services to ensure that such use complies with and is in accordance with applicable law. In no event shall NEOGOV be responsible or liable for Customer failure to comply with applicable law in connection with your use of the Services. NEOGOV is not responsible for any harm caused by users who were not authorized to have access to the Services but who were able to gain access because usernames, passwords or accounts were not terminated on a timely basis by Customer.
- e) **Services Do Not Constitute Advice or Credit Reporting.** NEOGOV does not provide its customers with legal advice regarding compliance, data privacy or other relevant applicable laws in the jurisdictions in which you use the Services. YOU ACKNOWLEDGE AND AGREE THAT THE SERVICES PROVIDED HEREUNDER ARE NOT INTENDED TO BE AND WILL NOT BE RELIED UPON BY YOU AS EITHER LEGAL, FINANCIAL, INSURANCE OR TAX ADVICE. TO THE EXTENT YOU REQUIRE ANY SUCH ADVICE, YOU REPRESENT THAT YOU WILL SEEK SUCH ADVICE FROM QUALIFIED LEGAL, FINANCIAL, INSURANCE, ACCOUNTING OR OTHER PROFESSIONALS. YOU SHOULD REVIEW APPLICABLE LAW IN ALL JURISDICTIONS WHERE YOU OPERATE AND HAVE EMPLOYEES AND CONSULT EXPERIENCED COUNSEL FOR LEGAL ADVICE. YOU ACKNOWLEDGE THAT NEOGOV IS NOT A "CONSUMER REPORTING AGENCY" AS THAT TERM IS DEFINED IN THE FAIR CREDIT REPORTING ACT AS AMENDED.
- f) **No Control of HR Practices.** You acknowledge that NEOGOV exercises no control over your specific human resource practices implemented using the Service or your decisions as to employment, promotion, termination, or compensation of any Personnel or Authorized User of the Service. You further agree and acknowledge that NEOGOV does not have a direct relationship with your employees and that you are responsible for all contact, questions, Customer Data updates and collection, with your employees. In addition, you are responsible for the privacy (including your own privacy policies governing your processing of Customer Data), collection, use, retention and processing of your Customer Data, and providing any and all notices and information to your employees regarding the foregoing, in compliance with all applicable laws. NEOGOV hereby disclaims all liability arising from your decisions and from harmful data or code uploaded to the Service by you and/or your employees, contractors or agents.

16. **Publicity.** Each party hereto may advertise, disclose and publish its relationship with the other party under this Agreement.

17. **Nondisclosure.** Through exercise of each party's rights under this Agreement, each party may be exposed to the other party's technical, financial, business, marketing, planning, and other information and data, in written, oral, electronic, magnetic, photographic and/or other forms, including, but not limited to (a) oral and written communications of one party with the officers and staff of the other party which are marked or identified as confidential or secret or similarly marked or identified, (b) other communications which a reasonable person would recognize from the surrounding facts and circumstances to be

confidential or secret and (c) trade secrets (collectively, “Confidential Information”). In recognition of the other party’s need to protect its legitimate business interests, each party hereby covenants and agrees that it shall regard and treat each item of information or data constituting Confidential Information of the other party as strictly confidential and wholly owned by such other party and that it will not, (x) without the express prior written consent of the other party (y) except as permitted or authorized herein or (z) except as required by law including the Public Records Act of the Customer’s State, redistribute, market, publish, disclose or divulge to any other person, firm or entity, or use or modify for use, directly or indirectly in any way for any person or entity: (i) any of the other party’s Confidential Information during the Term and for a period of three (3) years thereafter or, if later, from the last date Services (including any warranty work) are performed by the disclosing party hereunder; and (ii) any of the other party’s trade secrets at any time during which such information shall constitute a trade secret under applicable law. In association with NEOGOV’s concern for the protection of trade secrets, Confidential Information, and fair market competition, Customer acknowledges all photos, “screen captures”, videos, or related media of NEOGOV products, pages, and related documentation shall be approved by NEOGOV prior to any publicly accessible disclosure of such media.

