



## SERVICES AGREEMENT APPLICABLE TO CUSTOMERS OF NEOED RESELLERS

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You are acquiring a subscription to a proprietary NEOED web-based software-as-a-service application (a “SaaS Application”) and Professional Services (collectively referred to as the “Services”) operated by Governmentjobs.com, Inc. (D/B/A/ NEOED), for and on behalf of itself and its subsidiaries PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360) (collectively, “NEOED” and, where applicable, its other affiliates; “Customer”, “you”, “your” means the client, customer, or subscriber identified in the Order Form (as defined below) from an unrelated third party authorized to sell such subscriptions (“Reseller”) under a separate agreement with NEOED (“Reseller Agreement”). In addition to any terms and conditions related to your use of the Services pursuant to any agreement by and between you and the Reseller, this Agreement contains the terms and conditions that govern your access to and use of the Services. NEOED is an express beneficiary of this Agreement, and in acquiring a subscription to the Service, you expressly acknowledge and agree that NEOED shall have the right to enforce this Agreement against you and that this Agreement constitutes the entire agreement and supersedes any and all prior agreements between you and NEOED with regard to your subscription to the Services or your access to or use thereof under this Agreement and your agreement between you and the Reseller.

By accepting this Agreement, either by accessing or using a Services, or authorizing or permitting any Authorized User (as defined below) to access or use a Service, you agree to be bound by this Agreement as of the date of such access or use of the Services (the “Effective Date”). If you are entering into this Agreement on behalf of a company, organization or another legal entity (an “Entity”), you are agreeing to this Agreement for that Entity and representing to NEOED that you have the authority to bind such Entity and its affiliates to this Agreement, in which case the terms “Customer”, “you,” “your” or a related capitalized term herein shall refer to such Entity and its affiliates. If you do not have such authority, or if you do not agree with this Agreement, you must not use or authorize any use of the Services. “Agreement” or “Services Agreement” shall be used to collectively refer to this Services Agreement Applicable to Customers of NEOED Resellers and any documents incorporated herein including the applicable Exhibits.

1. **Provision of Services.** Subject to the terms of this Agreement and the Order Form executed by the Reseller managing your subscription to the Service (the “Order Form”), NEOED hereby agrees to provide Customer with access to its SaaS Applications and Professional Services (defined below) included or ordered by Reseller in the applicable Order Form. Customer hereby acknowledges and agrees that NEOED’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 Reseller’s signature on an applicable Order Form or your use of the Services commences (the “Effective Date”). The Agreement supersedes any prior and contemporaneous discussions, agreements or representations and warranties.
2. **SaaS Subscription.**
  - a) **Subscription Grant.** Subject to and conditioned on Customer’s and its Authorized Users’ compliance with the terms and conditions of this Agreement, NEOED hereby grants to Customer a limited, non-exclusive, non-transferable, and non-sublicensable right to (a) onboard, access and use, and to permit Authorized Users to onboard, access and use, the SaaS Applications specified in the Order Form solely for Customer’s internal, non-commercial purposes; (b) generate, print, and download Customer Data (as defined below) as may result from any access to or use of the SaaS Applications; and (c) train Authorized Users in uses of the SaaS Applications permitted hereunder (these rights shall collectively be referred to as the “SaaS Subscription”) . “Authorized Users” means (i) Customer employees, agents, contractors, consultants (“Personnel”) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to the Reseller Agreement and (ii) for whom access to the Services has been purchased under a Reseller Agreement. You may not access the SaaS Applications if you are a direct competitor of NEOED or its affiliates. In addition, you may not access the SaaS Applications for purposes of monitoring their availability, performance, or functionality, or for any other benchmarking or competitive purposes. You shall be responsible for each Authorized User’s access to and use of the SaaS Applications and compliance with applicable terms and conditions of this Agreement.
  - b) **Subscription Term.** Unless otherwise specified in an applicable Order Form, SaaS Subscriptions shall commence on the Effective Date and remain in effect for twelve (12) consecutive months, unless terminated earlier in accordance with this Agreement (the “Initial Term”). Thereafter, SaaS Subscriptions shall automatically renew for successive twelve (12) month terms (each a “Renewal Term” and together with the Initial Term, collectively, the “Term”) unless Reseller delivers to NEOED, or NEOED delivers to Reseller, 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 the Order Form, or

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unless terminated earlier in accordance with this Agreement or the Reseller Agreement. The Term for the Services is a continuous and non-divisible commitment for the full duration regardless of any invoice schedule.

