



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT #: 4

CONTRACT #: AR3116

Starting Date: Unchanged

Expiration Date: Unchanged

TO BE ATTACHED AND MADE PART OF the specified contract by and between the State of Utah Division of Purchasing and Visionary Integration Professionals, LLC (Referred to as CONTRACTOR).

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

The attached, following end user license terms are incorporated into Attachment E:

- cFive Solutions – Master Subscription Agreement

Effective Date of Amendment: as of the last signature date below.

All other terms and conditions of the contract, including those previously modified, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE OF UTAH

Contractor's Signature

Date

Director, State of Utah Division of Purchasing

Date

Contractor's Name (Print)

Title (Print)

For Division of Purchasing Internal Use

Purchasing Agent

Phone #

E-mail Address

Contract #

Solomon Kingston

801-957-7142

skingston@utah.gov

AR3116



MASTER SUBSCRIPTION AGREEMENT

This Agreement is effective between You and Us as of the date You accept this Agreement by signing the Order Form (capitalized terms used but not defined shall have their respective meanings as set forth in Section 1 or as otherwise set forth or referenced in this Agreement or the Order Form).

THIS AGREEMENT GOVERNS YOUR USE OF CFIVE SERVICES. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A GOVERNMENT AGENCY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ANY OTHER PERSON OR ENTITY YOU ENABLE TO USE OR ACCESS THE CFIVE SERVICES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO EACH SUCH ENTITY AND ITS USERS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE CFIVE SERVICES.

1. DEFINITIONS

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 10% of the voting interests of the subject entity.

"Agreement" means this Master Subscription Agreement as it may be modified from time to time including, without limitation, by Our posting updates to www.cfive.com/support or emailing You an amendment or updated version of this document.

"cFive Services" means the products and services that are ordered by You under an Order Form or provided to You otherwise, and made available online by Us, including associated cFive mobile components, as described in the User Guide. "cFive Services" exclude Content.

"Content" means information obtained by cFive from publicly available sources and/or third parties and made available to You through the cFive Services or pursuant to an Order Form, as more fully described in the Documentation.

"Documentation" means the applicable cFive Services documentation, and its usage guides and policies and the User Guide, as updated from time to time (including without limitation by emailing You updates, accessible via cFive Connect or login to the applicable Service).

"Malicious Code" means code, files, scripts, agents or programs that cause harm, including, without limitation, viruses, worms, time bombs and Trojan horses.

"Order Form" means an ordering document or online order specifying the cFive Services to be provided hereunder entered into between You and Us, including any addenda and supplements thereto.

"User" means an individual who is authorized by You to use any cFive Services in accordance with this Agreement, the Documentation and an Order Form (if applicable), or for whom You have purchased a subscription, and to whom You have supplied a user identification and password (for cFive Services utilizing authentication).

"User Guide" means the user guide delivered by cFive to You, as updated from time to time (including without limitation by Our posting updates to or emailing You updates).

"We," "Us" or "Our" means cFive Solutions, Inc.

"You" or "Your" means the government agency or other legal entity or User for which you are accepting this Agreement, and Affiliates of that government agency or entity which have signed Order Forms.

"Your Data" means all electronic data and information submitted by You to the cFive Services.

2. OUR RESPONSIBILITIES

- 2.1.** Provision of Purchased cFive Services. We will (a) make the cFive Services and Content available to You pursuant to this Agreement and the applicable Order Form(s), (b) provide applicable cFive standard support for the cFive Services to You at no additional charge, and/or upgraded support if purchased, and (c) use commercially reasonable efforts to make the online cFive Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which We shall give advance electronic notice as provided in the Documentation), and (ii) any unavailability caused by circumstances beyond Our reasonable control, including, without limitation, acts of God, acts of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem, Internet service or other third party provider failure or delay, or denial of service attack.
- 2.2.** Our Personnel. We will be responsible for the performance of Our employees and their compliance with Our obligations under this Agreement, except as otherwise specified herein, the Documentation or an Order Form.
- 2.3.** Protection of Your Data. We shall maintain physical and technical safeguards for protection of the security, confidentiality and integrity of Your Data including those made available by Our services and/or technology providers. We shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 7.3 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the cFive Services or at Your request in connection with customer support matters.

