

## APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3536

Between Direct Line to Compliance, Inc. and [Licensee]  
**COMPUTER SOFTWARE LICENSE AND MAINTENANCE AGREEMENT**

This software license and maintenance agreement, including the attached exhibits ("Agreement"), is made and entered into as of the \_\_\_\_ day of \_\_\_\_, \_\_\_\_\_, 2016 ("Effective Date") by and between

Direct Line to Compliance, Inc.  
9555 West Sam Houston Pkwy, Ste. 333  
Houston, Texas 77099

[Licensee]  
PO Box 000  
Address  
City, State ZIP

(hereinafter referred to as "Licensor")

(hereinafter referred to as "Licensee")

WHEREAS Licensor is engaged in the business of developing, licensing, and maintaining computer software; and

Agreement as further detailed in Exhibit A and includes Updates and Upgrades.

WHEREAS Licensee wishes to license such software and to obtain certain services from Licensor in connection with the installation, use, and maintenance of the software; then

"Subscription" means the service for the provision of data for use in conjunction with Software.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

"Support" means technical support provided onsite, by telephone, or by electronic mail for Software to remedy defects in Software not otherwise covered under warranty;

### 1 DEFINITIONS

"Update" means a Software patch issued by Licensor to correct defects or deficiencies in Software or to provide minor modifications that do not substantially change the basic character or structure of Software.

"Acceptance Date" means the date on which Licensee has accepted the software pursuant to Article 6 – Acceptance as stated in its written notice to Licensor.

"Upgrade" means an incremental release of Software that provides significant improvements (not merely corrections for Software defects and deficiencies) and changes the basic character or structure of Software.

"Affiliate" means:

- (i) "Affiliate" is defined as a corporation or partnership in which Licensee has an interest (direct or indirect) or which has an interest in Licensee (direct or indirect).

"User" means an individual who is entitled to access and use Software pursuant to this Agreement. Users shall include personnel who are providing services to Licensee, or on its behalf, including but not limited to consultants, contractors and agents.

"Confidential Information" means:

- (i) any information including, but not limited to, business plans, financial information, technical and scientific information and performance information not in the public domain, whether in oral, written, or other form, that is identified as proprietary or confidential or provided under circumstances that reasonably indicate that the information is proprietary or confidential; and
- (ii) Software.

### 2 LICENSE

"day" means a calendar day.

"Documentation" means the documentation described in Clause 8.1.

"Maintenance" means Licensor's provision of:

- (i) Updates; and
- (ii) Upgrades (if Licensee has subscribed to and paid for Upgrades).

"Personal Information" means information about an identifiable individual, as defined by applicable law, (but not including the name, title, business address, or business telephone number of an employee of an organization), collected, received, handled, or processed by Licensor under this Agreement.

#### 2.1 Grant of License

- (i) Subject to the terms and conditions of DIR Contract No. DIR-TSO-3536 and this Agreement, Licensor grants Licensee and Affiliates a nonexclusive license to install and use Software and Documentation at the location or locations listed in Exhibit A on a named user, license basis for the term specified in Clause 3.1.

- (ii) Nothing in this Agreement grants Licensee any additional interest in Software except as stated in this Agreement and Software is and shall remain the property of Licensor.

#### 2.2 Authorized Users

- (i) [Named User Licenses] Licensee shall maintain records, locations, of Users to ensure compliance with Exhibit A.

#### 2.3 Backups

"Privacy Officer" means an employee of Licensee responsible for the administration of privacy policies and procedures to meet applicable federal and provincial legislation related to Personal Information.

"Software" means a computer program, application, tool, or database that Licensor has licensed to Licensee and Affiliates pursuant to this

Licensee may make a reasonable number of copies of Software for backup and disaster recovery purposes.

## 2.4 Limitations on Use

Except as otherwise permitted under this Agreement, Licensee shall have no right and agrees not to:

- (i) disassemble, reverse compile, or reverse engineer Software or any portion thereof;
- (ii) attempt to discover or modify in any way the underlying source code of Software;
- (iii) create a work that incorporates the source code of Software, in whole or in part, such as a revision, modification, translation, abridgement, condensation, expansion, compilation, or any other form in which the source code of Software may be recast, communicated, transformed, included, or adapted unless specifically permitted by written authorization of Licensor; or
- (iv) except as permitted by this Agreement, knowingly allow any individual or entity under the control of Licensee to access Software without a valid license from Licensor for such access.

