

COMPLIANCELINE

AGREEMENT

THIS AGREEMENT (this “Agreement”) is made, and entered into, effective as of the Effective Date (as defined herein) by and between ComplianceLine, LLC, a Delaware Limited Liability Company (“CL”) and City of San Diego, (“Client”). CL and Client are sometimes collectively referred to herein as the “Parties.”

WHEREAS, Client wishes to utilize the Services of CL as defined in Section 4 of this Agreement in conjunction with Client’s compliance and/or ethics program to assist in the identification of possible unethical, illegal or questionable behavior; and

WHEREAS, CL is willing to provide these Services to Client and Client is willing to accept such Services, under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the receipt and sufficiency of which is acknowledged by the Parties as sufficient, the Parties agree as follows:

1. Term.

- a) This Agreement shall be effective as of the “Contract Effective Date” and shall remain in effect until terminated as set forth in this Agreement. In no event, shall the term exceed a period of five (5) years from the Contract Effective Date. The “Contract Effective Date” shall be the last date that the Agreement is signed by the Parties and approved by the City Attorney in accordance with San Diego Charter section 40.
- b) The Initial Term of this Agreement shall commence on the “Contract Effective Date” and end on the last day of the Initial Term as set forth under Section 28 of this Agreement (the “Project Specifics”) and shall automatically renew for a period as set forth under Section 28 of this Agreement (the “Project Specifics”, each a “Renewal Term”) on the last date of the Initial Term (“Renewal Date”) and on the last date of each subsequent Renewal Term thereafter. Either Party shall have the right not to renew, provided the other Party is notified in writing with delivery confirmation that is received at least sixty (60) days prior to the end of the Initial Term or each Renewal term.

2. Fees.

- a) The One Time Fees and Annual Fees for all services (“Fees”) as set forth under Project Specifics are payable upon execution of this Agreement for the initial contract year, and annually on or before each successive billing term or Renewal Date for all subsequent years.
- b) The Parties agree that the Fees under Project Specifics can be renegotiated upon meeting certain criteria as defined herein. Client must notify CL in writing at least sixty (60) days before the start of a Renewal Term that they wish to renegotiate the Fees. Client must be in good standing with all monies due to CL paid in full. Any newly negotiated Fee amounts must be mutually agreed upon by both Parties by the renewal date.
- c) The annual Subscription Fee(s) will remain firm for the initial term and automatically increase on the Renewal Date at the rate of 4% each year during the Renewal Term.
- d) Renegotiated Fees. The following criteria for the purpose of this agreement will constitute Renegotiated Fees 1) exceeding service volume by more than 5% in any contract year 2) employee count changing by more than 10% from the contracted amount 3) other criteria as mutually agreed by the Parties.

3. Payment.

- a) Client agrees to pay CL for all Services within thirty (30) days of Client’s receipt of an undisputed invoice. Acceptable payments include cash, ACH, Bank Transfers, Checks, Purchase cards, Credit cards, or any other payment methods mutually agreed upon by both Parties. If a purchase card, credit card, or other fee-laden payment method is utilized to pay for services, a 3% charge will be added to the payment amount due from the Client. Payments must be made at the address designated on the invoice or other such place as CL may designate.
- b) Client Agrees that any objection to the invoice is waived unless CL receives prior written objection within 10 days from the receipt of invoice. If payment is not received by the due date, Client will be assessed late

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fee of 2% per month (24% per annum) on the unpaid balances 60 days or older. CL reserves the right to suspend or terminate services under this Agreement for nonpayment of fees. If the CL services are suspended or terminated, Client agrees that CL will not be held liable for Client's failure to meet governmental or other deadlines, for any fees, penalties, or interest that may be assessed against Client resulting from their failure to meet such deadlines, and/or for any other damages. Finally, Client acknowledges that the pricing is based on the assumptions stated in the Agreement, and that late or incomplete information, changes in key personnel, undisclosed complexities or prior period re-work, tax/regulatory changes, or any other factors beyond reasonable control could necessitate price adjustments. Client agrees to pay all fees due despite any such termination, and to pay all monies due to CL in full prior to any reinstatement of or additional services.

4. Services.

This section defines the Services to be provided by CL to Client under this Agreement.

4.1. **ComplianceLine Hotline Service**

CL has developed a third-Party hotline monitoring and reporting service ("ComplianceLine Hotline"), which engages in the business of providing toll-free telephonic answering, reporting and tracking of compliance concerns. This section describes the ComplianceLine Hotline Service as provided by CL.