3. USE OF CFIVE SERVICES AND CONTENT

- 3.1.** Subscriptions. Unless otherwise provided in the applicable Order Form or Documentation, (a) cFive Services and access to Content are purchased as subscriptions, (b) subscriptions may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions.
- 3.2.** Usage Limits. cFive Services and Content are subject to usage limits, including, for example, the quantities specified in Order Forms and Documentation. Unless otherwise specified, (a) a quantity in an Order Form refers to Users, and the cFive Services or Content may not be accessed by more than that number of Users, (b) a User's password may not be shared with any other individual, and (c) a User identification may only be reassigned to a new individual who is legally bound by this Agreement and replacing one who will no longer use the cFive Services or Content. If You exceed the contractual usage limit, We may work with You to seek to reduce Your usage so that it conforms to that limit. If, notwithstanding Our efforts, You exceed the contractual usage limit, You will execute an Order Form for additional quantities of the applicable cFive Services or Content immediately upon Our request, and/or pay any invoice for excess usage in accordance with Section 5.2 (Invoicing and Payment).

- 3.3. Your Responsibilities.** You will (a) be responsible for Users' compliance with this Agreement, Documentation and Order Forms, (b) be responsible for the accuracy, quality and legality of Your Data and the means by which You acquired Your Data, (c) prevent unauthorized access to or use of cFive services and Content using your login credentials, and notify Us immediately of any such unauthorized access or use, and (d) use the cFive Services and Content only in accordance with this Agreement, Documentation, Order Forms and applicable laws and regulations.
- 3.4. Usage Restrictions.** You will not (a) make any cFive Services or Content available to, or use any cFive Services or Content for the benefit of, anyone other than You or Users, unless expressly stated otherwise in an Order Form or the Documentation, (b) sell, resell, license, sublicense, distribute, make available, rent or lease any cFive Services or Content, or include any cFive Services or Content in a service bureau or online or other offering or product, (c) use cFive Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party rights, (d) use cFive Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any cFive Services or third-party data contained therein, (f) attempt to gain unauthorized access to any cFive Services or Content or systems or networks, (g) permit access to or use of any cFive Services or Content that circumvents a contractual usage limit, or use any of Our Services to access or use any of Our intellectual property except as expressly permitted under this Agreement, an Order Form, or the Documentation, (h) copy cFive Services or any part, feature, function or user interface thereof, (i) copy Content except as permitted herein or in an Order Form or the Documentation, (j) frame or mirror any cFive Services or Content, other than framing on Your own intranets or otherwise for Your own internal business purposes or as permitted in the Documentation, (k) access cFive Services or Content to build a competitive product or service or to benchmark with a third party product or service, or (l) reverse engineer cFive Services. Any use of the cFive Services in breach of this Agreement, Documentation or Order Forms, by You or Users that in Our judgment threatens the security, integrity or availability of Our services, may result in Our immediate suspension of the cFive Services.
- 3.5. Removal of Content.** If We are required by a third party to remove Content or receive information that Content provided to You may violate applicable law or third-party rights, We may so notify You and You will then immediately remove such Content from Your systems. If You do not take required action as required above, We may disable the applicable Content or your access to the cFive Services until the potential violation is resolved.

4. INTEGRATION

- 4.1. Integration with Third Party Applications/Technology.** The cFive Services may contain features designed to interoperate with third party applications and/or technology. To use such features, You may be required to obtain access to such third party applications and/or technology from their providers, and may be required to grant Us access to Your account(s) for such third party applications and/or technology. We cannot guarantee the continued availability of such third-party applications or technology and may cease providing them without entitling You to any refund, credit, or other compensation, if for example and without limitation, the provider of a third-party application or technology ceases to make same available for interoperation with the corresponding cFive Services features in a manner acceptable to Us.