3. Customer Responsibilities. Customer will not, and will ensure its Authorized Users do not (a) make any of the Services available to anyone other than Authorized Users or use any Services for the benefit of anyone other than Customer and its Authorized Users, unless otherwise agreed in writing by the parties, (b) sell, resell, license, sublicense, distribute, make available, rent or lease any of the Services, or include any of the Services in a service bureau or outsourcing offering, unless otherwise agreed in writing by the parties, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of the privacy rights, publicity rights, copyright rights, or other rights of any person or entity, (d) use the Services to store or transmit code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses, (e) interfere with or disrupt the integrity or performance of the Services (including, without limitation, activities such as security penetration tests, stress tests, and spamming activity), (f) attempt to gain unauthorized access to the Services or its related systems or networks, (g) disassemble, reverse engineer, or decompile the Services, or modify, copy, or create derivative works based on the Services or any part, feature, function or user interface thereof, (h) remove the copyright, trademark, or any other proprietary rights or notices included within NEOED Intellectual Property (as defined below) and on and in any documentation or training materials, or (i) use the Services in a manner which violates the terms of this Agreement, any Order Form or any applicable laws.
4. Professional Services. “Professional Services” shall mean consulting, training services purchased by Reseller in an applicable Order Form or detailed in a Scope of Work (SOW) relating to assistance, training, deployment, usage, customizations, accessory data processing, and best practices of and concerning the SaaS Applications provided to you. Professional Services may be ordered by Reseller pursuant to a SOW and any written service specifications (“Service Specifications”) provided by NEOED to Reseller or Customer describing the work to be performed, fees, and any applicable milestones, dependencies, and other technical specifications or related information. Order Forms or SOWs must be signed by Reseller before NEOED shall commence work. If Reseller does not execute a separate SOW, the Services shall be provided as stated on the Order Form and this Agreement and documents incorporated herein shall control. Customer acknowledges that all Professional Services purchased by Customer from a Reseller must be utilized within twelve (12) months of the date of purchase from Reseller.
5. Payment Terms.
  - a) Reseller Fees. Unless otherwise stated in an Order Form or Customer’s agreement with Reseller, Customer shall pay all Subscription, Onboarding and Set-Up fees (“Subscription Fees”) and Professional Service fees (“Professional Service Fees”, collectively the “Fees”) within thirty (30) days of Customer’s receipt of Reseller’s invoice. If NEOED is notified by Reseller of your failure to pay amounts due to Reseller with respect to your Services; or Reseller fails to pay NEOED any amounts due under an Order Form within 30 days of receipt, NEOED may, without limiting its other rights and remedies, suspend the Services until such amounts are paid in full. You consent to these suspension rights and acknowledge and agree that NEOED shall have no liability to you of any kind with respect to any such suspension. Your sole recourse with respect to any such suspension shall be against Reseller.
  - b) Customer Purchase Orders. Any reference to a purchase order is solely for Customer's convenience in record keeping, and no such reference or any delivery of services to Customer following receipt of any purchase order shall be deemed an acknowledgement of or an agreement to any terms or conditions referenced or included in any such purchase order or in any way be deemed to modify, alter, supersede or supplement any Order Form or this Agreement.
6. Term and Termination.
  - a) Term. This Agreement shall remain in effect until all subscriptions to the SaaS Application have expired and/or full performance of Professional Services or other services detailed in a SOW, unless it is terminated earlier in accordance with this Agreement.
  - b) Termination for Cause: Effect of Termination. NEOED may terminate the Services immediately if Customer is in material breach of this Agreement and such breach is not cured within thirty (30) days following NEOED’s written specification of the breach. NEOED may suspend the Services or terminate the Services immediately in the event the Services or Customer’s use of the Services provided hereunder pose a security risk to the Services, NEOED or any third party, or become illegal or contrary to any applicable law, rule, regulation, or public policy. Upon expiration or any termination of the Services, Customer shall cease all use and refrain from all further use of the Services and other NEOED Intellectual Property. Unless otherwise specified, after expiration or termination of this Agreement NEOED may remove Customer Data from NEOED Services and without Customer consent or notice.

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7. Audit Rights. Upon reasonable notice, NEOED or its agent shall have the right to audit Customer's records relating to its compliance with this Agreement. Customer shall cooperate fully with this audit.
8. Maintenance; Modifications; Support Services.
  - a) Maintenance, Updates, Upgrades. NEOED maintains NEOED's hardware and software infrastructure for the Services and is responsible for maintaining the NEOED server operation and NEOED database security. NEOED 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 NEOED software that NEOED 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. "Upgrade" means any update of the Services or underlying NEOED software such as platform updates, and major product enhancements and/or new features that NEOED makes commercially available. NEOED shall have no obligation to provide Upgrades to customers. NEOED shall have no liability for, or any obligations to, investments in, or modifications to Customer's hardware, systems or other software which may be necessary to use or access the Services due to a modification, Update, or Upgrade of the Services.
  - b) Program Documentation; Training Materials. "Program Documentation" shall mean all user guides, training, and implementation material, and Service descriptions provided by NEOED or Reseller to Customer in connection with the Services. NEOED hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use, print, and distribute internally via non-public platforms, the Program Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services. Primary training of NEOED Services is conducted by self-review of online materials. NEOED's pre-built, online training consists of a series of tutorials to introduce the standard features and functions (the "Training Materials"). The Training Materials may be used as reference material by Customer Personnel conducting day-to-day activities.
  - c) Implementation. For Services requiring implementation, NEOED implementation supplements the Training Materials and is conducted off-site unless otherwise agreed in the Order Form. NEOED personnel will provide consultation on best practices for setting up the Services, answer Customer questions during the implementation period, and use commercially reasonable efforts to ensure Authorized User admins grasp the system. The length of the implementation time is dependent on the type of Service and the Customer's responsiveness. NEOED is not responsible or liable for any delay or failure to perform implementation caused in whole or in part by Customer's delay in performing its obligations hereunder and, in the event of any such delay, NEOED may, in its sole discretion, extend all performance dates as NEOED deems reasonably necessary.
  - d) Support. Phone support for the Services is available to Customer Monday through Friday, excluding NEOED holidays. Customer may submit a request for online support for the Services 24 hours a day, seven days a week and the NEOED support desk will acknowledge receipt of the request within a reasonable time. The length of time for a resolution of any problem is dependent on the type of case.
  - e) Limitations. Unless otherwise specified in the Order Form, this Agreement does not obligate NEOED to render any maintenance or support services that are not expressly provided herein, including, but not limited to data uploads, manual data entry, migration services, data conversion, refinement, purification, reformatting, SQL dump, or process consultation.
9. NEOED Intellectual Property. NEOED shall exclusively own all right, title and interest in and to all pre-existing and future intellectual property developed or delivered by NEOED 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 NEOED and all proprietary rights embodied therein (collectively, the "NEOED Intellectual Property"). This Agreement does not convey or transfer title or ownership of the NEOED Intellectual Property to Customer or any of its users. All rights not expressly granted herein are reserved by NEOED. Other than recommendation use or as required by law, all use of NEOED trademarks must be pre-approved by NEOED prior to use. Trademarks shall include any word, name, symbol, color, designation or device, or any combination thereof that functions as a source identifier, including any trademark, trade dress, service mark, trade name, logo, design mark, or domain name, whether or not registered.
10. Data Processing and Privacy.