- A. CL will provide or service a dedicated toll-free number or local number for receipt of information from Client's employees, agents, and/or other designated Parties, who may have concerns or knowledge relative to illegal or unethical acts, breaches of company policy, or any other information relating to Client's properties, employees, or operations. Should this Agreement be terminated for any reason, by either Party, CL shall promptly cooperate with any request to transfer any and all dedicated toll-free numbers used to service the Client (or its designee). All rights of CL, thereafter, to the number(s) shall be terminated including responsibility charges related to such number(s). In connection therewith, CL shall execute all agreements and documents requested by any carrier or reasonably requested by Client to affect such assignment, and client shall promptly reimburse CL for any reasonable costs and expenses in connection with such number(s) and the associated account(s) following such assignment.
- B. CL will provide telephone operators that have been trained and are knowledgeable in the areas of compliance and ethics and in interviewing and documenting information via telephone. The operator will document all relevant reported concerns and prepare a detailed, structured report for delivery to Client. The report will be submitted to Client, via an agreed upon communication method by the operator.
- C. ComplianceLine Hotline will operate 24 hours a day, seven days a week, for receipt of incoming calls. All incoming calls, regardless of the time of receipt, will be answered by an operator.
- D. Client will designate an individual(s) to act as the liaison in the development of reporting procedures between CL and Client and to serve as the recipient of all documented reporting from ComplianceLine Hotline. All reporting processes will be specifically defined in writing ten (10) days prior to start of services and updated, from time to time, with approval of CL. If reporting process documentation is not delivered within ten (10) days of start of service CL will initiate services with standard practices and basic profile settings. These settings can be subsequently changed in writing with approval of CL.
- E. Calls are defined as actual reports initiated by caller to include initial reports, follow-up reports, and information only reports; prank, and hang-ups are not included. No changes to Unlimited call volume will happen within the first year from the Effective Date of this contract, unless volume is more than 50% above expectations from the CL Hotline Benchmark Report. At the anniversary of the Effective Date and thereafter CL will evaluate actual call volumes against benchmark standards and give written notice of divergence, cooperation with which client will not unreasonably withhold. If actual reports material exceed benchmark standards, Client and CL agree to modify pricing or service within reasonable time after written notice by either Party. Absent reasonable and timely cooperation for such modification, CL reserves the right to modify service, publication, performance, or contract to realign service to benchmark standards.
- F. For services with an Annual Utilization Limit (AUL) as defined in the Project Specifics, CL shall be responsible for all phone charges applicable to ComplianceLine Hotline, with the exception of charges for language translation and other third-Party services, which will be passed on at cost to Client

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(including cost for processing) by CL. For services with an unlimited AUL, at the end of the first year of the Initial Term, CL will evaluate actual call volumes for language translation and other third-Party services against our industry standard benchmark. If these call volumes fall outside of the benchmark, CL reserves the right to pass on language translation and other third-Party services costs to Client (including cost for processing) for the remaining term of this agreement.

- G. Any additional licenses added during a term of this Agreement will be priced as defined in the Project Specifics.
- H. Unless otherwise specified, Client will receive a maximum of a) three (3) contact points (such as a phone number, email address, or other means of contact) for severity notification, b) three (3) directives (approved by CL Support), and c) three (3) custom questions (approved by CL Support). Compound questions will not be allowed. Requests for additional customization or service standards require additional fees due from Client.
- I. If indicated in this Agreement, CL will provide an integrated texting (SMS) service (Texting-Enabled Reporting) for the receipt of information from Client's employees, agents, and/or other designated Parties, who may have concerns or knowledge relative to illegal or unethical acts, breaches of company policy, or any other information relating to Client's properties, employees, or operations. As per CL standard practices, the Texting-Enabled Reporting service will allow reporting Parties to answer a defined set of questions which, once completed, will be documented and submitted to Client, via an agreed upon communication method. CL shall be responsible for all phone number and receipt charges applicable, with the exception of message and data rate charges which may apply to reporting Parties (based on their specific provider and plan). SMS Texting services will only be provided on phone numbers in North America.

4.2. **MyComplianceManagement**

CL has developed a proprietary application identified as MyComplianceManagement ("MyCM"). The application was built and designed using software developed and licensed by CL. This section describes the MyComplianceManagement Service as provided by CL.

A. **License Grant.**

- a. CL hereby grants to the Client, subject to the terms and conditions set out in this section and any "Additional License and Maintenance Addendum" hereto, a non-transferable and non-exclusive license to use MyCM and the related documentation ("User Documentation") for the duration of this Agreement.
- b. The grant of the license entitles the Client to utilize licenses on a named user basis.
- c. It is expressly understood that no title to or ownership of MyCM application, or any part thereof, is hereby transferred to Client. Notwithstanding the above, Client shall have the right to make available to other Parties any such information about the application which is necessary for Client to conduct its daily business.