5. FEES AND PAYMENT FOR PURCHASED CFIVE SERVICES

- 5.1. Fees.** You will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on cFive Services and Content subscriptions purchased and not

actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the relevant subscription term.

- 5.2. Invoicing and Payment.** You will provide Us with a valid purchase order or alternative document acceptable to Us. We will invoice You in advance and otherwise in accordance with the Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.
- 5.3. Overdue Charges.** If any invoiced amount is not received by Us by the due date, then without limiting Our rights or remedies, (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, and/or (b) We may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 5.2 (Invoicing and Payment).
- 5.4. Suspension of Service and Acceleration.** If any amount owing by You under this or any other agreement for Our services is 30 or more days overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full. We will give You at least 10 days' prior notice that Your account is overdue, in accordance with Section 12.2 (Manner of Giving Notice) for billing notices, before suspending services to You for billing issues.
- 5.5. Payment Disputes.** We will not exercise Our rights under Section 5.3 (Overdue Charges) or 5.4 (Suspension of Service and Acceleration) above solely to the extent You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute as determined by Us.
- 5.6. Taxes.** Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this Section 6.6, We will invoice You and You will pay that amount unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against Us based on Our taxable income.
- 5.7. Future Functionality.** Your purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Us regarding future functionality or features.

6. PROPRIETARY RIGHTS AND LICENSES

- 6.1. Reservation of Rights.** Subject to the limited rights expressly granted hereunder, We reserve all of Our right, title and interest in and to the cFive Services and Content, including all of Our intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.
- 6.2. Access to and Use of Content.** You have the right to access and use applicable Content subject to the terms of applicable Order Forms, this Agreement and the Documentation.
- 6.3. License to Host Your Data and Applications.** You grant Us, Our Affiliates and applicable contractors a worldwide, limited-term license to host, copy, transmit and display Your Data, as necessary for Us to provide the cFive Services in accordance with this Agreement. Subject to the

licenses granted herein, We acquire no right, title or interest from You under this Agreement in or to any of Your Data.

6.4. License to Use Feedback. You grant to Us a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into Our services any suggestion, enhancement request, recommendation, correction or other feedback provided by You or Users relating to the operation of Our services.

6.5. Federal Government End Use Provisions. We provide the cFive Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the cFive Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Us to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

7. CONFIDENTIALITY

7.1. 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. Your Confidential Information includes Your Data; Our Confidential Information includes the cFive Services and Content (other than such Content as is expressly made publicly available from third parties without any restriction on further use); the terms and conditions of this Agreement, Documentation and Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by Us or Our Affiliates. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

7.2. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. No party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party’s prior written consent, provided that a party that makes any such disclosure to its Affiliates, legal counsel or accountants will remain responsible for such Affiliate’s, legal counsel’s or accountant’s compliance with this “Confidentiality” section. Notwithstanding the foregoing, We may disclose the terms of this Agreement and any applicable Order Form to a subcontractor to the extent We determine it is

necessary to perform Our obligations to You under this Agreement, under terms of confidentiality materially as protective as set forth herein.

7.3. Compelled Disclosure. 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. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

8. REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

8.1. Representations. Each party represents that it has validly entered into this Agreement, has the legal power to do so and such Agreement is binding and enforceable against it.

8.2. Our Warranties. We warrant that during an applicable subscription term (a) this Agreement, the Order Forms and the Documentation will accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data, (b) the cFive Services will perform materially in accordance with the applicable Documentation, and (c) subject to the other provisions of this Agreement, We will not materially decrease the overall functionality of the cFive Services. For any breach of a warranty above, Your exclusive remedies are those described in the "Termination" and "Refund or Payment upon Termination" sections below.

