

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

657



**FROM:** Human Resources Department

**SUBMITTAL DATE:**  
December 16, 2014

**SUBJECT:** Approve and execute the Agreement with Skillsoft, Inc., and the County of Riverside for E-Learning Services, other than low bid, for five (5) years [District All] [Total Cost \$880,100] [Source of Funds: Department Budget]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Ratify, approve and execute a one year Agreement with Skillsoft, Inc., from December 31, 2014 - December 31, 2015, which contains an option to renew the agreement for four additional one-year periods, for an amount as follows: Year one: \$161,800; Year two: \$166,654; Year three: \$174,987; Year four: \$183,736; Year five (5): \$192,923, and;
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to increase service and licenses as needed, based upon demand, not to exceed \$200,000 annually; exercise the renewal options based on availability of fiscal funding; and to sign amendments that do not change the substantive terms of the agreement and amendments to the compensation that do not exceed the CPI Index.

Michael T. Stock  
Asst. County Executive Officer/  
Human Resources Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 161,800	\$ 166,654	\$ 880,100	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
<b>SOURCE OF FUNDS:</b> Department Budget				<b>Budget Adjustment:</b> No	
				<b>For Fiscal Year:</b> 14/15 – 19/20	

**C.E.O. RECOMMENDATION:** APPROVE

BY:   
Samuel Wong

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

- Positions Added
- Change Order
- A-30
- 4/5 Vote

**Prev. Agn. Ref.:**

**District:** ALL

**Agenda Number:**

**3-24**

PURCHASING & FLEET SERVICES  
Lisa Brandl, Director

Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA  
FORM 11: Approve and execute the Agreement with Skillsoft, Inc., and the County of Riverside for  
E-Learning Services, other than low bid, for five (5) years [District All] [Total Cost \$880,100]**

**[Source of Funds: Department Budgets]**

**DATE: December 16, 2014**

**PAGE: 2 of 2**

**BACKGROUND:**

**Summary (continued)**

The Human Resources Department, COR Learning Center has administered the County's learning function since 2005 and introduced online learning on a limited basis in 2010. COR Learning Center currently offers a limited library of online content, including three mandated courses. Demand for online learning has continued to increase; and in fiscal year 2013/14, productivity gains were equivalent to thirty nine full-time staff. As a result, the Human Resources Department is seeking to expand the County's online learning function by providing employees with a secure, practical, and efficient manner to access online training.

This expansion will provide an online computer-based training solution that offers employees a comprehensive library of courses, videos, and books on a variety of topics such as, leadership, management, supervision, information technology, Microsoft Office, legal compliance, and risk mitigation. Professional certification preparation and continuing education credits will also be offered. This initiative helps Riverside County achieve the goals of delivering more business friendly, innovative, and customer centric public service while strengthening the County's workforce and improving organizational results over time.

**Impact on Residents and Businesses**

The expansion of online learning content supports the County's goals of customer centric and business-friendly public service through the development of employees' personal and professional skills thus improving organizational productivity and results over time. In addition, online learning reduces travel countywide therefore reducing travel expenses.

**SUPPLEMENTAL:**

**Contract History and Price Reasonableness**

Purchasing & Fleet Department released a Request for Proposal (RFP) HRARC-060, soliciting proposals for E-Learning Services on behalf of the Human Resources Department. The RFP was sent to 11 potential bidders and was advertised on the Purchasing web site. A total of two bid responses were submitted in response to the RFP. The proposals were reviewed by the evaluation team consisting of staff from Human Resources. Each bid response was evaluated based on the criteria set forth in the RFP: overall response to the RFP requirements, bidders experience and ability, overall cost, references, financials, clarification, exceptions, deviations and credentials, resumes, licenses, permits and certifications. Original bid range was from \$715,000 to \$1,050,000 for five (5) years.