B. **Access to and Use of MyCM.**

- a. Upon execution and return of the ComplianceLine Agreement and completion of the subsequent implementation process, CL shall issue usernames and passwords for access to MyCM as designated by Client. The number of usernames and passwords are defined under the Project Specifics. The number of usernames shall not exceed the number of usernames defined herein.
- b. Access to MyCM shall be provided twenty-four (24) hours a day, seven (7) days a week, except during Scheduled Downtimes, as defined in this Agreement, maintenance and reasonable downtimes, when access will not be available.
- c. Data transmission and computer link to MyCM via the Internet shall be the exclusive responsibility of the Client.
- d. Client expressly undertakes not to (i) assert any proprietary rights to any portion of MyCM, or any information contained within MyCM or (ii) divulge the password(s) to unauthorized users and to promptly inform the CL in the event a password is compromised.

- C. **Product Support.** CL will provide Client telephone support from 9:00 AM to 5:00 PM ET Monday through Friday to assist in resolving problems, obtaining clarification relative to MyCM, and reporting

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suspected defects or errors in MyCM. **Client may report service issues 24-hours a day via the CL ticket system at support@complianceline.com.** CL will respond based on the case priority descriptions below:

i. Level 1: Assigned to an error/issue that causes production to go down and Client is unable to use MyCM, or an error or condition that causes performance degradation, resulting in critical impact to operations. No obvious work around is available. CL will provide an initial response within 1 business hour and will resolve the issue with 4 business hours.

ii. Level 2: Assigned to an error/issue that is not Level 1, but is a reproducible error in MyCM that affects Client's usage of MyCM or data integrity. Operational workarounds may be employed and are deemed acceptable for the short term, but are unacceptable for the long term. CL will provide an initial response within 4 business hours and will resolve the issue within 12 business hours.

iii. Level 3: Assigned to an issue that is not Level 1 or Level 2, but minimally affects Client's usage of the MyCM or data integrity. Operational workarounds may be employed and are deemed acceptable for the short term and long term. Will consider a patch for the next release/update. CL will provide an initial response within 8 business hours and will follow up within 24 business hours.

- D. **Emergency and Escalation Management.** Should MyCM become unavailable outside of regular support hours or if Client suspects a service outage, Client should contact the **CL Escalation Call Center at +1 800-617-0415**. The call center will contact the "on call" CL IT support team member and a member of CL management. The on-call CL IT support team member will contact Client to resolve any issues as expeditiously as possible.
- E. **Uptime.** CL agrees that, during the Term of this Agreement, MyCM will be operational and available to Client at least 97% of the time each year aside from Scheduled Downtime, maintenance, and other reasonable downtimes. If CL does not meet the SLA within any given month, Client will be eligible to receive a Service Credit under Paragraph G below.
- F. **Scheduled Downtime.** CL will notify Client of periods of downtime at least three (3) days prior to the commencement of such downtime. Scheduled Downtime is not considered downtime for purposes of this SLA, and will not be counted towards any downtime periods.
- G. **Service Credits.** In the event that service to MyCM is interrupted beyond the SLA, CL will credit Client 10% of 1/12th of Client's annual MyCM fee for every 1 day of outage, up to a yearly maximum of 100% of 1/12th of Client's annual MyCM fee.
- H. **Single Sign-On.** CL has the ability to facilitate Single Sign-On ("SSO") through OAuth 2.0 and Azure AD. As of the Effective date of this Agreement, CL is in the process of developing SSO using SAML 2.0. Once this development has been completed, it will be made available to Client, at no additional cost, to achieve integration with Okta. The deadline for CL to complete this development is December 31st, 2022.

4.3. **MyComplianceReport**

CL has developed an online application known as www.MyComplianceReport.com ("MCR"), for receipt of information from Client's employees, agents, and/or other designated Parties, who may have concerns or knowledge relative to potentially illegal or unethical acts, breaches of company policy, or any other information relating to Client's properties, employees, or operations. This section describes the MyComplianceReport Service as provided by CL.

A. **License Grant.**

- a. CL hereby grants to Client, and Client hereby accepts, a nonexclusive, nontransferable license to search, retrieve, display, print and download information contained within MCR via the Internet.

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- b. It is expressly understood that no title to or ownership of MCR, or any part thereof, is hereby transferred to Client. Notwithstanding the above, Client shall have the right to make available to other Parties any such information about MCR that is reasonably necessary for Client to conduct its daily business.

B. Access to and Use of MCR.

- a. Upon execution and return of the ComplianceLine Agreement and completion subsequent to implementation procedures, CL shall grant Client access to MCR, along with company access identification.
- b. Access to MCR shall be provided twenty-four (24) hours a day, seven (7) days a week, except during Scheduled Downtimes, as defined in section 4.3F of this Agreement, maintenance and reasonable downtimes, when access will not be available. CL shall endeavor to provide advance notice of Scheduled Downtimes, maintenance, or other reasonable downtimes in accordance with section 4.3E of this Agreement.
- c. Data transmission and computer link to MCR via the Internet shall be the exclusive responsibility of the Client.
- d. Client expressly undertakes not to (i) assert any proprietary rights to any portion of MCR, or any information contained within MCR or (ii) divulge the password(s) to unauthorized users and to promptly inform the CL in the event a password is compromised.
- e. If additional translation is required, the cost will be passed on at cost to Client (including cost for processing) by CL.