8.3. Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER WE NOR ANY AFFILIATE MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTENT AND BETA /FREE TRIALC FIVE SERVICES ARE PROVIDED "AS IS," EXCLUSIVE OF ANY REPRESENTATION, WARRANTY OR OBLIGATION ON OUR PART WHATSOEVER. WE DISCLAIM ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTIES.

9. MUTUAL INDEMNIFICATION

9.1. Indemnification by Us. We will defend You and hold You harmless against any claim, demand, suit or proceeding made or brought against You by a third party alleging that any cFive Services created by Us infringe or misappropriate such third party's United States published patents, copyrights, trademarks or trade secrets (a "Claim Against You"), and will indemnify You from any damages, reasonable attorney fees and costs finally awarded against You as a result of, or for amounts paid by You under a settlement approved by Us in writing of, a Claim Against You, provided You (a) promptly give Us written notice of the Claim Against You, (b) give Us sole control of the defense and settlement of the Claim Against You (except that We may not settle any Claim Against You unless it releases You of all liability), and (c) give Us all reasonable assistance, at Our expense. If We receive information about an infringement or misappropriation claim related to the cFive Services, We may in Our discretion and at no cost to You (i) modify the applicable cFive Services so that they are no longer claimed to infringe or

misappropriate, without breaching Our warranties under “Warranties” above, (ii) obtain a license for Your continued use of the applicable cFive Services in accordance with this Agreement, or (iii) terminate Your subscriptions for the applicable cFive Services upon 30 days’ written notice and refund You any prepaid fees covering the remainder of the term of the terminated subscriptions. Notwithstanding anything herein to the contrary, the above defense and indemnification obligations do not apply to the extent a Claim Against You arises from Content, or Your use of the cFive Services in violation of this Agreement, the Documentation or applicable Order Forms or as a result of the combination of cFive Services with third party services or products.

9.2. Indemnification by You. You will defend Us and hold Us and any persons acting on Our behalf harmless against any claim, demand, suit or proceeding made or brought against Us by a third party alleging that any of Your Data infringes or misappropriates such third party’s intellectual property rights, or arising from Your use of the cFive Services or Content in violation of the Agreement, the Documentation, Order Form or any applicable law or regulation (each a “Claim Against Us”), and You will indemnify Us from any damages, attorney fees and costs awarded against Us and any persons acting on Our behalf as a result of, or for any amounts paid by Us and any persons acting on Our behalf under a settlement approved by You in writing of, a Claim Against Us, provided We (a) promptly give You written notice of the Claim Against Us, (b) give You sole control of the defense and settlement of the Claim Against Us (except that You may not settle any Claim Against Us unless it releases Us of all liability), and (c) give You all reasonable assistance, at Your expense.

9.3. Exclusive Remedy. This Section 9 states the indemnifying party’s sole liability to, and the indemnified party’s exclusive remedy against, the other party for any type of claim described in this Section 9.

10. LIMITATION OF LIABILITY

10.1. Limitation of Liability. IN NO EVENT SHALL OUR AGGREGATE LIABILITY TOGETHER WITH ALL OF OUR AFFILIATES AND PERSONS ACTING ON OUR AND THEIR BEHALF ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE DOCUMENTATION OR ANY ORDER FORM EXCEED THE TOTAL AMOUNT PAID BY YOU IN RESPECT OF THREE MONTHS OF CFIVE SERVICES HEREUNDER (MEASURED BY PRO RATING ANNUAL FEES PAID TO US OVER THE ANNUAL PERIOD OR PORTION THEREOF IMMEDIATELY PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE). THE FOREGOING LIMITATION WILL APPLY REGARDLESS OF THE THEORY OF LIABILITY.

10.2. Exclusion of Consequential and Related Damages. IN NO EVENT WILL WE OR OUR AFFILIATES OR PERSONS ACTING ON BEHALF OF SAME HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

11. TERM AND TERMINATION

11.1. Term of Agreement. This Agreement commences on the date You first accept it and continues until all subscriptions hereunder have expired or have been terminated.