Skillsoft's content meets the County's Learning Management System compatibility requirements providing interoperability and is compliant with Section 508 of the Rehabilitation Act of 1973. Skillsoft, Inc., has proprietary ownership rights on most of its online courses which helps reduce risks of major delivery problems and allows for semi-customization of course content. Skillsoft, Inc. immediately uploads new courses, books, and videos on a monthly basis whereas reseller of Skillsoft, Inc., content cannot. Resellers do not own Skillsoft, Inc., content and there is no guarantee that a reseller could support Riverside County's online function with a robust library for years to come. Skillsoft, Inc., service supports marketing, program management, technical integration, Return on Investment (ROI) calculations, usage statistics, and overall value measurements for Riverside County.

Based on this analysis and an overall summation of the proposals submitted, it is the recommendation of the evaluation team to select Skillsoft, Inc., as the most responsive/responsible vendor for these services. Final bid range was from \$715,000 to \$880,100. Purchasing negotiated the rate down from \$1,050,000 to \$880,100 for an estimated 5 year savings of \$169,900.



TERMED MASTER LICENSE AGREEMENT

This Master License Agreement (the "Agreement") is effective as of 31 December 2014 (the "Effective Date"). Capitalized terms set forth herein shall have the meanings set forth in this Agreement or an Order Form issued hereunder.

WHEREAS, the Customer identified below desires to use the products and/or services described in an order executed by both parties and issued under the terms and conditions of this Agreement (an "Order Form"); and

WHEREAS, Skillssoft Corporation ("Skillssoft") is willing to license the products and/or services described in an Order Form issued hereunder to Customer upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Skillssoft and Customer agree as follows and have caused this Agreement to be executed by their duly authorized representatives.

The duly authorized signatories of the parties' have read, understand and agree to the terms and conditions set forth below, effective as of the date set forth above.

Skillssoft Corporation
107 Northeastern Blvd.
Nashua, NH 03062
United States

("Customer")
County Of Riverside
2980 Washington St
Riverside, CA, 92504

Signature: [Handwritten Signature]
Mark P. Murray
Senior Director Finance
Print Name: Corporate Controller
Title:
Date: 11/25/14

Signature
Print Name
Title
Date

GENERAL TERMS AND CONDITIONS

1. Definitions

1.1 "Authorized Audience" shall mean the number of Customer employees located in the Territory that are authorized to access and use the applicable Skillssoft Product(s) (as licensed in any Order Form issued under this Agreement). Customer shall limit the use of the Skillssoft Product(s) to the number of Licensed Users for whom Customer has paid the required license fees.

1.2 "Documentation" shall mean all technical documentation, manuals and specifications with respect to the Skillssoft Product(s) that are generally made available by Skillssoft with the Skillssoft Product(s). Skillssoft reserves the right to revise the Documentation from time to time, in its sole discretion.

1.3 "Intellectual Property Rights" shall mean Skillssoft's ownership rights and other proprietary rights and interests in and to all patents, patent rights, trademarks, service marks, copyrights, trade secrets and other intellectual property and all other rights incorporated or embodied in, used to develop or related to any of the foregoing.

1.4 "License Consumption" occurs when a member of the Authorized Audience has accessed the applicable Skillssoft Product (a "Licensed User"). Accessing of a Skillssoft Product includes CD or on-line viewing as well as downloading for future use, and/or saving to a bookshelf. Once an individual has accessed a Skillssoft Product, such individual is considered to have consumed a license for that Skillssoft Product for the remainder of the then current annual License Term, or except as otherwise set forth herein and in Section 2.8 below. Notwithstanding the foregoing, Skillssoft agrees that licenses for terminated employees of Customer can be exchanged for a new member of the Authorized Audience during an annual term and that usage of the Skillssoft Product(s) by a terminated employee will not count toward Customer's License Consumption. The foregoing sentence applies only to full time, regular employees and shall not apply to contractors or temporary employees of Customer.

1.5 "Skillssoft Product(s)" shall mean the Skillssoft products and services, identified on Order Form(s) issued under this Agreement, which Order Form(s) are incorporated herein by reference.

1.6 "Skillssoft Property" shall mean the Skillssoft Product(s) and Skillssoft's web site architecture and content thereof including, but not limited to, the Intellectual Property Rights inherent therein and/or appurtenant thereto and any copies made as authorized under this Agreement.