## 18. Indemnification.

- a) Indemnity. Subject to subsections (b) through (d) of this Section, if a third party makes a claim against Customer that any NEOGOV intellectual property furnished by NEOGOV and used by Customer infringes a third party’s intellectual property rights, NEOGOV will defend the Customer against the claim and indemnify the Customer from the damages and liabilities awarded by the court to the third-party claiming infringement or the settlement agreed to by NEOGOV, if Customer does the following:
  - i. Notifies NEOGOV promptly in writing, not later than thirty (30) days after Customer receives notice of the claim (or sooner if required by applicable law);
  - ii. Gives NEOGOV sole control of the defense and any settlement negotiations; and
  - iii. Gives NEOGOV the information, authority and assistance NEOGOV needs to defend against or settle the claim.
- b) Alternative Resolution. If NEOGOV believes or it is determined that any of the Services may have violated a third party’s intellectual property rights, NEOGOV may choose to either modify the Services to be non-infringing or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, NEOGOV may end the license for the Services and refund a pro-rata portion of any fees covering the whole months that would have remained, absent such early termination, following the effective date of such early termination.
- c) No Duty to Indemnify. NEOGOV will not indemnify Customer if Customer alters the Service or Service Specifications, or uses it outside the scope of use or if Customer uses a version of the Service or Service Specifications which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Services or Service Specifications which was provided to Customer, or if the Customer continues to use the infringing material after the end of the license to use expires. NEOGOV will not indemnify the Customer to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by NEOGOV. NEOGOV will not indemnify Customer for any portion of an infringement claim that is based upon the combination of Service or Service Specifications with any products or services not provided by NEOGOV. NEOGOV will not indemnify Customer for infringement caused by Customer’s actions against any third party if the Services as delivered to Customer and used in accordance with the terms of the Agreement would not otherwise infringe any third-party intellectual property rights. NEOGOV will not indemnify Customer for any intellectual property infringement claim(s) known to Customer at the time license rights are obtained.
- d) Exclusive Remedy. This Section provides the exclusive remedy for any intellectual property infringement claims or damages against NEOGOV.

## 19. Limitations of Liability.

- a) Waiver. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY OR TO ANY OTHER PERSON OR ENTITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, CUSTOMER’S USE OR, OR INABILITY TO USE, THE SERVICES, UNDER ANY CIRCUMSTANCE, CAUSE OF ACTION OR THEORY OF LIABILITY, OR DUE TO ANY EVENT WHATSOEVER, FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS OPPORTUNITY OR PROFIT, LOSS OF USE, LOSS OF GOODWILL OR BUSINESS STOPPAGE, EVEN IF A PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

- b) **Limitation.** WITHOUT LIMITATION OF THE PREVIOUS SECTION, EXCEPT FOR DAMAGES ARISING OUT OF LIABILITY WHICH CANNOT BE LAWFULLY EXCLUDED OR LIMITED, CUSTOMER'S OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF NEOGOV INTELLECTUAL PROPERTY RIGHTS, THE TOTAL LIABILITY OF EITHER PARTY FOR ANY AND ALL CLAIMS AGAINST THE OTHER PARTY UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF ALL PAYMENTS ACTUALLY RECEIVED BY NEOGOV FROM CUSTOMER DURING THE RELEVANT YEAR OF THIS AGREEMENT DURING WHICH THE CAUSE OF ACTION AROSE. THE FOREGOING LIMITATION OF LIABILITY IS CUMULATIVE WITH ALL PAYMENTS FOR CLAIMS OR DAMAGES IN CONNECTION WITH THIS AGREEMENT BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT. THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS LIMITATION OF LIABILITY IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. EACH PARTY ACKNOWLEDGES THAT THIS LIMITATION OF LIABILITY REFLECTS AN INFORMED, VOLUNTARY ALLOCATION BETWEEN THE PARTIES OF THE RISKS (KNOWN AND UNKNOWN) THAT MAY EXIST IN CONNECTION WITH THIS AGREEMENT AND HAS BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT.
- c) **Independent Allocations of Risk.** Each provision of this Agreement that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages represents an agreed allocation of the risks of this Agreement between the Parties. This allocation is reflected in the pricing offered by NEOGOV to Customer. Each of these provisions is severable and independent of all other provisions of this Agreement.