C. Product Support. . CL will provide Client telephone support from 9:00 AM to 5:00 PM ET Monday through Friday to assist in resolving problems, obtaining clarification relative to MCR and reporting suspected defects or errors in MCR. Client may report service issues 24-hours a day via the CL ticket system at **support.complianceline.com**. CL will respond based on the case priority descriptions below:

i. Level 1: Assigned to an error/issue that causes production to go down and Client is unable to use MyCM, or an error or condition that causes performance degradation, resulting in critical impact to operations. No obvious work around is available. CL will provide an initial response within 1 business hour and will resolve the issue with 4 business hours.

ii. Level 2: Assigned to an error/issue that is not Level 1, but is a reproducible error in MyCM that affects Client's usage of MyCM or data integrity. Operational workarounds may be employed and are deemed acceptable for the short term, but are unacceptable for the long term. CL will provide an initial response within 4 business hours and will resolve the issue within 12 business hours.

iii. Level 3: Assigned to an issue that is not Level 1 or Level 2, but minimally affects Client's usage of the MyCM or data integrity. Operational workarounds may be employed and are deemed acceptable for the short term and long term. Will consider a patch for the next release/update. CL will provide an initial response within 8 business hours and will follow up within 24 business hours.

D. Emergency and Escalation Management. Should MCR become unavailable outside of regular support hours or if Client suspects a service outage Client should contact the **CL Escalation Call Center at +1 800-617-0415**. The call center will contact the "on call" CL IT support team member and a member of CL management. The on-call CL IT support team member will contact Client to resolve any issues as expeditiously as possible.

E. Service Level Agreement (SLA). CL agrees that, during the Term of this Agreement, MCR will be operational and available to Client at least 97% of the time each year aside from Scheduled Downtime,

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maintenance, and other reasonable downtimes. If CL does not meet the SLA within any given month Client will be eligible to receive a Service Credit as defined in Section G below.

- F. **Scheduled Downtime.** CL will notify Client of periods of downtime at least three (3) days prior to the commencement of such downtime. Scheduled Downtime is not considered downtime for purposes of this SLA, and will not be counted towards any downtime periods.
- G. **Service Credits.** In the event that service to MCR is interrupted beyond the SLA, CL will credit Client 10% of 1/12th of Client's annual MCR fee for every 1 day of outage, up to a yearly maximum of 100% of 1/12th of Client's annual MCR fee.
- H. Unless otherwise specified, Client will receive MCR standard questions, which can be modified with CL approval at no charge prior to implementation and setup. Requests for additional customization or service standards require additional fees due from Client.

5. Proprietary Rights.

Customer acknowledges that ComplianceLine owns all right, title and interest in and to the Programs and content provided under this Agreement.

6. Confidentiality.

Each Party shall protect as confidential, and shall not disclose to any third Party, any Confidential Information received from the disclosing Party or otherwise discovered by the receiving Party during the Term of this Agreement, including, but not limited to, the pricing and terms of this Agreement, and any information relating to the disclosing Party's technology, business affairs, financial statements, customer lists, operational procedures, fee schedules, passwords, personnel files, internal investigations or assessments, trade secrets (as defined by the North Carolina Trade Secrets Act, N.C. General Statutes Section 66-152 et seq.), data bases, computer software applications, licensed materials, and marketing or sales plans (collectively the "Confidential Information"). The Parties shall use Confidential Information only for the purpose of this Agreement. The foregoing restrictions on use and disclosure of Confidential Information do not apply to information that is required to be disclosed by law, regulation, or court or governmental order or to any information that is or becomes publicly known other than as a result of a violation of this Section 6. Notwithstanding the foregoing, the Parties acknowledge and agree that the Agreement along with any attachments thereto are public records and disclosable pursuant to the California Public Records Act.

7. Destruction and Return of Client Information.

Pursuant to the Agreement, within thirty (30) days of the completion of CL services for the Client, termination of this Agreement, or such earlier time as the Client requests, and at Client's discretion, CL shall securely destroy all Client Information in their possession in such a manner as to eliminate the possibility that Client information is capable of being read or reconstructed, except that CL shall be permitted to retain one copy of the information transferred pursuant to this Agreement for the purpose of establishing compliance with any applicable laws or regulations and for defending or maintaining any litigation relating to this Agreement, in each case provided that such information shall remain subject to the confidentiality obligations set forth herein in accordance with the terms hereof. If client requires that CL return custody and control of Client information, these actions by CL will be completed at Client's expense, at either a mutually agreed upon amount paid in advance, or at a rate of \$220 per hour of labor. In addition, upon request CL shall provide to Client a written certification by an officer of CL confirming that such return or destruction occurred. If CL cannot destroy or destruction is not practical, all Client Information as required herein due to recordkeeping law, technological constraints or the pendency of litigation requiring CL to retain the Client Information in its existing format, CL shall ensure the confidentiality of the Client information, shall not use or disclose Client Information after termination of its services and shall continue to handle Client information in a manner consistent with its obligations hereunder or the underlying Agreement, and that it will comply with its destruction obligations once the legal prohibition on destruction has expired or the technological constraints have been removed.