## 3 TERM

3.1 The term of Software license shall be in accordance with Section 2 of DIR Contract No. DIR-TSO-3536. Termination will be handled in accordance with Appendix A, Section 11B of DIR Contract No. DIR-TSO-3536.

3.2 If Licensee has elected to purchase Maintenance, the term for Maintenance shall be for a period of one year commencing on any anniversary of the Acceptance Date but no sooner than the first anniversary unless otherwise stipulated in Exhibit B.

## 4 DELIVERY AND INSTALLATION

### 4.1 Delivery and Risk of Loss

Licensor shall update Software, Documentation, Upgrades, and Updates for Licensee at the location or locations designated in Exhibit A unless otherwise mutually agreed to by the parties. Any such delivery of Software, Documentation, Upgrades and Updates will be considered delivered and accepted as stipulated in 6.1(i) (a) herein.

### 4.2 Installation by Licensor

If Licensee has requested Licensor to install Software, Licensor shall provide fully qualified and experienced personnel capable of installing Software in a diligent and workmanlike manner. Unless otherwise specified in Exhibit B, there shall be no additional charge for said installation.

### 4.3 Installation by Licensee

If Licensee has elected to install Software using its own resources, at Licensee's request, Licensor shall provide reasonable assistance from fully qualified and experienced personnel by telephone from 8:00 a.m. to 5:00 p.m. [Mountain Time], Monday through Friday (except for statutory holidays observed by Licensor). Unless otherwise specified in Exhibit D, there shall be no additional charge for said installation.

## 5 PAYMENT AND INVOICING

### 5.1 Payment Terms

All undisputed fees to Licensor shall be payable in accordance with Appendix A, Section 8J of DIR Contract No. DIR-TSO-3536.

## 5.2 License Fee

Licensee shall pay a fee to Licensor as stipulated in Exhibit B for Software license and in accordance with Appendix C of DIR Contract No. DIR-TSO-3536. Licensor agrees to pass to Licensee any price reductions throughout the initial term and any renewals thereafter in accordance with Appendix A, Section 8C of DIR Contract No. DIR-TSO-3536.

## 5.3 Maintenance Fee

- (i) Licensee shall pay a fee to Licensor as stipulated in Exhibit B for Maintenance and in accordance with Appendix C of DIR Contract No. DIR-TSO-3536.
- (ii) If Licensee has terminated Maintenance and elects to re-establish Maintenance, it may do so by paying the maintenance re-establishment fee stipulated in Exhibit B and in accordance with Appendix C of DIR Contract No. DIR-TSO-3536.

## 6 ACCEPTANCE TESTING

### 6.1 Acceptance Testing

- (i) Licensee shall have thirty (30) days to acceptance test Software. Such acceptance tests shall be conducted at Licensee's site or sites and on its equipment to:
  - (a) determine whether Software performs according to the Documentation, specifications

### 6.2 Failure to Complete Acceptance Testing Successfully

- (i) If, in Licensee's sole discretion, Licensee has determined that Software has not successfully completed the acceptance test, Licensee shall promptly notify Licensor in writing.
- (ii) Upon providing notice as stipulated in Clause 6.2.(i), Licensee may either:
  - (a) return Software and Documentation to Licensor and Licensor shall promptly return to Licensee all amounts paid to Licensor; or
  - (b) request Licensor to make the necessary corrections and modifications in Software to enable Software to be retested no later than thirty (30) days from the date of receipt of Licensee's first notice of failure.

### 6.3 Use Shall Not Constitute Acceptance

In no event shall Licensee's use of Software during any phase of acceptance testing constitute acceptance of Software.

## 7 MAINTENANCE, SUPPORT, SUBSCRIPTION

### 7.1 Maintenance

If Licensee elects to obtain Maintenance, Licensor shall provide Updates as they become available for general release. Updates shall be provided electronically (for example, via file transfer protocol).

### 7.2 Support

If Licensee elects to obtain Support, Licensor shall provide fully qualified and experienced personnel to analyze and remedy any defects in Software in a timely, diligent,

and workmanlike manner. Such personnel shall be available by telephone, as a minimum, from 8:00 a.m. to 5:00 p.m. [Central Time], Monday through Friday, statutory holidays excepted. Furthermore, Licensor shall fulfill other Support requirements as detailed in Exhibit D.