## 20. Term and Termination.

- a) **Term.** Unless otherwise specified in an applicable Ordering Document, this Agreement shall commence on the Effective Date. This Agreement shall remain in effect until all Cloud Service licenses have expired and/or both parties have achieved full performance of Supplemental Services or other services detailed in a SOW, unless it is terminated earlier in accordance with this Agreement.
- b) **Termination for Cause.** Either Party may terminate this Agreement immediately if the other is in material breach of this Agreement and such breach is not cured within thirty (30) days following non-breaching party's written specification of the breach. NEOGOV may suspend the Services or terminate this Agreement immediately in the event the Services or Customer's use of the Services provided hereunder become illegal or contrary to any applicable law, rule, regulation, or public policy.
- c) **Effect of Termination.** Upon expiration or any termination of this Agreement, Customer shall cease all use and refrain from all further use of the Services and other NEOGOV intellectual property. Additionally, Customer shall be obligated to pay, as of the effective date of such expiration or termination, all amounts due and unpaid to NEOGOV under this Agreement. Unless otherwise specified, after expiration or termination of this Agreement NEOGOV may remove Customer Data from NEOGOV Services and without Customer consent or notice.

21. **Payment Terms.** Unless otherwise stated in an Ordering Document, Customer shall pay all Subscription and Supplemental Service Fees (collectively, the "Fees") within thirty (30) days of Customer's receipt of NEOGOV's invoice. Fees shall be invoiced annually in advance and in a single invoice for each Term. Invoices shall be delivered to the stated "Bill To" party on the Ordering Document. Unless explicitly provided otherwise, once placed the Ordering Document is non-cancellable and sums paid nonrefundable. Cloud Service Subscription Fees are based upon the Customer's employee count, and the amount of Customer Data NEOGOV maintains in its systems for Customer. Customer shall not exceed the employee amount its Cloud Service Subscription Fees are based off of unless applicable supplemental Cloud License Fees are paid. The Term for the Services is a continuous and non-divisible commitment for the full duration regardless of any invoice schedule. If Customer issues a purchase order, then it shall be for the full amount set forth in the applicable NEOGOV invoice or Ordering Document. Failure to provide NEOGOV with a corresponding purchase order shall not relieve Customer of its payment obligations. Except as otherwise specifically stated in the Ordering Document, NEOGOV may change the charges for the Services with effect from the start of each Renewal Term by giving Customer at least thirty (30) day notice prior to commencement of a Renewal Term.

22. **Survival.** Provisions that survive termination or expiration are those relating to limitation of liability, payment and others which by their nature are intended to survive.

23. **Taxes.** Customer will pay all taxes, duties and levies imposed by all federal, state and local authorities (including, without limitation, export, sales, use, excise, and value-added taxes) based on the transactions or payments under this Agreement,



except those taxes imposed or based on NEOGOV's net income or those exempt by applicable state law. Customer shall provide NEOGOV with a certificate or other evidence of such exemption with ten (10) days of NEOGOV's request therefor.