8. Standard of Care; Liability Insurance.

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8.1 Insurance Amounts

CL agrees to provide the services in a careful and professional manner consistent with applicable industry standards. During the term of this Agreement, CL will maintain, at its own expense the minimum amounts of insurance specified below:

- a. Commercial General Comprehensive Liability. Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- b. Professional Liability/Errors and Omissions coverage covering the liability for any financial loss due to negligent error or omission of CL or its employees and agents with a policy limit of \$2,000,000 per event.
- c. Cyber Liability including network security and privacy risks. Cyber Liability Insurance, with limits not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
- d. Workers Compensation and Employers Liability Insurance meeting minimum statutory requirements.
- e. Employers Liability Limits of no less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.
- f. Automobile Liability insurance with limits of not less than \$1,000,000 each accident.

Excess Insurance. All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.

8.3 Primary Coverage

For any claims related to this Agreement, CL's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City of San Diego, its officers, officials, and employees. Any insurance or self-insurance maintained by the City of San Diego, its officers, officials, or employees shall be excess of CL's insurance and shall not contribute with it.

8.4 Notice of Cancellation

Each insurance policy required in this Agreement shall provide that coverage shall not be canceled, except with notice to the City of San Diego. CL's cancellation of one policy for the purpose of implementing another shall not require notification be sent to the City of San Diego.

8.5 Verification of Coverage

CL shall furnish the City of San Diego with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by the City of San Diego before work commences under the Agreement. However, failure to obtain the required documents prior to the commencement of work shall not waive CL's obligation to provide them. The City of San Diego reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this Agreement, at any time.

9. Termination.

- a. Either Party may, at any time for its own convenience and without cause, terminate this Agreement and the Services in whole or in part by giving the other Party at least sixty (60) days prior written notice. Upon the effective date of Termination, the Client's license rights shall immediately terminate and Client and Client's Authorized Users shall immediately cease use of CL services;

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- b. Upon termination by CL for its convenience pursuant to this provision 9(a), CL shall reimburse Client for all prepaid but unused Fees on a prorated basis for the amount of services paid for but not used or of time remaining in the then current term.
- c. If Client terminates this agreement for their convenience, CL is under no obligation to reimburse Client for any fees for Services paid by Client regardless of whether the Services have been rendered or delivered.
- d. In the event of a breach of any provision of this Agreement, the non-breaching Party shall notify the breaching Party in writing of the specific nature of the breach and shall request that it be cured. If the breaching Party does not cure the breach within thirty (30) days of such notice, the non-breaching Party may immediately terminate this Agreement effective on the date specified in written notice to the breaching Party. In the event that CL is the breaching Party and was not able to cure the breach within the allotted time frame, CL shall reimburse the Client for any Fees for Service paid in advance and not rendered or delivered under the current Agreement.
- e. Upon termination or expiration of this Agreement, all licenses granted herein will terminate, and each Party will return the other Party's confidential information.

10. Indemnification; Limitation of Liability.

- a. Client agrees to indemnify and hold harmless CL and its respective affiliates, directors, officers, employees, and agents from and against any and all claims, demands, actions, losses, expenses, damages, liabilities, costs (including, without limitation, interest, penalties and reasonable experts' and attorneys' fees) and judgments, in whatever jurisdiction brought, under either federal or state law, from any and all actions, liabilities, damages, claims or expenses of any kind, including reasonable attorneys' fees, to which CL may become subject and which arise from the Client's sole negligence or willful misconduct.
- b. CL agrees to to indemnify and hold harmless the Client and its elected officials, officers, employees, and agents from and against any and all claims, demands, actions, losses, expenses, damages, liabilities, costs (including, without limitation, interest, penalties and reasonable experts' and attorneys' fees) and judgments, in whatever jurisdiction brought, under either federal or state law, from any and all actions, liabilities, damages, claims or expenses of any kind, including reasonable attorneys' fees, to which the Client may become subject and which arise from the CL's sole negligence or willful misconduct.
- c. Client agrees and understands that CL does not guarantee nor warrant the veracity of information received by CL, and CL is not responsible and shall not be liable for any action or inaction Client may take based on information accurately relayed to Client by CL. Client agrees to indemnify and hold harmless CL for any such use or misuse of any information appropriately obtained by CL and accurately conveyed to Client during the normal course of business.
- d. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, (I) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR LOST PROFITS, CONSEQUENTIAL, SPECIAL, SPECULATIVE, INCIDENTAL OR PUNITIVE DAMAGES WHATSOEVER ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE BASIS OF THE CLAIM; AND (II) EACH PARTY'S AGGREGATE LIABILITY HEREUNDER FOR ANY SERVICES PERFORMED HEREUNDER AND ALL CAUSES OF ACTION RELATING TO THIS AGREEMENT SHALL IN NO EVENT EXCEED THE INSURANCE AMOUNTS SET FORTH UNDER SECTION 8.1 OF THIS AGREEMENT; PROVIDED, HOWEVER, THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO DAMAGES ARISING FROM CL'S BREACH OF ITS OBLIGATIONS PURSUANT TO SECTION 5 (CONFIDENTIALITY) HEREUNDER.