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- a) Customer Data. “Customer Data” shall mean all data that is owned or developed by Customer, whether provided to NEOED by Customer or provided by a third party to NEOED in connection with NEOED’s provision of Services to Customer, including Personnel data collected, loaded into, or located in Customer data files maintained by NEOED. NEOED Intellectual Property, including but not limited to the Services and all derivative works thereof, NEOED Confidential Information, and Platform Data do not fall within the meaning of the term “Customer Data”. Customer exclusively owns all right, title, and interest in and to all Customer Data. Customer grants NEOED a license to host, use, process, display, create non-personal derivative works of, and transmit Customer Data to provide the Services. NEOED reserves the right to delete or disable Customer Data stored, transmitted or published by Customer using the Services upon receipt of a bona fide notification that such content infringes upon the Intellectual Property Rights of others, or if NEOED otherwise reasonably believes any such content is in violation of this Agreement.
- b) Platform Data. “Platform Data” shall mean any anonymized data reflecting the access or use of the Services by or on behalf of Customer or any user, including statistical or other analysis and performance information related to the provision and operation of the Services including any end user visit, session, impression, clickthrough or click stream data, as well as log, device, transaction data, or other analysis, information, or data based on or derived from any of the foregoing. NEOED shall exclusively own all right, title and interest in and to all Platform Data. Customer acknowledges NEOED may compile Platform Data based on Customer Data input into the Services. Customer agrees that NEOED may use Platform Data to the extent and in the manner permitted under applicable law.
- c) Data Processing Agreement. To the extent Customer uses the Services to target and collect personal information from users located in the European Union, European Economic Area, or Switzerland (the “EU”) or the United Kingdom (“UK”), or has Authorized Users accessing the Services from the EU or UK, the following NEOED Data Processing Addendum (“DPA”) is incorporated herein by reference:  
<https://www.neogov.com/hubfs/Legal%20Documents/Customer%20Data%20Processing%20Addendum-signed.pdf>
- d) Data Responsibilities.
  - i) NEOED will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by NEOED personnel except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by applicable law, or (c) as Customer expressly permits in writing. Customer acknowledges and agrees that it is commercially reasonable for NEOED to rely upon the security processes and measures utilized by NEOED’s cloud infrastructure providers.
  - ii) Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Data. NEOED 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, submitted, 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, external storage, disclosure, transfer, disposal, and other processing of any Customer Data. NEOED is not responsible for lost data caused by the action or inaction of Customer or Authorized Users. Unless otherwise mutually agreed in writing, Customer shall not maintain any financial, health, payment card, or similarly sensitive data that imposes specific data security or data protection obligations within the Services.
- e) Breach Notice. NEOED will notify Reseller or Customer of unauthorized access to, or unauthorized use, loss or disclosure of Customer Data within its custody and control (a “Security Breach”) within 72 hours of NEOED’s confirmation of the nature and extent of the same or when required by applicable law, whichever is earlier. Each party will reasonably cooperate with the other with respect to the investigation and resolution of any Security Breach. If applicable law or Customer’s policies require notification of its Authorized Users or others of the Security Breach, Customer shall be responsible for such notification.
- f) Data Export, Retention and Destruction. Customer may export or delete Customer Data from the Services at any time during the Term, using the existing features and functionality of the Services. Customer is solely responsible for its data retention obligations with respect to Customer Data. If and to the extent Customer cannot export or delete Customer Data stored on NEOED’s systems using the then existing features and functionality of the Services, NEOED will, upon Customer’s written request, make the Customer Data available for export by Customer or destroy the Customer Data. If Customer requires the Customer Data to be exported in a different format than provided by NEOED, such additional

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services will be subject to a separate agreement on a time and materials basis. Except as otherwise required by applicable law, NEOED will have no obligation to maintain or provide any Customer Data more than ninety (90) days after the expiration or termination of this Agreement.

11. Third Party Services. The Services may permit Customer and its Authorized Users to access services or content provided by third parties through the Services (“Third Party Services”). Customer agrees that NEOED is not the original source and shall not be liable for any inaccuracies contained in any content provided in any of the Third Party Services. NEOED makes no representations, warranties or guarantees with respect to the Third Party Services or any content contained therein. NEOED may discontinue access to any Third Party Services through the Services if the relevant agreement with the applicable third party no longer permits NEOED to provide such access.

12. Nondisclosure.

- a) Definition of Confidential Information. “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer’s Confidential Information includes its Customer Data. NEOED Confidential Information includes the NEOED Intellectual Property and the Services. The Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party.
- b) Obligations. The Receiving Party will: (i) use the same degree of care it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care); (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (iii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its employees and contractors who need access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not less protective of the Confidential Information than those herein.
- c) Exceptions. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure.
- d) Equitable Relief. The parties recognize and agree there is no adequate remedy at law for breach of the provisions of the confidentiality obligations set forth in this Section 12, that such a breach would irreparably harm the Disclosing Party and the Disclosing Party is entitled to seek equitable relief (including, without limitation, an injunction) with respect to any such breach or potential breach in addition to any other remedies available to it at law or in equity.

13. Representations, Warranties, and Disclaimers.

- a) Mutual Representations. 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) Service Performance Warranty. NEOED warrants that it provides the Services using a commercially reasonable level of care and skill. THE FOREGOING WARRANTY DOES NOT APPLY, AND NEOED STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD PARTY SERVICES.
- c) 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. NEOED DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF

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MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOED DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE, OR THAT ANY ERROR WILL BE CORRECTED.

- d) Disclaimer of Actions Caused by and/or Under the Control of Third Parties. NEOED DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOED 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 NEOED WILL USE COMMERCIALY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOED CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOED DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

## 14. Indemnification.

- a) Customer Indemnity. To the extent permitted by applicable law, Customer will defend and indemnify NEOED from and against claim, demand, suit or proceeding made or brought against NEOED (a) by a third party alleging that any Customer Data infringes or misappropriates such third party's intellectual property rights, (b) in connection with Customer's violation of any applicable laws, or (c) any claim or allegation by any third party resulting from or related to Customer's or any of its Authorized User's breach of Section 3 of this Agreement, in each case provided that Customer is promptly notified of any and all such claims, demands, suits or proceedings and given reasonable assistance and the opportunity to assume sole control over defense and settlement.
- b) NEOED Indemnity. Subject to subsections 14(b)(i) through 14(b)(iii) of this Section, if a third party makes a claim against Customer that any NEOED intellectual property furnished by NEOED and used by Customer infringes a third party's intellectual property rights, NEOED 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 NEOED, provided that NEOED is promptly notified of any and all such claims, demands, suits or proceedings and given reasonable assistance and the opportunity to assume sole control over defense and settlement.
- i) Alternative Resolution. If NEOED believes or it is determined that any of the Services may have violated a third party's intellectual property rights, NEOED may choose to either modify the Services to be non-infringing or obtain a license to allow for continued use. If these alternatives are not commercially reasonable, NEOED may end the subscription or license for the Services and refund to Reseller a pro-rata portion of any fees on the Order Form covering the whole months that would have remained, absent such early termination, following the effective date of such early termination.
- ii) No Duty to Indemnify. NEOED will not indemnify Customer if Customer alters the Service or Service Specifications, or uses it outside the scope of use or if Customer uses a version of the Service or Service Specifications which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Services or Service Specifications which was provided to Customer, or if the Customer continues to use the infringing material after the subscription expires. NEOED 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 NEOED. NEOED 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 NEOED. NEOED will not indemnify Customer for infringement caused by Customer's actions against any third party if the Services as delivered to Customer and used in accordance with the terms of the Agreement would not otherwise infringe any third-party intellectual property rights.
- iii) Exclusive Remedy. This Section provides the exclusive remedy for any intellectual property infringement claims or damages against NEOED.