1.7 "Territory" shall mean North America.

2. License Terms.



2.1 Subject to the restrictions stated in this Agreement and an Order Form issued under this Agreement, Skillssoft grants to Customer and Customer accepts, a nonexclusive, non-transferable license (without the right to sublicense) for the License Term set forth in the applicable Order Form, to use and to allow the applicable Authorized Audience to access and use the Skillssoft Product(s) set forth therein for internal training purposes only.

2.2 All Skillssoft Products are the property of Skillssoft and/or its third party publishers and/or licensors and is protected by copyright and other laws relating to proprietary rights. Except for the limited licenses granted pursuant to this Agreement, the terms of this Agreement do not convey any ownership or other rights of any kind to Customer in or to Skillssoft Property. Skillssoft and its publishers and licensors have and shall retain all right, title and interest in and to the Skillssoft Property. Skillssoft reserves all rights not expressly granted to Customer herein. Customer shall have the right to receive any corrections, enhancements or other modifications as commercially available to all Skillssoft customers licensing the same Skillssoft Products. Further, Customer shall keep the Skillssoft Property free and clear of all claims, security interests, liens and encumbrances.

2.3 Except as may otherwise be permitted in this Agreement, Customer shall not (a) reproduce publish, display, distribute, sell, sublicense, transfer, rent, lease, broadcast, timeshare, loan, disclose, or otherwise make available the Skillssoft Property, or any part thereof, to any third party; (b) reverse engineer, disassemble, decompile or otherwise attempt to derive source code from the Skillssoft Property, or any part thereof; (c) modify, translate, adapt, alter or create derivative works (as defined under the United States copyright laws) based upon the Skillssoft Property or any part thereof; (d) remove any proprietary notices, labels, or trademarks or service marks on any Skillssoft Property; (e) merge the Skillssoft Property, or any component thereof with another program (unless otherwise authorized herein); (f) use the Skillssoft Property, or any component thereof, for any purposes other than those explicitly stated in this Agreement; (g) have any right to any source code for the Skillssoft Property (h) permit any party not specifically licensed herein to use the Skillssoft Property; (i) use download functionality enhancement tools; or (j) make unauthorized uses of Skillssoft Intellectual Property Rights. Customer further agrees that Customer is solely responsible for the content of all visual, written, or audible communications using the Skillssoft Product(s). Although Skillssoft is not responsible for any such communications, Skillssoft may terminate or suspend any such communications at any time of which it is made aware of a communication that is unlawful, would constitute a criminal offense or give rise to civil liability. In the event of the foregoing, Skillssoft will provide prompt notice of suspension or termination to Customer.

2.4 Provided that Customer reproduces all copyright and other proprietary notices, Customer may make copies of the Skillssoft Product(s) available and licensed by Customer in CD-ROM format for deployment and backup purposes as reasonably necessary to carry out the rights expressly granted by this Agreement. Customer shall take all reasonable security precautions to ensure that only the Authorized Audience accesses the Skillssoft Property.

2.5 Customer agrees to maintain during the License Term (as defined in an Order Form) and for one (1) year after termination of this Agreement, records of all use and copying of the Skillssoft Product(s) (if applicable) and assignment of all login identifications used to access the Skillssoft Product(s) if distributed by Customer. Skillssoft shall have the right during such time, but not more than once per year and at Skillssoft's expense, to examine such records and to audit Customer's access to and usage of the Skillssoft Product(s) to verify compliance with this Agreement. Notwithstanding the foregoing, Skillssoft shall have the right to examine such records and audit Customer's access more than once per year if the results of any audit reveal a failure of Customer to comply with the terms of this Agreement.

2.6 Upon expiration or termination of this Agreement or any exchange or update of the Skillssoft Product(s), Customer will delete any copies of the Skillssoft Property from its computer(s) or server(s) and destroy or return to Skillssoft all hard copies of the same. Customer agrees to provide Skillssoft with a written statement, signed by an authorized Customer representative, which certifies its compliance with the foregoing obligations.