11. Governing Law. Intentionally Omitted

12. Mediation.

Any controversy, dispute or disagreement arising out of or relating to this Agreement, the breach thereof or the subject matter thereof, shall be first attempted to be settled through normal contract negotiations and then through non-binding mediation. Each Party shall bear their own costs and expenses incurred in connection with any such mediation.

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13. **Force Majeure.**

A Party will not be deemed to be in breach of its obligations under this Agreement to the extent that a failure to perform is due, in any substantial part, to factors beyond its reasonable control, including, without limitation, civil disorder, disruptions of telecommunications services, labor disputes, governmental restrictions, fires, explosions, earthquakes, drought, tidal waves and floods, war, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition, embargo, rebellion, revolution, insurrection, or military or usurped power, civil war, contamination, riot, commotion, strikes, go slows, lock outs disorder, acts or threats of terrorism or other events beyond the control of a Party (each a "Force Majeure").

14. **Notices and Amendments.**

All Amendments pursuant to this Agreement must be in writing and executed by and authorized representative from the Client and an authorized representative of CL. The Amendment shall be deemed effective upon signature of all the Parties and approval by the City Attorney in accordance with San Diego Charter section 40, and delivery to the addresses specified under "Contact Information," with the costs of delivery being borne by the Party requesting the Amendment. Notices shall be delivered by any commercially reasonable means available. CL will proceed with work only when such Amendment has been executed by both Parties. Fees for new Services under any Amendment shall be prorated to the Renewal Date of the current Agreement, and then shall follow the same Renewal Term as the Agreement.

15. **Independent Contractors.**

Client is retaining CL as an independent contractor, and nothing in this Agreement shall be construed to create any relationship of employer and employee between the Parties or between Client and any of CL's employees or subcontractors. Unless otherwise expressly provided by written agreement, neither Party shall be liable for any of the obligations, liabilities or debts of the other Party. Nothing in this Agreement shall be interpreted to provide that CL is an agent of Client.

16. **Information Sent via Internet.**

In no event shall CL be liable for any lost or delayed e-mail messages or attachments, or damages caused by viruses or other harmful components.

17. **Name and Trademarks Usage.**

CL shall comply with San Diego Council Policy 000-41 which requires that other than listing the City of San Diego as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the City of San Diego as a user of a product or service will require prior written approval of the Mayor of the City of San Diego or designee. Use of the seal or logos of the City of San Diego is expressly prohibited.

18. **Warranties/Guarantees.**

CL, its employees, agents, successor, and/or assigns, make no warranties, expressed or implied, or assume any legal liability or responsibility for the accuracy, completeness or usefulness of any information received by CL and eventually forwarded to Client.

19. **Entire Agreement; Waiver; Survival.**

This Agreement and any attached Addendum(s) and Exhibit(s) set forth the entire understanding of the Parties with respect to the subject matter hereof. This Agreement supersedes and cancels all prior agreements between the Parties, whether written or oral, relating to the subject matter hereof. The Parties' obligations under sections Confidentiality, Indemnification; Limitation of Liability, and Information Sent via Internet will survive the termination of this agreement.

20. **General.**

Headings and captions contained herein are for convenience only and shall not affect the interpretation of the Agreement. This Agreement may be executed in counterparts. When executed by all Parties, this Agreement shall be deemed effective as of the Effective Date.

21. **Severability.**

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If any part of this Agreement shall be determined to be invalid, illegal or unenforceable by any valid Act of Congress or act of any legislature or by any regulation duly promulgated by the United States or a state acting in accordance with the law, or declared null and void by any court of competent jurisdiction, then such part shall be reformed, if possible, to conform to the law and, in any event, the remaining parts of this Agreement shall be fully effective and operative insofar as reasonably possible.

22. HIPAA.

CL represents and warrants that all Services and products that it provides to Client will comply in all material respects with the Health Insurance Portability and Accountability Act ("HIPAA") and related regulations, including the EDI Standards, from and after each applicable compliance date. CL represents that when handling confidential health information, it will maintain the level of protection required of business associates under HIPAA regulations, from and after each applicable compliance date. Upon Client's request, CL agrees to provide such written assurances or other documentation as Client may reasonably require in order to maintain compliance with HIPAA. If at any time it is reasonably determined by Client that Services provided under this Agreement are not HIPAA compliant, and makes written notice of such determination, CL agrees to correct such problem at no additional charge within thirty days after receiving written notice thereof from Client.