## 15. Limitations of Liability.

- a) EXCLUSION OF DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) LOSS OF

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PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) COST OF REPLACEMENT GOODS OR SERVICES; (e) LOSS OF GOODWILL, LOSS OF BUSINESS OPPORTUNITY OR PROFIT, OR LOSS OF REPUTATION; OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

- a) CAPON MONETARY LIABILITY. EXCEPT FOR DAMAGES ARISING OUT OF LIABILITY WHICH CANNOT BE LAWFULLY EXCLUDED OR LIMITED, OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF NEOED INTELLECTUAL PROPERTY RIGHTS, THE TOTAL LIABILITY OF EITHER PARTY FOR ANY AND ALL CLAIMS AGAINST THE OTHER PARTY UNDER THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL NOT EXCEED THE AMOUNT OF ALL PAYMENTS ACTUALLY RECEIVED BY NEOED FROM RESELLER IN CONNECTION WITH YOUR SERVICES IN THE 12 MONTH PERIOD PRECEDING THE DATE OF THE EVENT INITIALLY GIVING RISE TO SUCH LIABILITY. 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.
16. Text Message Communications. NEOED may offer Personnel the opportunity to receive text messages regarding job application or hiring process reminders, applicant status updates, or other human resource related notices. Since these text message services depend on the functionality of third-party providers, there may be technical delays on the part of those providers. NEOED 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. NEOED 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. NEOED cannot vouch for the technical capabilities of any third parties to receive such text messages. To the extent you utilize text messaging features, NEOED shall not be responsible for your use of such features, and you shall indemnify NEOED with respect to any damages resulting from your use including but not limited any violations of applicable law. NEOED 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.
17. Publicity. Unless otherwise provided in the applicable Order Form, NEOED may identify Customer as one of its licensees and use Customer's logo for such purposes, subject to any trademark usage requirements specified by Customer.
18. Force Majeure. Neither party shall be liable for any damages, costs, expenses or other consequences incurred by the other party or by any other person or entity for any act, circumstance, event, impediment or occurrence beyond such party's reasonable control, including, without limitation: (a) acts of God; (b) changes in or in the interpretation of any law, rule, regulation or ordinance; (c) strikes, lockouts or other labor problems; (d) transportation delays; (e) unavailability of supplies or materials; (f) fire or explosion; (g) riot, pandemic, military action or usurped power; (h) actions or failures to act on the part of a governmental authority; (i) internet service interruptions or slowdowns, vandalism or cyber-attacks, or (j) any other cause beyond the reasonable control of such party.
19. Independent Contractor; No Third Party Beneficiary; Fulfillment Partners. 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 NEOED 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. NEOED may designate any third-party affiliate, or other agent or subcontractor (each a "Fulfillment Partner"), without notice to, or the consent of, Customer, to perform such tasks and functions to complete any Services.

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20. Entire Agreement: Amendment. This Services Agreement, the Exhibits hereto and documents incorporated herein, 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. 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 Agreement, and this Service Agreement shall be deemed accepted by the Customer without said additional or different terms. It is expressly agreed that the terms of this Agreement shall supersede the terms in any non-NEOED purchase order or other ordering document. This Agreement supersedes the terms and conditions of any clickthrough agreement associated with the Services. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the parties to be bound.
  
21. General. This Agreement shall be governed by and construed in accordance with the laws of the state of California, without giving effect to conflict of law rules. Any legal action or proceeding relating to this Agreement shall be instituted only in any state or federal court in Los Angeles, California. If any provision of this Agreement is held to be illegal or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that the remainder of this Agreement will continue in full force and effect. Provisions that survive termination or expiration are those relating to, without limitation, accrued rights to payment, acknowledgements and reservations of proprietary rights, confidentiality obligations, warranty disclaimers, and limitations of liability, and others which by their nature are intended to survive. All notices or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given either when personally delivered, one (1) business day following delivery by recognized overnight courier or electronic mail, or three (3) business days following deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested. All such communications shall be sent to (i) Customer at the address set forth in the Order Form and (ii) NEOED at the address set forth in the Order Form. 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. Customer may not assign this Agreement without the express written approval of NEOED and any attempt at assignment in violation of this Section shall be null and void. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.





**Exhibit A**  
**Government Customer Addendum**

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

1. **Applicability.** The provisions of this Addendum shall apply only if Customer is a Government Customer under the Services Agreement.
  
2. **Indemnification.** If Customer is prohibited by federal, state or local law from agreeing to hold harmless or indemnify third parties, Section 14(a) of the Services Agreement shall not apply to Customer, to the extent disallowed by applicable law.
  
3. **Open Records.** If the Customer is subject to federal or state public records laws, including laws styled as open records, freedom of information, or sunshine laws (“Open Records Laws”) the confidentiality requirements of Section 12 of the Services Agreement apply only to the extent permitted by Open Records Laws applicable to the Customer. This Section is not intended to be a waiver of any of the provisions of the applicable Open Records Laws, including, without limitation, the requirement for the Customer to provide notice and opportunity for NEOED to assert an exception to disclosure requirements in accordance with the applicable Open Records laws.



## **Exhibit B HRIS Addendum**

The following terms govern the use of the HRIS Services (the “HRIS Addendum”) as they relate to specific HRIS Services ordered by Customer in an Order Form. “HRIS Services” refers to the following SaaS Applications or any Add-Ons (defined below) or Professional Services related to such SaaS Applications: NEOED Core HR, NEOED Payroll, and NEOED Time and Attendance. If any provision within the HRIS Addendum directly conflicts with any other provision of the Services Agreement, the terms of this Addendum shall control.