2.7 Customer acknowledges that all of the restrictions on access to and use of the Skillssoft Property contained in this Section 2 and elsewhere in this Agreement apply to the Authorized Audience. Customer will take all necessary steps to ensure compliance of the Authorized Audience therewith, and Customer will be liable and indemnify Skillssoft for any violations of this Agreement by its employees or the Authorized Audience.

2.8 In the event that Customer enters into a multi-year license term, Customer will track the Licensed Consumption for each Skillssoft Product licensed within each year of the License Term, as set forth in the applicable Order Form, to ensure that the Authorized Audience level has not been exceeded. Consumed Licenses cannot be exchanged or swapped during each year of the License Term unless otherwise set forth herein. De-activated and deleted users will still be counted as Licensed Users until the annual renewal date. Except as otherwise noted above, Customer shall not swap or share the user ID's and/or passwords associated with the Authorized Audience and/or Licensed Users under any circumstance.

2.9 If the Skillssoft Products licensed herein are deployed outside of Skillssoft's learner management systems, Customer agrees to submit a report to Skillssoft at the end of each calendar month ("Monthly Usage Report"). The Monthly Usage Report shall include details of all users of the Skillssoft Products. The purpose of the Monthly Usage Report shall be to show the number of Licensed Users that accessed the Skillssoft Products in the preceding month.

3. Term; Termination; Effects of Termination.

3.1 This Agreement shall commence on the Effective Date set forth on page one of this Agreement and will expire on 30 December 2015 unless terminated pursuant to this Section 3. Notwithstanding the foregoing, this Agreement may be extended for four (4) additional one (1) year terms by executing a mutually agreeable amendment between the parties.

3.2 Termination of Agreement. Either party may cancel this Agreement and/or an Order Form issued under this Agreement (a) upon written notice if the other party commits a material breach which it fails to cure within thirty (30) days of written notice of such breach or which by its nature cannot be cured within such thirty (30) day period; (b) immediately if a party has a receiver appointed, or an assignee for the benefit of creditors, or in the event of any insolvency or inability to pay debts as they become due by such party, except as may be prohibited by applicable bankruptcy laws.

3.3 Disabling a Licensed User. Notwithstanding the foregoing, in order to protect Skillssoft's licensors and/or publishers intellectual property rights, Skillssoft may disable any individual's access to the Skillssoft Product(s) immediately if, in Skillssoft's sole discretion, such individual's use of the license violates the terms and conditions of this Agreement or any Order Form issued under this Agreement.



3.4 Effects of Termination for Breach. If Skillsoft terminates this Agreement based on subsection 3.2(a) or 3.2(b) above, then Skillsoft reserves the right to pursue any and all rights and remedies available to it under applicable law, including, but not limited to, collection of the Commitment Fee. If Customer terminates this Agreement based on subsection 3.2(a) above, then Skillsoft shall not retain any amount previously paid by Customer for a period after the effective date of termination, but shall be entitled to receive and retain all amounts attributed to the period before the effective termination date.

3.5 Survival. The rights and obligations of the parties under Sections 3, 4, 6, 7, 8, and 9 shall survive the expiration or termination of this Agreement, and any obligations which either expressly or by their nature are to continue after the termination or expiration of this Agreement shall survive and remain in effect.

#### 4. Payment Terms.

4.1 Payment. Customer agrees to pay Skillsoft the Commitment Fee set forth in an Order Form issued under this Agreement. The Commitment Fee shall be due and payable annually in advance within (net30) days after the invoice date. Except as specifically set forth in Section 3.4 above, all amounts received by Skillsoft pursuant to this Section 4 shall be non-refundable.

4.2 Late Payment. Customer shall pay a late charge equal to the lesser of one and one-half percent (1.5%) per month, or the maximum charge permitted under applicable laws, on any amounts not paid when due from the date such amounts first became due. Customer shall reimburse Skillsoft upon demand for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts owed by Customer, and such costs shall likewise accrue interest from the date first due.