24. Cooperative Agreement. Subject to procurement law, it is understood and agreed by Customer and NEOGOV that any government entity other than Customer (the "New Entity") may purchase the services specified herein in accordance with the terms and conditions of this Agreement. It is also understood and agreed that each New Entity will establish its own contract with NEOGOV, be invoiced therefrom and make its own payments to NEOGOV in accordance with the terms of the contract established between the New Entity and NEOGOV. With respect to any purchases by a New Entity pursuant to this Section, Customer: (i) shall not be construed as a dealer, re-marketer, representative, partner or agent of any type of NEOGOV, or such New Entity; (ii) shall not be obligated, liable or responsible for any order made by New Entities or any employee thereof under the agreement or for any payment required to be made with respect to such order; and (iii) shall not be obliged, liable or responsible for any failure by any New Entity to comply with procedures or requirements of applicable law or to obtain the due authorization and approval necessary to purchase under the agreement. Termination of this Agreement shall in no way limit NEOGOV from soliciting, entering into, or continuing a contractual relationship with any New Entity.
25. Miscellaneous.
- a) Authority. Each party represents and warrants to the other party that (i) it has full power and authority under all relevant laws and regulations and is duly authorized to enter into this Agreement; and (ii) to its knowledge, the execution, delivery and performance of this Agreement by such party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it.
  - b) Force Majeure. NEOGOV shall not be liable for any damages, costs, expenses or other consequences incurred by Customer or by any other person or entity as a result of delay in or inability to deliver any Services due to circumstances or events beyond NEOGOV's reasonable control, including, without limitation: (a) acts of God; (b) changes in or in the interpretation of any law, rule, regulation or ordinance; (c) strikes, lockouts or other labor problems; (d) transportation delays; (e) unavailability of supplies or materials; (f) fire or explosion; (g) riot, military action or usurped power; or (h) actions or failures to act on the part of a governmental authority.
  - c) Assignment. Customer may not assign this Agreement without the express written approval of NEOGOV and any attempt at assignment in violation of this Section shall be null and void.
  - d) Entire Agreement; Amendment. This Services Agreement, documents incorporated herein, the applicable Ordering Document and Schedule(s), and Special Conditions (if any) constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous oral and written statements of any kind whatsoever made by the parties with respect to such subject matter. "Special Conditions" means individually negotiated variations, amendments and/or additions to this Service Agreement of which are either drafted into the Ordering Document, or incorporated into through reference in the Ordering Document. Any Customer proposal for additional or different terms, or Customer attempt to vary in any degree any of the terms of this Agreement is hereby objected to and rejected but such proposal shall not operate as a rejection of this Service Agreement and Ordering Document unless such variances are in the terms of the description, quantity, or price but shall be deemed a material alteration thereof, and this Service Agreement and the applicable Ordering Document shall be deemed accepted by the Customer without said additional or different terms. It is expressly agreed that the terms of this Agreement and any NEOGOV Ordering Document shall supersede the terms in any non-NEOGOV purchase order or other ordering document. Notwithstanding the foregoing, any conflict of terms shall be resolved by giving priority in accordance with the following order: 1) Special Conditions (if any), 2) NEOGOV Ordering Document, 3) NEOGOV Services Agreement NSA-v010119, Service Specifications, Schedules, and other incorporated documents, 4) Customer terms and conditions (if any). This Agreement supersedes the terms and conditions of any clickthrough agreement associated with the Services. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the party to be bound.
  - e) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of Customer's State of residence, without giving effect to conflict of law rules.
  - f) Severability. If any provision of this Agreement is held to be illegal or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that the remainder of this Agreement will continue in full force and effect and enforceable.
  - g) Independent Contractor; Third Party Agreements. The relationship of the parties shall be deemed to be that of an independent contractor and nothing contained herein shall be deemed to constitute a partnership between or a joint venture by the parties hereto or constitute either party the employee or agent of the other. Customer acknowledges that

nothing in this Agreement gives Customer the right to bind or commit NEOGOV to any agreements with any third parties. This Agreement is not for the benefit of any third party and shall not be deemed to give any right or remedy to any such party whether referred to herein or not.

- h) Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given either when personally delivered, one (1) business day following delivery by recognized overnight courier or electronic mail, or three (3) business days following deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested. All such communications shall be sent to (i) Customer at the address set forth in the Ordering Document and (ii) NEOGOV at 300 Continental Blvd., Suite 565, El Segundo, CA 90245.
- i) Waiver. The waiver, express or implied, by either party of any breach of this Agreement by the other party will not waive any subsequent breach by such party of the same or a different kind.
- j) Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together shall constitute one and the same instrument. Delivery of a copy of this Agreement bearing an original signature by facsimile transmission, by electronic mail or by any other electronic means will have the same effect as physical delivery of the paper document bearing the original signature.