### 7.3 Response Times

Unless otherwise stipulated in Exhibit D, Licensor shall respond by telephone or electronic mail within twenty-four (24) hours, Saturdays, Sundays, and statutory holidays excepted, to any reported defect in Software. Said response shall provide either an:

- (i) analysis and solution to the reported defect; or
- (ii) estimate of when an analysis and solution to the defect will be available.

### 7.4 Supported Versions of Software

Unless otherwise authorized in writing by Licensee, Licensor shall provide Maintenance, as a minimum, on:

- (i) the current version of Software;
- (ii) the major version of Software immediately previous to the current version of Software;

## 8 DOCUMENTATION AND TRAINING

### 8.1 Documentation

In addition to any other documentation associated with Software and commercially available to Licensor's customers such as user manuals, operating manuals, specifications, and training materials, Licensor shall provide the documentation listed in Exhibit A.

### 8.2 Training

If Licensee has requested training from Licensor, Licensor shall provide fully qualified and experienced personnel to provide said training at the rates stipulated in Exhibit B and/or E and in accordance to Appendix C of DIR Contract No. DIR-TSO-3536.

## 9 WARRANTIES

### 9.1 Media Defects

Software media shall be free from defects for a period of one year from the date of delivery to Licensee and any additional renewals thereafter. Licensor warrants that if said media is defective, Licensor shall provide a replacement Software media at no charge after receipt of notice from Licensee.

### 9.2 Function and Features

Licensor warrants that Software will have the functions and features as specified in any Licensor's Documentation. For a period of one (1) year from the Acceptance Date, and any additional renewals thereafter Licensor shall diligently remedy any deficiencies in Software's functions and features after its receipt of written notice from Licensee.

### 9.3 Performance

Licensor warrants that Software will perform as specified in any Documentation for a period of one (1) year from the Acceptance Date and any additional renewals thereafter. Licensor shall diligently remedy any deficiencies in

Software's performance after its receipt of written notice from Licensee.

### 9.4 Compatibility

Licensor warrants that Software shall be compatible with other computer software and hardware as stipulated in any Documentation and for a period of one (1) year from the Acceptance Date and any additional renewals thereafter. Licensor shall diligently remedy any deficiencies in Software's compatibility after its receipt of written notice from Licensee.

### 9.5 Limitation of Warranty

Notwithstanding any other provision of this Agreement, Licensor does not warrant that Software will be error free nor fit for any particular purpose nor does Licensor warrant the merchantability of Software. Furthermore, and subject to the warranties given in this Article 9, Licensor does not warrant that all defects can be or will be remedied; however, Licensor will use reasonable efforts to remedy all defects reported by Licensee.

### 9.6 Intellectual Property

Licensor warrants that all intellectual property in Software is in the legal and beneficial ownership of Licensor and, when registerable, is registered in the name of Licensor.

## 10 INDEMNIFICATION – INTELLECTUAL PROPERTY

### 10.1 Indemnification

Indemnification will be handled in accordance to Appendix A, Section 10A of DIR Contract No. DIR-TSO-3536.

## 11 LIMITATION OF LIABILITY

### 11.1 Limitation of Liability

Limitation of Liability will be handled in accordance to Appendix A, Section 10K of DIR Contract No. DIR-TSO-3536.

## 12 MODIFICATIONS AND PROPRIETARY RIGHTS

### 12.1 Licensor Modifications

Licensor shall retain full title to all modifications and additions that it has made to Software. If Licensee has funded such modifications, then Licensor grants to Licensee a fully paid-up license to use said modifications and additions on the same license basis as stipulated in Article 2.

### 12.2 Licensee Modifications

Licensee shall retain full title to any modifications and additions that it makes to Software.

## 13 TERMINATION

### 13.1 Termination

Termination will be handled in accordance to Appendix A, Section 11B of DIR Contract No. DIR-TSO-3536.

**14 PROHIBITION ON PUBLICITY**

Neither party shall use the other party's legal name, trade name, brand, or trademark in any:

- (i) advertising;
- (ii) promotional, marketing, or publicity materials;
- (iii) Web site; or
- (iv) any similar fashion without the prior written consent of the other party.

**15 CONFIDENTIALITY**

**15.1 Confidentiality**

Confidentiality will be handled in accordance to Appendix A, Section 10H of DIR Contract No. DIR-TSO-3536.