4.3 The Commitment Fee, and any other amounts payable to Skillsoft hereunder are exclusive of taxes. Except for taxes based on Skillsoft's net income, Customer shall be responsible for payment of all applicable taxes, however designated or incurred, in connection with the transactions under this Agreement, including without limitation, Value-Added, state and local excise, sales, withholding and use taxes and any other applicable governmental assessments ("Tax(es)"). Notwithstanding the foregoing, if applicable prior to Customer's execution of this Agreement, Customer may provide Skillsoft with: a) a tax exemption certificate or a direct pay permit acceptable to the taxing authorities or b) proper documentation from the local taxing authority which states the withholding percentage that Customer is subject to. If Customer fails to pay any applicable Tax, then Skillsoft may pay such Tax on Customer's behalf and seek reimbursement from Customer.

#### 5. Warranty

5.1 Tangible Media Warranty. Skillsoft warrants that for a period of ninety (90) days from the date Customer receives a Skillsoft Product(s) hereunder in tangible form, the Skillsoft Product(s) will be free from defects in materials and workmanship under normal use and will substantially conform to the Documentation. Customer shall be deemed to have received the Skillsoft Product(s) upon delivery of the CD/R media on which the applicable Skillsoft Product(s) are recorded.

5.2 During the term of an applicable Order Form executed under this Agreement the Skillsoft Product(s) will substantially conform to the Documentation. In the event that a material defect is identified by Customer, then Skillsoft, at its sole option and expense, (i) may make reasonable efforts to correct defects in the Skillsoft Product(s) that are documented by Customer, and confirmed by Skillsoft, or (ii) may replace the defective Skillsoft Product(s), or (iii) if Skillsoft deems neither of the foregoing are commercially practicable, terminate the license granted herein with respect to the applicable Skillsoft Product(s), accept return of the defective product(s) and grant Customer a pro-rated credit of the unused portion of the license fees paid with respect to the applicable Skillsoft Product(s). Skillsoft's obligation of liability hereunder shall be to replace or make reasonable efforts to take corrective action with regards to such defect in a single copy of the defective Skillsoft Product(s). Notwithstanding the foregoing, Skillsoft shall have no obligation to correct or replace copies of any Skillsoft Product(s) that Customer has made in accordance with the provisions of this Agreement. The remedy stated in this Section 5.2 shall be Skillsoft's entire obligation and Customer's sole and exclusive remedy for breach of warranty hereunder and shall be in lieu of any other remedy available to Customer at law or in equity. This warranty shall not apply if the Skillsoft product(s) have been (a) altered, modified, or enhanced; (b) subjected to misuse, negligence, computer or electrical malfunction; or (c) used, adjusted, installed or operated other than in accordance with the Documentation, or as authorized in writing by Skillsoft. Furthermore, no warranties shall apply in the event of an uncured breach of this Agreement by Customer for which notice of breach has been given hereunder.

5.3 Notwithstanding the provisions in Sections 5.1-5.2 above, in no event shall Skillsoft provide any warranties or technical support to Customer for any Customer provided courses or any Customer specific materials that have been derived from or created by or with any Skillsoft Product, or hosted on a Skillsoft hosted services.

5.4 THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED. SKILLSOFT SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, ABSENCE OF SECURITY INTEREST, LIEN OR ENCUMBRANCE, AND QUIET ENJOYMENT. SPECIFICALLY, AND NOT IN LIMITATION OF THE FOREGOING, SKILLSOFT DOES NOT WARRANT THAT ANY SKILLSOFT PRODUCT(S) WILL MEET CUSTOMER NEEDS OR REQUIREMENTS, THAT THE OPERATION OF ANY SKILLSOFT PRODUCT(S) WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ANY DEFECTS IN THE SKILLSOFT PRODUCT(S) WILL BE CORRECTED. TO THE EXTENT THAT ANY IMPLIED WARRANTIES ARE DEEMED TO EXIST UNDER APPLICABLE LAW, THEY ARE HEREBY EXPRESSLY LIMITED IN DURATION TO THE DURATION OF ANY EXPRESS WRITTEN WARRANTY MADE HEREIN.