23. Assignment.

Neither Party may assign, sub license, rent, lease or otherwise transfer its rights, duties, or obligations under this Agreement to any person or entity without the prior written consent of the other Party, except that CL shall be permitted to fully assign this Agreement (and any Amendment thereto) to the purchaser of all or substantially all of its assets or to any successor by merger, consolidation or similar corporate action provided that CL shall remain obligated for its performance prior to such effective date of such assignee.

24. Intellectual Property Warranty and Indemnification.

CL represents and warrants that any materials or deliverables provided under this Agreement are either original, or not encumbered, and do not infringe upon the copyright, trademark, patent, or other intellectual property rights of any third-party, or are in the public domain. If the services or deliverables provided under this Agreement become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, the City of San Diego shall have the right, in its sole discretion, to require CL to produce, at CL's expense, new non-infringing materials, deliverables or works as a means of remedying any claim of infringement in addition to any other remedy available to the City of San Diego under law or equity. CL further agrees to indemnify, defend, and hold harmless the City of San Diego, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages, of any type, alleging or threatening that any supplies, equipment, services or work provided under this Agreement infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party.

25. Software Licensing.

CL represents and warrants that the software, if any, as delivered to the City of San Diego, does not contain any program code, virus, worm, trap door, back door, time or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of licensor-selected conditions or manually on command. CL further represents and warrants that all third party software, delivered to the City of San Diego or used by CL in the performance of this Agreement, is fully licensed by the appropriate licensor.

26. City of San Diego-Mandated Clauses and Requirements.

By signing this Agreement, CL certifies that it is aware of, and will comply with, these City of San Diego-mandated clauses throughout the duration of the Agreement:

A. **Drug-Free Workplace Certification.** CL shall comply with City of San Diego's Drug-Free Workplace requirements set forth in San Diego Council Policy 100-17, which is incorporated into the Agreement by this reference.

B. **Americans with Disabilities Act (ADA).** CL agrees to comply with all accessibility requirements under the ADA that are applicable to CL's business.

COMPLIANCELINE AGREEMENT

C. Compliance with City’s Equal Opportunity Contracting Program (EOCP). CL shall comply with City of San Diego’s EOCP Requirements. CL shall not discriminate against any employee or applicant for employment on any basis prohibited by law. CL shall provide equal opportunity in all employment practices.

D. Non-Discrimination Ordinance. CL shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers in the performance of this Agreement. CL shall provide equal opportunity for subcontractors to participate in subcontracting opportunities required under this Agreement, if any. CL understands and agrees that violation of this clause shall be considered a material breach of the Agreement and may result in the Agreement’s termination, debarment, or other sanctions. CL shall ensure that this language is included in contracts between CL and any subcontractors, vendors and suppliers used under this Agreement, if any.

E. Compliance Investigations. Upon the City of San Diego’s request, CL agrees to provide to City, within 60 calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that CL has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by CL for each subcontract or supply contract. CL further agrees to fully cooperate in any investigation conducted by the City of San Diego pursuant to City’s Nondiscrimination in Contracting Ordinance. CL understands and agrees that violation of this clause shall be considered a material breach of this Agreement and may result in the Agreement’s termination, debarment, and other sanctions

F. Contractor Standards. In the performance of this Agreement, CL shall comply with Contractor Standards provisions codified in the San Diego Municipal Code. CL understands and agrees that violation of Contractor Standards may be considered a material breach of this Agreement and may result in this Agreement’s termination, debarment, and other sanctions.

G. Equal Pay Ordinance. If applicable, CL shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code in the performance of this Agreement.

H. Duty to Cooperate with Auditor. No more than once per year, the City Auditor may, in his sole discretion, and for purposes of performing his responsibilities under San Diego Charter section 39.2, review CL’s records to confirm contract compliance. CL shall make reasonable efforts to cooperate with Auditor’s requests. Audits will not include access to CL’s call center(s).

27. Contact Information:

For Client:	Andy Horita	For CL:	Michelle Zychowski
Title:	Fraud Investigator	Title:	Senior Account Executive
Street:	600 B Street MS 605B San Diego, CA 92101	Street:	8615 Cliff Cameron Dr. Suite 290 Charlotte, NC 28262
E-mail:	ahorita@sandiego.gov	E-mail:	mzychowski@complianceline.com
Phone:	619-533-3013	Phone:	704-547-9000 x2120
Invoices To:	Danielle Knighten	Payments To:	Accounts Payable
Street:	600 B Street MS 605B San Diego, CA 92101	Street:	8615 Cliff Cameron Dr. Suite 290 Charlotte, NC 28262
E-mail:	DKnighten@sandiego.gov	E-mail:	teambilling@complianceline.com
Phone:	619-533-3032	Phone:	800-617-0415
IT Contact:			
Title:			
Street:			

COMPLIANCELINE AGREEMENT

E-mail:			
Phone:			

28. Project Specifics:

This section describes the Agreement Term and Fees for the services provided in this Agreement.