**Implementation; Add-Ons; and Configuration Limitation.** Implementation of HRIS Services as detailed in the standard statement of work (“SOW”) and the agreed-upon scope document (“Scope”) will proceed in accordance with the estimated implementation schedule provided by NEOED and as further detailed in the SOW and Scope. Implementation services not included in the SOW and Scope may be subject to additional fees. Customer acknowledges that the timeline for the implementation schedule is an estimate only and dependent on a number of variables, including but not limited to Customer’s responsiveness to NEOED’s requests during the implementation process and Customer’s obligation to fill out the “Implementation Workbook” to facilitate the implementation process. In the event that Customer does not order the full suite of HRIS services offered, NEOED may be required to generate custom feeds for Customer for an additional fee. During implementation, Customer may elect optional add-on services that supplement the SaaS Applications (the “Add-Ons”). After completion of implementation, any subsequent changes Customer requests to the configuration of the HRIS Services will be at cost. Any services not included in the SOW and Scope or any Add-Ons may be purchased in a separate Order Form through Reseller.

NEOED will have no responsibility for nor any duty to review, verify, correct or otherwise perform any investigation as to the completeness, accuracy or sufficiency of any data or information input into the HRIS system by or on behalf of the Customer. Customer is solely responsible for ensuring that all data entered into and stored in the HRIS system is accurate and complete, and for correcting any errors or discrepancies in such data.

### **CORE HR and Benefits – Additional Terms**

The following terms shall apply to the extent that Customer is licensing the NEOED Core HR and HRIS Services involving benefits administration (the “Benefits Module”):

1. **Benefits Module Representative.** Customer shall designate one or more persons who shall serve as NEOED’s designated contact for the Benefits Module (the “Benefits Representative”). Customer represents and warrants to NEOED that the Benefits Representative has, and shall at all times have, the requisite authority to transmit information, directions and instructions on behalf of Customer, each “plan administrator” defined in Section 3(16)(A) of the ERISA and Section 414(g) of the Code and, if applicable, each “fiduciary” (as defined in Section 3(21) of ERISA) of each separate employee benefit plan covered by the Benefits Module (each, a “Benefit Plan”). The Benefits Representative also shall be deemed to have authority to issue, execute, grant, or provide any approvals, requests, notices, or other communications required or permitted under the Services Agreement or requested by NEOED in connection with the Benefits Module.
2. **Use of the Benefits Module.**
  - a) **HR Users.** Customer shall authorize an administrator to input information and access certain information relating to (i) the benefits offered by Customer and (ii) Customer’s employees/plan participants and their benefit options and elections as well as view certain personal and company information regarding company employees. The Benefits Module permits Customer’s employees/plan participants to make various benefits elections and to view and update certain personal and company information. It is Customer’s responsibility to submit instructions and information relating to the Benefits Module and to verify the accuracy and completeness of all such instructions and information submitted by Customer, employees, and plan participants.
  - b) **NEOED Not Fiduciary Advisor.** Customer acknowledges and agrees that, in making the Benefits Module available, NEOED is not acting as an investment advisor, broker-dealer, insurance agent, tax advisor, attorney or intermediary or a financial or benefit planner. NEOED is not providing any benefits, tax advice, or any information related thereto; Customer is responsible for making available all benefits and information related thereto referenced or included in the Benefits Module.
  - c) **NEOED’s Health Care Clearinghouse Status.** Customer expressly acknowledges and agrees that NEOED is not a

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“Health Care Clearinghouse”, a “Covered Entity” or a “Business Associate” within the meaning of HIPAA, and Customer shall not request or otherwise require NEOED to act as such. To the extent that NEOED is required to enter into any additional agreement as a result of Customer’s use of the Benefits module, Customer shall be responsible for any liability incurred by NEOED thereunder.

3. **Additional Termination Rights.** NEOED may terminate Core HR, the Benefits Module, or this Services Agreement immediately upon written notice to the Customer upon (a) the failure of Customer to maintain its Benefit Plan(s) in compliance with ERISA or other applicable laws or regulations or (b) NEOED’s determination that the exercise of any of the rights granted hereunder or the continued performance by NEOED of its obligations under this Services Agreement would cause NEOED to violate any applicable international, federal, state or local law(s) and/or regulation(s).
4. **ERISA.** The terms of this Section only shall apply to the extent Customer uses services governed, in whole or in part, by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”)
  - a) **NEOED’s Non-Fiduciary Status.** Customer expressly acknowledges and agrees that NEOED is not an “Administrator”, “Plan Sponsor,” or a “Plan Administrator” as defined in Section 3(16)(A) of ERISA, and Section 414(g) of the Internal Revenue Code of 1986, as amended (the “Code”), respectively, nor is NEOED a “fiduciary” within the meaning of ERISA Section 3(21), and Customer shall not request or otherwise require NEOED to act as such. NEOED shall not exercise any discretionary authority or control respecting management of any of Customer’s benefit or welfare plans (“Plan” or “Plans”) or management or disposition of any of Customer’s benefit or welfare Plan assets. NEOED shall not render investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of any Plan, nor does NEOED have any authority or responsibility to do so. NEOED has no discretionary authority or discretionary responsibility in the administration of the Plan(s).
  - b) **Use of NEOED’S Name.** Customer or the Plan Administrator must obtain the prior written consent of NEOED to insert any references to NEOED or its affiliates, or to NEOED Services, with respect to any communication or document pertaining to a Plan prepared by Customer, or on behalf of Customer (other than documents prepared by NEOED), unless the reference only identifies NEOED as a service provider or the reference is required in a filing or document required by ERISA or any other applicable law. Without limiting the foregoing, in no event may Customer or the Plan Administrator identify or refer to NEOED as “administrator”, “plan administrator”, “third-party administrator”, “plan sponsor”, “fiduciary”, “plan fiduciary” or similar title.
5. **Direct to Carrier Services.** Customer may elect direct to insurance carrier services (each a “Carrier Link”) at its option, each for an additional cost. Reconfiguration of existing Carrier Links, establishing new Carrier Links, and additional elections are available for an additional fee and may be completed by NEOED at NEOED’s then current rates. Customer may access and use the NEOED HRIS Services to electronically transmit employee data, including employee benefits enrollment data, to Customer’s carriers or other third parties authorized by Customer. NEOED’s ability to transmit data is subject to the provision of a current functional interface between HRIS Services and the carriers’ systems. NEOED will not be obligated to transmit Customer’s data to carriers if at any time Customer’s carriers fail to provide the proper interface as solely determined by NEOED. If Customer requires development of any special or customized interfaces to transmit such data, all work performed by NEOED to create such interfaces will be at NEOED’s then current fees for such services. NEOED makes no warranty that each carrier’s specifications will conform with NEOED’s current functional interfaces. In the event a carrier provides formats or specifications not supported by the NEOED HRIS Services, Customer will be solely responsible for transmitting the data to such carrier using an alternative system to be determined solely by Customer. Customer shall be responsible for promptly reviewing all records of transmissions to carriers and other reports prepared by NEOED for validity and accuracy according to Customer’s records, and Customer will notify NEOED of any discrepancies promptly after receipt thereof.