#### 6. Intellectual Property Indemnity.

6.1 Skillsoft, at its own expense, shall indemnify, defend, and hold Customer harmless from and against all claims, damages or other liabilities asserted by or payable to third parties, ("Claims") based on a third party claim that a Skillsoft Product(s) infringe(s) a North America patent, copyright, trademark, or trade secret of a third party. In order to seek or receive indemnification pursuant to the provisions of this Section 6.1, (i) Skillsoft shall be notified promptly in writing by Customer of any Claim of which it is aware for which indemnification may be available; (ii) Skillsoft shall have the sole control of the defense of any such Claim and of all negotiations for its settlement or compromise, provided that such settlement or compromise does not require the admission of liability, fault, or wrongful act or conduct on the part of Customer and (iii) Customer shall cooperate reasonably with Skillsoft in the defense, settlement or compromise of such Claim at Skillsoft's expense. Skillsoft shall not be responsible for the expenses, including attorney's fees, of Customer incurred after Skillsoft assumes defense of the Claim to which the indemnification may apply, but Customer may participate



therein and retain counsel at its own expense. Skillssoft will not be responsible for any settlement or compromise made by Customer without Skillssoft's written consent. Skillssoft will not consent to the entry of any judgment or enter into any settlement or compromise affecting Customer, to the extent that the judgment, settlement or compromise requires the admission of liability, fault, or wrongful act or conduct on the part of Customer and/or otherwise involves more than the payment of money by Skillssoft, without the prior written consent of Customer.

6.2 If Customer's use of any Skillssoft Product(s) is enjoined, or if in Skillssoft's sole judgment is likely to be enjoined, Skillssoft may, at its sole option, and expense, and as a complete remedy to Customer, either (a) substitute equivalent non-infringing software for the infringing item, (b) modify the infringing item so that it no longer infringes but remains functionally equivalent, (c) obtain for Customer the right to continue using such item, or (d) if Skillssoft deems none of the foregoing are commercially practicable, terminate the license granted herein with respect to the applicable Skillssoft Product(s), accept return of the infringing product(s) and grant Customer a pro-rated credit of the unused portion of the license fees paid with respect the applicable Skillssoft Product(s).

6.3 The foregoing provisions of this Section 6 notwithstanding, Skillssoft shall not have any liability to Customer under this Section 6 to the extent that any infringement or claim thereof is based upon (i) use of the Skillssoft Product(s) in combination with equipment or software not supplied hereunder where the Skillssoft Product(s) would not itself be infringing, (ii) compliance with designs, plans or specifications provided by Customer, (iii) use of Skillsoft Product(s) in an application or environment for which it was not designed, not provided for in the Documentation or not contemplated under this Agreement, (iv) use of other than the most recent release of the Skillssoft Product(s) provided to Customer by Skillssoft, (v) use of the Skillssoft Product(s) in breach of this Agreement (vi) any claims of infringement in which Customer or any affiliate of Customer has an interest or license.

6.4 Customer agrees that Customer shall indemnify, defend and hold Skillsoft harmless from and against all claims, damages or other liabilities asserted by or payable to third parties ("Claims") that arise out of or in connection with any property, information, software, documentation, or materials, provided to Skillssoft by Customer or that Skillssoft hosts on any Skillssoft Product(s) as requested by Customer. In order to seek or receive indemnification pursuant to the provisions of this Section 6.4, (i) Customer shall be notified promptly in writing by Skillssoft of any notice of any Claim of which it is aware for which indemnification may be available; (ii) Customer shall have the sole control of the defense of any action on such Claim and all negotiations for its settlement or compromise, and (iii) Skillssoft shall cooperate reasonably with Customer in the defense, settlement or compromise of such Claim at Customer's expense. Customer shall not be responsible for the expenses, including attorney's fees, of Skillssoft incurred after Customer assumes defense of the Claim to which the indemnification may apply, but Skillssoft may participate therein and retain counsel at its own expense. Customer will not be responsible for any settlement or compromise made by Skillssoft without Customer's written consent. Customer will not consent to the entry of any judgment or enter into any settlement or compromise affecting Skillssoft, to the extent that the judgment, settlement or compromise requires the admission of liability, fault, or wrongful act or conduct on the part of Skillssoft and/or otherwise involves more than the payment of money by Customer, without the prior written consent of Skillssoft.