ComplianceLine Hotline				
Toll-Free Number	To be provided by Client			
Line Access Base Population	11,000			
Annual Utilization Level (AUL)	Unlimited			
Subscription Billing Cycle	Annual			
ComplianceLine Notes:	<i>If call volume exceeds AUL during the Initial Term or a Renewal Term, all additional compliance calls will be billed at \$40 per call, billable monthly.</i>			
Fees:	One Time Fees	Annual Fees		
Set-Up Fee	\$0			
System Integration Fee		\$0		
Unlimited Text Intake		\$432		
Subscription Fee		\$9,458		
Hotline Subtotal:	\$0	\$9,890		
MyComplianceManagement (MyCM) – Standard Version				
MyCM Notes:	<i>Additional User Licenses can be purchased by written notice to CL by an authorized representative of client for the then-current CL list price per license (per term + 15% annual maintenance) unless otherwise noted.</i>			
Fees:	Unit Price	Units	One Time Fees	Annual Fees
Setup Fee		1	Waived	
Subscription Fee (MyCM Profile)		1		\$8976
Initial User Licenses	Total:	4		
Administrator	Included	2		\$0
Standard	Included	2		\$0
MyCM SUBTOTAL			\$0	\$8976

MyComplianceReport (MCR) – Standard Version		
Report Limit	Unlimited	reports per year (to include all types, follow ups, etc.)
Additional Languages (English included):	N/A	
MCR Notes:	<i>Report Limit includes all reports per term (to include all types, follow ups, etc.) MCR Review Standard includes No Review for Severity (No notification). If report volume exceeds limit during the Initial Term or a Renewal Term, all additional reports will be billed at \$40 per report, billable monthly.</i>	
Fees:	One Time Fees	Annual Fees
Subscription Fee		\$3887
MCR Subtotal:	--	\$3887

COMPLIANCELINE AGREEMENT

Services		
Dates	Contract Effective 10/01/2022	Service Begins 11/01/2022
Contract Term	3 year Initial Term	2 year Renewal Term
Service Totals	One Time Fees	Annual Fees
For all Contracted Services	\$0	\$22,753
Year 4 Renewal		\$23,663
Year 5 Renewal		\$24,609


IN WITNESS WHEREOF, the Parties' authorized representatives have executed this Agreement to be effective as of the Contract Effective Date set forth above:

Acknowledged and agreed:

CLIENT: City of San Diego

CL:

Authorized Signature: 

Authorized Signature:  Nick Gallo (Oct 21, 2022 09:09 EDT)

Printed Name: Claudia C. Abarca

Printed Name: Nick Gallo

Title: Director, Purchasing and Contracting Department

Title: Co CEO

Date: Oct 20, 2022

Date: Oct 21, 2022

Approved as to Form in accordance with San Diego Charter section 40

Authorized Signature:  David Karlin (Oct 20, 2022 13:09 PDT)

Printed Name: David J. Karlin

Title: Senior Deputy City Attorney

Date: Oct 20, 2022











1-City of San Diego_ComplianceLine HL Agreement_Final Clean_10.12.2022


Final Audit Report

2022-10-21

Created:	2022-10-19
By:	Lisa Hoffmann (lhoffmann@sandiego.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAASajKVSZb297J4MKpn9HOBs4MTcOFHd1d

"1-City of San Diego_ComplianceLine HL Agreement_Final Clean_10.12.2022" History

-  Document created by Lisa Hoffmann (lhoffmann@sandiego.gov)
2022-10-19 - 3:16:39 PM GMT- IP address: 156.29.5.177
-  Document emailed to Claudia Abarca (CAbarca@sandiego.gov) for signature
2022-10-19 - 3:20:33 PM GMT
-  Email sent to lhoffmann@sandiego.gov bounced and could not be delivered
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Signature Date: 2022-10-20 - 8:09:24 PM GMT - Time Source: server- IP address: 156.29.5.191
-  Document emailed to ngallo@complianceline.com for signature
2022-10-20 - 8:09:27 PM GMT
-  Email viewed by ngallo@complianceline.com
2022-10-21 - 1:08:38 PM GMT- IP address: 66.249.80.214

 Signer ngallo@compliance.com entered name at signing as Nick Gallo

2022-10-21 - 1:09:07 PM GMT- IP address: 76.232.8.203

 Document e-signed by Nick Gallo (ngallo@compliance.com)

Signature Date: 2022-10-21 - 1:09:08 PM GMT - Time Source: server- IP address: 76.232.8.203

 Agreement completed.

2022-10-21 - 1:09:08 PM GMT