**16 PRIVACY OF PERSONAL INFORMATION**

If applicable, during the term of this Agreement and any renewal thereof:

**16.1 Policies and Procedures**

Licensor acknowledges that Licensee will or has developed policies and procedures with respect to its own collection, use, disclosure, retention, and destruction of Personal Information. Licensor agrees to review Licensee's policies (copies of which shall be provided to Licensor) and advise of any material discrepancies between such policies and Licensor's own policies. In the event there are material discrepancies, the parties shall meet and develop an approach acceptable to both parties to minimize such discrepancies. Licensor agrees to protect, and not disclose, Licensee's Personal Information with procedures and security safeguards that provide at least the same level of protection as afforded by Licensee with respect to the same or similar use of its Personal Information. Licensor agrees that, from time to time, it will review its procedures and security safeguards, through risk assessments, benchmarking, or other means, to determine whether they are still consistent with those of Licensee's (appropriate to the risks and consistent with best practices) and, if not, agrees to meet with Licensee to decide on appropriate procedures and safeguards to protect any Personal Information handled by Licensor under this Agreement.

**16.2 Breach of Confidentiality**

If Licensor becomes aware of any breach of confidentiality and privacy relating to the Personal Information it handles on behalf of Licensee, it shall, within forty-eight (48) hours of discovering the breach, notify Licensee's designated Privacy Officer of same. Further, in the event Licensor receives a request from an individual for access to, or information about, Personal Information or a complaint about how his or her Personal Information has been handled, Licensor shall immediately notify the Privacy Officer, with sufficient details of such request or complaint and the response thereto, to ensure Licensor is responding appropriately.

**17 ASSIGNMENT**

Assignment will be handled in accordance to Appendix A, Section 4E of DIR Contract No. DIR-TSO-3536.

**18 SOURCE CODE**

- (i) In the event that Licensor becomes insolvent or bankrupt or is the subject of insolvency proceedings;

- (ii) fails to provide Maintenance, Support, or Subscription that Licensee has paid for and after Licensee has notified Licensor in writing of such failure; or
- (iii) ceases operations or plans to cease operations then, upon Licensor's receipt of written notice from Licensee, Licensor shall immediately provide to Licensee the source code for Software in a machine readable format.

**19 AUDIT**

**19.1 Audit Notice**

Licensor shall have the right to conduct an audit during Licensee's normal business hours, at its own expense and subject to thirty (30) days' advance written notice and Licensee's standard security provisions, at Licensee's premises to confirm compliance with Exhibit A. No more than one such audit per year shall be permitted.

**19.2 Additional License Required**

If the audit indicates that Software usage exceeds the number permitted under Exhibit A and Licensee does not provide evidence to the contrary, Licensor may invoice Licensee for the additional required Software licenses at the rates provided in Appendix C of DIR Contract No. DIR-TSO-3536 Licensee shall pay for the additional Software licenses in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-3536.

**20 TAXES**

Taxes will be handled in accordance to Appendix A, Section 8E of DIR Contract No. DIR-TSO-3536.

**21 SURVIVAL OF OBLIGATIONS**

The following clause and articles shall survive the expiration or termination of this Agreement:

- (i) Clause 5.1 – Payment Terms;
- (ii) Articles 9 – Warranties;
- (iii) Article 10 – Indemnification – Intellectual Property;
- (iv) Article 11 – Limitation of Liability;
- (v) Article 15 – Confidentiality;
- (vi) Article 16 – Privacy of Personal Information;
- (vii) Article 19 – Audit;
- (viii) Article 21 – Survival of Obligations; and
- (ix) such definitions and terms and conditions in this Agreement that are necessary to give effect to the foregoing clause and articles.

**22 MISCELLANEOUS**

**22.1 Notices**

Notices will be handled in accordance to Appendix A, Section 12 of DIR Contract No. DIR-TSO-3536.

**22.2 Waiver**

No waiver by or on behalf of either party of any breach of any provision of this Agreement shall take effect or be binding upon that party unless expressly waived in writing. Any waiver so given shall extend only to the particular breach waived and shall

**22.3 Benefits of Successors and Assigns**

This Agreement shall ensure to the benefit of and be binding upon the parties and their respective successors and assigns.

**22.4 Relationship of Parties**

Nothing in this Agreement shall be construed as to make either party the employee, agent, or servant of the other and Licensor shall be at all times an independent contractor for the purposes of this Agreement.

**22.5 Force Majeure**

Force Majeure will be handled in accordance to Appendix A, Section 11C of DIR Contract No. DIR-TSO-3536.

**22.6 Compliance with Licensee’s Business Policies**

Licensor shall comply with Licensee’s policies regarding safety, security, environmental protection, business ethics, privacy, and all other reasonable business policies to the extent that they are applicable and have been communicated in writing to Licensor.