## **Payroll Services – Additional Terms**

The following terms shall apply to the extent that Customer licenses the NEOED Payroll Services Module.

1. **Payroll Processing and Tax Filing.** NEOED will deliver (i) payroll administrative services to Customer through NEOED’s payroll software as a service (the “Payroll Module”), (ii) at Customer’s election, direct deposit administration to those employees electing such service via ACH processing (collectively referred to as the “Payroll Services”), remit payroll taxes on Customer’s behalf to those federal, state, and local taxing jurisdictions designated by Customer, and file related tax returns (such as remitting of payroll taxes and filing of related tax returns, the “Tax Services”). At NEOED’s then current fees, NEOED may also process calendar year-end W-2 forms for Customer’s employees and Forms

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1099-MISC. NEOED will, and Customer hereby authorizes NEOED and Fulfillment Partners to, initiate debits or reverse wire transfers prior to each paydate for Customer's payroll ("Paydate") and credit the bank accounts of Customer's employees and others to be paid by Customer by direct deposit payment on Paydate (a "Payee"), all in compliance with the operating rules of the National Automated Clearing House Association and the terms and conditions hereof. For purpose of clarity, the parties understand and agree that NEOED does not print and/or send paychecks for or on behalf of Customer.

## 2. Documentation and Required Information.

- a) Authorization Forms; Proof of Name. Customer will be required to complete and submit the following documents in order to use the payroll processing components of Payroll Module: (i) power of attorney forms for each jurisdiction in which Customer will use the HRIS Services (the "POA"), (ii) Authorization to Debit/Credit Bank Account(s)/Obtain Bank Account Information (the "Authorization Form"), (iii) an IRS proof of legal name/FEIN and (iv) any authorization form for Fulfillment Partner authorizing debiting and crediting Customer's bank account.
- b) Proof of Existence. Customer will provide NEOED, and authorize NEOED to provide to Fulfillment Partner, Customer's (i) legal name, and "doing business as" name if applicable, (ii) physical street address (not a PO Box or PMB), (iii) phone number, (iv) Primary Business Activity (Nature of Business), (v) Duns Number (if one exists), (vi) Tax ID Number, (vii) estimated transaction count and dollar volume, (viii) number of employees, and (ix) supporting evidence via (A) either certified Articles of Incorporation, IRS EIN Letter, unexpired government issued business license, trust instrument or other government-issued evidence showing legal existence, and (B) either a voided business check, copy of utility bill, other evidence of legal name, physical address, DBA Name, or Tax ID.
- c) Permitted Disclosure Authorization. Customer hereby authorizes NEOED to (i) provide Customer's data to Fulfillment Partner for the purposes of performing the Payroll and Tax Services, and (ii) take such action as is necessary to perform the Payroll and Tax Services.
- d) Time and Attendance Information. Prior to commencement of Time and Attendance Services, Customer shall provide to NEOED all necessary information and guidance relating to its time and attendance policies and guidelines and coordinate with NEOED to establish standards for NEOED in its execution of the Time and Attendance Services. Customer agrees to promptly comply with NEOED's request for such additional documentation and understands that Payroll or Tax Services may be impaired or delayed if Customer does not comply with such request.

## 3. Customer Obligations, Representations, and Warranties. Customer acknowledges that NEOED's obligation to perform the HRIS Services is subject to Customer's obligations, representations, and warranties. Customer represents and warrants the following:

- a) Processing Authorization. Customer authorizes NEOED to process payroll entries on behalf of Customer. Customer acknowledges that NEOED is acting solely in the capacity of data processing agent and is not a source of funds for Customer. Customer shall be liable for each payroll related transaction initiated by NEOED on behalf of Customer, whether by electronic entry or wire transfer. NEOED, or its Fulfillment Partners, electronically transmit employee data, including employee payroll data, to designated third parties, and Customer authorizes NEOED and its Fulfillment Partners, to provide such transmission on Customer's behalf. Customer agrees that NEOED maintains specific Fulfillment Partner(s) for NEOED Payroll and Tax Services fulfillment during the term of and in accordance with this Services Agreement and that Customer shall not, directly or indirectly, supplement, substitute, or otherwise modify the provision of such Payroll and Tax Services without terminating this Services Agreement.
- b) Information Accuracy; Reliance; Change Notice. Customer shall input, maintain, and verify the accuracy of any and all information, including payroll and tax information, and Customer shall continually ensure that such information is kept complete, accurate, delivered on time, and up to date at all times. Customer acknowledges that NEOED and NEOED Fulfillment Partners will rely on the accuracy of this information as it performs its requested functions. NEOED shall not be responsible for any delays or inaccuracies in Customer's delivery of data to NEOED. Customer will notify NEOED immediately of any change in the processing information, including the Authorization Form. Customer will also obtain a voluntary written authorization from any Payee prior to the initiation of the first credit to the account of such Payee and shall provide upon demand a copy of such written authorization to NEOED.
- c) Processing Deadlines. Unless otherwise agreed to by the Parties, Customer will: (a) complete and execute all required documentation so that NEOED or Fulfillment Partner may withdraw funds from Customer's account to

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process direct deposit payrolls, (b) input or report all relevant payroll data for ACH transmissions to NEOED no later than 2:00 p.m. Pacific Standard Time (PST) three (3) banking days prior to each Paydate, (c) input or report all other relevant payroll data to NEOED no later than 2:00 p.m. Pacific Standard Time (PST) two banking days prior to each Paydate, (d) have available in Customer's bank account good, collectable funds in a sufficient amount to cover funding disbursements, checks, direct deposits, tax payments, or recurring payments to third parties no later than the opening of business (i) two banking days prior to each Paydate for debits by electronic entry, and (ii) two banking days prior to each Paydate for funding by wire transfer, and (e) compare all reports on credits or debits initiated by Customer to NEOED's records and promptly notify NEOED of any discrepancies. In the event Customer does not meet the deadlines specified herein, NEOED shall make reasonable efforts to complete processing prior to the Paydate; however, NEOED makes no representation or warranty that payroll will process by the Paydate where Customer fails to provide all required documentation by the deadline. Additional Fees may apply for expedited processing.