11.2. Term of Purchased Subscriptions. The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any renewal term will increase by up to 7% above the applicable pricing in the prior term, unless We provide You notice of different pricing at least 60 days prior to the applicable renewal term. Except as expressly provided in the applicable Order Form, renewal of promotional or one-time priced subscriptions will be at Our then applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which subscription volume for any cFive Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term's per-unit pricing.

11.3. Termination. A party may terminate this Agreement (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period (any payment breach by You is deemed to be a material breach of this Agreement), or (ii) without notice if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

11.4. Refund or Payment upon Termination. Upon any termination pursuant to Section 11.3 by You, We shall refund You any prepaid fees pro-rated solely for the remainder of the term described in any applicable Order Form of all applicable subscriptions terminated after the effective date of termination, and after such effective date of termination We shall not be required to provide any further cFive Services to You. Upon any termination pursuant to Section 11.3 by Us, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination, and after such effective date of termination We shall not be required to provide any further cFive Services to You. In no event shall any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.

11.5. Your Data Portability and Deletion. Upon request by You made within 30 days after the effective date of termination or expiration of this Agreement so long as You are in compliance with the terms of this Agreement, the Documentation and each Order Form, We will make Your Data available to You for export or download as provided in the Documentation. After such 30-day period, We will have no obligation to maintain or provide any of Your Data, and as provided in the Documentation may thereafter delete or destroy all copies of Your Data in Our systems or otherwise in Our possession or control, unless legally prohibited.

11.6. Surviving Provisions. The sections titled "Fees and Payment," "Proprietary Rights and Licenses," "Confidentiality," "Disclaimers," "Mutual Indemnification," "Limitation of Liability," "Refund or Payment upon Termination," "Customer Data Portability and Deletion," "Surviving Provisions" and "General Provisions" will survive any termination or expiration of this Agreement.

12. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW AND JURISDICTION

12.1. General. Who You are contracting with under this Agreement, who You should direct notices to under this Agreement, what law will apply in any dispute or lawsuit arising out of or in connection with this Agreement, and which courts have sole and exclusive jurisdiction over any such dispute or lawsuit are set forth below.

You are contracting with:	Notices should be addressed to:	The governing law is:	The courts having exclusive jurisdiction are:
cFive Solutions, Inc. a California Corporation	17852 E Seventeenth St, Suite 205 Tustin, CA 92780 Attention: Contract Administrator, contractadmin@cfive.com	California and controlling United States federal law	The Superior Court of Orange County, California, U.S.A.

12.2. Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, or (c), except for notices of termination or an indemnifiable claim (“Legal Notices”), which shall clearly be identifiable as Legal Notices, the day of sending by email. Billing-related notices to You will be addressed to the relevant billing contact designated by You. All other notices to You will be addressed to the relevant cFive Services system administrator designated by You.

12.3. Agreement to Governing Law and Jurisdiction. Each party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

13. GENERAL PROVISIONS

13.1. Export Compliance. The cFive Services, Content, other technology We make available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. You represent that You are not named on any U.S. government denied-party list. You shall not permit Users to access or use any cFive Services or Content in a U.S. embargoed country (currently Cuba, Iran, North Korea, Sudan, Syria or Crimea) or in violation of any U.S. or other export law or regulation.

13.2. Anti-Corruption. You agree that You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Our US at contractadmin@cfive.com.

13.3. Entire Agreement and Order of Precedence. This Agreement, the Documentation and each Order Form is the entire agreement between You and Us regarding Your use of cFive Services and Content and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Except as otherwise provided herein, no modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The parties agree that any term or condition stated in a purchase order provided by You or in any other documentation provided by You is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) this Agreement, and (3) the Documentation.

13.4. Assignment. You may not assign any of Your rights or obligations hereunder, whether by operation of law or otherwise, without Our prior written consent. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and

permitted assigns.

13.5. Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

13.6. Waiver. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right

13.7. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

13.8. Third-Party Beneficiaries. There are no third-party beneficiaries under this Agreement.