**22.7 Compliance with Laws**

The parties will comply with all applicable local, provincial, state, and federal regulations and laws in the performance of this Agreement.

**22.8 Governing Law and Disputes**

- (i) This Agreement shall be interpreted and enforced according to the laws of the State of Texas without giving effect to any conflict of law provisions. Jurisdiction will be state courts in Travis County, Texas. Nothing herein shall be construed to waive the sovereign immunity of the state.

- (ii) Dispute resolution will be handled in accordance to Appendix A, Section 11A of DIR Contract No. DIR-TSO-3536.

**22.09 Headings**

- (i) The headings in Agreement are for ease of reading only and do not impart any other or special meaning.
- (ii) Where required by context, masculine nouns shall be construed as feminine or neuter.
- (iii) Where required by context, singular nouns shall be construed as plural and vice versa.

**22.10 Entire Agreement**

The parties acknowledge that there are no written agreements, contracts, representations, warranties, inducements, or understandings between them and pertaining to Software except as set forth in DIR Contract No. DIR-TSO-3536 and referred to in this Agreement. DIR Contract No. DIR-TSO-3536 and this Agreement are the entire agreement between the parties and supersedes any previous agreements, negotiations, discussions, and written instruments.

**22.11 Counterparts**

This Agreement may be executed in counterparts, each of which shall be considered an original, but all counterparts together will constitute one agreement.

Agreed to and accepted:

**[Licensee]**

**Direct Line to Compliance, Inc.**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Monica Brown Adeeko

Title: \_\_\_\_\_

Title: President and CEO

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBITS**

## **Exhibit A License Details**

### **I. Software and Documentation**

Direct Line to Compliance CCI Suite Administration Guide

### **II. Installation Locations and User Base**

Only invoiced and paid licenses and subscriptions for Direct Line to Compliance's CCI Suite, which will be available for Users and located at a cloud provider which has been mutually agreed to by the Licensor and Licensee.

Direct Line to Compliance CCI Suite Application will be installed and maintained by Licensor on the designated cloud instance.

### **III. License Type:**

Annual User License with subscription.

## **Exhibit B**

### **License and Maintenance Fee Schedule**

#### **I. License Fee**

The license fee payable by Licensee for Software is as follows:

License fees are referenced in the Proposal dated MM/DD/YYYY and attached as Schedule I to this Exhibit and shall be in accordance to Appendix C of Contract No. DIR-TSO-3536.

#### **II. Maintenance Fees**

Annual Maintenance is included for all License fees referenced in the Proposal dated MM/DD/YYYY and attached in Schedule I of this Exhibit and shall be in accordance to Appendix C of Contract No. DIR-TSO-3536.

#### **III. Training**

Training fees are referenced in the Proposal dated MM/DD/YYYY and attached as Schedule I to this Exhibit and shall be in accordance to Appendix C of Contract No. DIR-TSO-3536.

#### **IV. Subscription Licensing.**

Licensing fees are referenced in the Proposal dated MM/DD/YYYY and attached as Schedule I to this Exhibit and shall be in accordance to Appendix C of Contract No. DIR-TSO-3536.

**Schedule I**  
**Proposal**

## **Exhibit C**

### **System Requirements and Compatibility**

#### **I. Hardware & Software Requirements**

Software will perform according to specifications when installed on DL2C GovCloud leased servers and the client's appropriate browser

#### **Hardware & Software Requirements**

Software will perform according to specifications when installed on computer hardware with the following specifications:

#### **Direct Line to Compliance Software - Minimum System Requirements**

Licensors CCI Suite Project Management requires a "web server" component and a "database server" component. Both of these components are already installed on the same provided SaaS hardware.

## **Exhibit D**

### **Maintenance and Support Services**

#### **I. Maintenance and Support Services Description**

#### **II. Maintenance Service Levels**

1. Licensor will respond by telephone or e-mail within twenty-four (24) hours, Saturdays, Sundays, and Statutory Holidays excepted, to any defect reported by Licensee. Said response shall include an analysis of the defect and the remedy or, if a remedy is not yet available, an initial analysis of the defect and a reasonable estimate of when a remedy will be available.

**Exhibit E**  
**Additional Services**

**Note: Custom Application Development is not allowed under DIR Contract No. DIR-TSO-3536.**

Additional Services and associated fees will be governed by a SOW.

## **Exhibit F Special Conditions**

**Hosted Performance Standards**

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