- d) Customer Review. Within seven (7) business days after receipt from NEOED, Customer will promptly conduct a detailed review of all payroll and tax registers produced by NEOED or Fulfillment Partners for accuracy, validity and conformity with Customer's records. Customer will promptly notify NEOED of any error or omission discovered by Customer in any payroll registers, disbursement records, payroll or tax reports and documents produced by NEOED or Fulfillment Partners, or any discrepancy between the information provided by NEOED or Fulfillment Partners, and Customer's records. Customer will not rely on any record, report or document containing any discovered error, omission or discrepancy until such error, omission or discrepancy, has been corrected. Customer will be responsible for any consequences resulting from instructions Customer may give to NEOED or Fulfillment Partners with regard to HRIS Services or any payroll registers, disbursement records, reports and documents prepared by NEOED based on information provided by Customer.
  - e) Document Retention. Customer will retain copies of all information entered into or generated by the HRIS Services and Customer shall be solely responsible for maintaining such data, and all tax records, in accordance with any legal obligations.
  - f) Special Processing. Customer understands and acknowledges that administering processing dates beyond standard payroll dates, and correcting, amending, or cancelling payroll entries or mistaken reversals (collectively "Special Processing"), are complicated, highly manual, and may result in additional expenses, tax consequences, and penalties. Therefore, Special Processing may be subject to additional NEOED Fees.
  - g) Recovery Cooperation. Customer agrees to undertake reasonable efforts to cooperate with NEOED and any other parties involved in processing any transactions hereunder to recover funds credited to any employee as a result of an error made by Customer, NEOED, or Fulfillment Partners, or any other loss recovery efforts and in connection with any actions that the relevant party NEOED may be obligated to defend or elects to pursue against any third-party.
  - h) Compliance with Laws. Customer acknowledges that, in order to put into effect the Payroll Services which include ACH transactions, Customer will be the Originator of the ACH transactions and will follow and be bound by the rules for ACH Originators as adopted from time to time by the NACHA. Customer agrees that it has assumed the responsibilities of an Originator under the ACH Rules and acknowledges that entries may not be initiated in violation of the laws of the United States. Customer agrees to be compliant with laws. Customer will comply with all laws including, but not limited to, the U.S. Patriot Act, the Unlawful Internet Gambling Enforcement Act, the Bank Secrecy Act, and Anti Money Laundering laws.
4. Effect of Failed Funds. If Customer fails to pay the taxes, direct deposits, employee payments or other charges, including fees, then Customer agrees to pay NEOED for all costs of collection, including reasonable attorney fees, which may be associated with collection of the amounts due. NEOED also may, at its sole option, terminate this Services Agreement and withhold or suspend any work in progress. This is in addition to any other rights NEOED may have under this contract or under law. NEOED also reserves the rights to reverse employee transactions and /or tax payments for which funds have not been received from Customer.
  5. Rejection of Entries. NEOED shall reject any file or entry that does not comply with the requirements of this Services Agreement, the NACHA Rules, or uses an improper SEC Code, or if NEOED suspects fraud or illegal or improper activity. NEOED shall have no liability.
  6. Resolution of Error Exceptions. For the purposes of this Section, the term "error exception(s)" shall mean any data requirements within the HRIS Services that, based on Customer's configuration, have been assigned a severity level designation of "error"; such designation shall create a requirement for an operational task to be completed by Customer

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in order to proceed with Customer's processing, including processing of Customer payroll for the designated period. Failure to resolve an error exception will prevent Customer's payroll from being processed as scheduled. NEOED is not obligated to clear any such error on behalf of Customer.

7. NEOED Errors and Omissions Warranty. NEOED warrants it will use commercially reasonable efforts to properly transmit the appropriate reports, data, or filings based on the information provided in Customer's HRIS Services. In addition, NEOED will use commercially reasonable efforts to rectify any Customer report, data, or filing error, including any deposit, corrected or reversal debit or credit entry, for which NEOED is solely responsible; provided that, in each case Customer advises NEOED no later than ten (10) business days after the occurrence of such errors or omissions. This is Customer's sole remedy in the event of a breach of the foregoing warranty. Notwithstanding the foregoing, Customer will be solely responsible for payment of all tax penalties, interest, and additional NEOED fees if: (i) the penalty is the result of incorrect, inaccurate, or incomplete information Customer provides to NEOED, (ii) Customer has insufficient funds in Customer's designated bank account to process HRIS Services, or (iii) a party other than NEOED, or a NEOED Fulfillment Partner, fails to perform services in a timely manner.
8. Additional Liability and Warranty Limitations. NEOED, ITS PROVIDERS, AND FULFILLMENT PARTNERS, AND THE OFFICERS, DIRECTORS, EMPLOYEES, AND SUPPLIERS OF EACH WILL NOT BE LIABLE UNDER ANY CIRCUMSTANCES OR UNDER ANY THEORY OF RECOVERY (WHETHER IN CONTRACT OR TORT OR OTHERWISE) FOR (i) ANY FEES, COSTS, CHARGES, OR ANY DAMAGES CAUSED BY LOST SHIPMENT OR TRANSMISSION OF CHECKS OR ANY FORM OF DISBURSEMENT INCLUDING, BUT NOT LIMITED TO, STOP PAYMENT FEES, REPRINTING OR RETRANSMISSION COSTS, SHIPPING CHARGES, OR CONSEQUENTIAL EXPENSES AND DAMAGE, (ii) ANY CHARGES, FEES, OR EXPENSES INCURRED BY CUSTOMER, CUSTOMER'S AGENTS, OR EMPLOYEES WHICH ARE DUE TO LATE PAYCHECKS, REGARDLESS OF WHETHER SUCH PAYCHECKS ARE TO BE PREPARED AND DELIVERED BY NEOED, FULFILLMENT PARTNERS, OR BY CUSTOMER, (iii) NON-PERFORMANCE OF HRIS SERVICES WHICH HAVE BEEN SUSPENDED DUE TO FAILURE OR DELAY IN PAYMENT OF FEES OWED UNDER THIS SERVICES AGREEMENT, AND (IV) FOR ANY DAMAGES TO CUSTOMER ARISING FROM OR IN CONNECTION WITH A DECISION BY NEOED TO SUBMIT FILES FOR PROCESSING AFTER CUSTOMER HAS FAILED TO CLEAR OUTSTANDING ERROR EXCEPTIONS WITHIN THE SPECIFIED DEADLINE.
9. Additional Termination Rights.
  - a) Termination for Default. Customer's breach of the NACHA Rules, violation of any applicable federal or state regulation, or failure to maintain account funding as required by this Services Agreement (and as a result any debit to Customer's account is returned), shall each constitute a default. Upon default, NEOED may suspend the HRIS Services or terminate this Services Agreement in a manner that permits NEOED to comply with the NACHA Rules. Termination is effective immediately upon written notice of such termination to Customer. The right to suspend the HRIS Services and/or terminate this Services Agreement is in addition to any other rights and remedies provided under this Services Agreement or otherwise under law.
  - b) Effect of Termination. No termination of this Services Agreement shall release Customer from any obligation to pay NEOED any amount that has accrued or becomes payable at or prior to the date of termination. No suspension of HRIS Services shall release Customer from any obligation to pay NEOED any amounts due under this Services Agreement. Customer shall not be entitled to any refund of any amounts paid to NEOED as a result of a termination based on Customer's default. Notwithstanding the termination of this Services Agreement, the parties shall continue to comply with the NACHA Rules with respect to transmissions pursuant to this Services Agreement.

## Exhibit C Integration Terms Addendum

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

1. **Provision of Integrations.** Subject to and conditioned on compliance with all terms and conditions set forth in this Agreement, NEOED hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable license during the applicable Term to use and/or access the Affiliated API as described in this Agreement, or the Open API for communication between Customer’s human resource related third application(s) that will interoperate with NEOED Services (collectively these uses shall be referred to as the “API” or “Integration”). Customer acknowledges there are no implied licenses granted under this Agreement. NEOED reserves all rights that are not expressly granted. Customer may not use the API for any other purpose without our prior written consent. Customer may not share the API with any third party, must keep the API and all log-in information secure, and must use the API key as Customer sole means of accessing the API.
2. **Integration Intellectual Property.** All right, title, and interest in the API and any and all information, data, documents, materials, inventions, technologies, know-how, descriptions, requirements, plans, reports, works, intellectual property, software, hardware, systems, methods, processes, and inventions, customizations, enhancements, improvements and other modifications based on or derived from the API are and will remain, as appropriate, with NEOED. All right, title, and interest in and to the third-party materials, including all intellectual property rights therein, are and will remain with their respective third-party rights holders subject to the terms and conditions of the applicable third-party license agreements. Customer has no right or license with respect to any third-party materials except as expressly licensed under such third-party license agreements.
3. **Integration Terms of Use.** Except as expressly authorized under this Agreement, you may not remove any proprietary notices from the API; use the API in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; combine or integrate the API with any software, technology, services, or materials not authorized by NEOED; design or permit Customer Application(s) to disable, override, or otherwise interfere with any NEOED-implemented communications to end users, consent screens, user settings, alerts, warning, or the like; use the API in any of Customer Application(s) to replicate or attempt to replace the user experience of the Services; or attempt to cloak or conceal Customer identity or the identity of Customer Application(s) when requesting authorization to use the API.
4. **Customer Integration Responsibilities.** Customer, Customer developed web or other software services or applications, and Customer third-party vendors that integrate with the API (collectively the “Customer Applications”), shall comply with all terms and conditions of this Agreement, all applicable laws, rules, and regulations, and all guidelines, standards, and requirements that may be posted on <https://api.neogov.com/connect/index.html> and/or <https://apidocs.powerdms.com> from time to time. In addition, Customer will not use the API in connection with or to promote any products, services, or materials that constitute, promote, or are used primarily for the purpose of dealing in spyware, adware, or other malicious programs or code, counterfeit goods, items subject to U.S. embargo, unsolicited mass distribution of email (“spam”), multi-level marketing proposals, hate materials, hacking, surveillance, interception, or descrambling equipment, libelous, defamatory, obscene, pornographic, abusive, or otherwise offensive content, stolen products, and items used for theft, hazardous materials, or any illegal activities.
5. **Cooperation.** If applicable, Customer shall timely provide such cooperation, assistance, and information as NEOED reasonably requests to enable the API. NEOED is not responsible or liable for any late delivery or delay or failure of performance caused in whole or in part by Customer’s delay in performing, or failure to perform, any of its obligations under this Agreement. NEOED will provide Customer maintenance and support services for API issues arising from the information technology designed, developed, and under then current control of NEOED. NEOED shall have no obligation to provide maintenance or support for issues arising from the inaction or action of Customer or third parties of which are outside NEOED control.
6. **Provision of Open API.** In the event license fees or other payments are not due in exchange for the right to use and access the Open API, you acknowledge and agree that this arrangement is made in consideration of the mutual

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covenants set forth in this Agreement, including, without limitation, the disclaimers, exclusions, and limitations of liability set forth herein. Notwithstanding the foregoing, NEOED reserves the right to change for access with effect from the start of each Renewal Term by giving Customer at least ninety (90) day notice prior to commencement of a Renewal Term.

7. **API Key.** In order to use and access the Open API, you must obtain an Open API key through the registration process. Customer agrees to monitor Customer Applications for any activity that violates applicable laws, rules and regulation, or any 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 NEOED may update or modify the Open API from time to time and at our sole discretion and may require you to obtain and use the most recent version(s). You are required to make any such changes to Customer Applications that are required for integration as a result of such Update at Customer sole cost and expense. Updates may adversely affect how Customer Applications communicate with the Services.
8. **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 NEOED. If this occurs, NEOED reserves the right to throttle your API connections, or suspend or terminate your access to the Open API. NEOED shall use reasonable efforts to provide Customer notice and reasonable time to cure prior to taking such actions.
9. **Open API Limitations.** TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL NEOED 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 NEOED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES AND WHETHER OR NOT SUCH LOSS OR DAMAGES ARE FORESEEABLE OR NEOED WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH CLAIM.
10. **Open API Termination.** Notwithstanding the additional Termination rights herein, NEOED may immediately terminate or suspend Customer access to Open APIs in our sole discretion at any time and for any reason, with or without notice or cause. In addition, your Open API subscription will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement.



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