## 7. Limitation of Liability.

7.1 Neither party excludes or limits its liability to the other for death or personal injury resulting from its negligence or any other liability which cannot be excluded or limited by law.

7.2 Neither party shall be liable for any consequential, collateral, special, incidental, indirect, exemplary or punitive damages, including, without limitation, loss of profits or revenue, loss of use, damage, loss or destruction of data, costs of cover, costs of delay, however caused and based on any theory of liability, for any claims or causes of action arising out of or related to this Agreement or its subject matter. These limitations will apply even if a party has been informed of the possibility of such damages or any other liability which cannot be excluded or limited by law.

7.3 In no event shall either parties aggregate liability arising out of any kind of claim (whether in contract, tort, or otherwise), under this Agreement or arising out of or resulting from Customer's use of any Skillsoft Product(s) exceed the Commitment Fee paid or payable under this Agreement with respect to such Skillssoft Product(s).

7.4 The limitations of liability set forth in Sections 7.2 and 7.3 above shall not apply to (i) the parties' respective indemnification obligations under this Agreement; (ii) damages arising out of or in connection with Customer's breach of Section 2.3 of this Agreement; or (iii) any damages arising out of or in connection with Customer's misappropriation of Skillssoft's Intellectual Property Rights.

## 8. Compliance with Laws.

8.1 Customer will comply with all applicable international, federal, state, and local laws and regulations in connection with its downloading and use of the Skillssoft Property and in performing its obligations hereunder, including, but not limited to, export controls and embargo restrictions under the laws and regulations of the United States ("U.S.") and the European Union ("EU"), including without limitation, export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies (collectively, "Export Control Laws").

8.2 Customer acknowledges and further agrees that the Skillssoft Property shall not be used in, and none of the underlying information, software, or technology may be downloaded, transferred or otherwise exported or re-exported to, any countries to which the U.S. and/or the EU maintains an embargo applicable to the Skillssoft Property or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Denied Persons List, Unverified List or Entity List, or who is listed in General Order No. 3 as set forth in Title 15 of the U.S. Code of Federal Regulations, Part 736, Supplement No. 1 "Designated National". The lists of Embargoed Countries and Designated Nationals are subject to change without notice.

8.3 Notwithstanding any other provision of this Agreement, Customer agrees that Skillssoft, in its sole discretion, can take steps as it deems necessary to remedy a breach of any provision in this Section 8.

8.4 Customer hereby agrees to indemnify and hold harmless, Skillssoft and its licensors, and their respective officers, directors, employees, agents and affiliates from and against any and all claims, actions, demands, liabilities, penalties, fines, fees, costs, or expenses, including reasonable attorneys' fees, arising out of or in connection with



Customer's breach of this Section 8.

9. General Provisions.

9.1 Force Majeure. Skillssoft shall not be liable to Customer for any loss or damage resulting from any delay or failure of the Skillssoft Product(s), or any part thereof, or its ability to perform its obligations hereunder, in any respect, if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond its control. Such events, occurrences, or causes include, without limitation, acts of God, strikes, lockouts, inability to secure materials and transportation facilities, riots, acts of war, terrorist acts, governmental actions, floods, earthquakes, and natural disasters, fires and explosions.

9.2 Assignment. Customer shall not assign this Agreement in whole or in part, whether by operation of law or otherwise, without the advance, written consent of Skillssoft. Any purported transfer or assignment in violation of this Section 9.2 shall be null and void and of no force and effect.

9.3 Successors. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

9.4 Notices. All notices given hereunder shall be in writing, and shall be deemed to be duly given if delivered by any of the following methods: (i) by personal delivery; (ii) by electronic mail or facsimile, with a confirmation copy sent by first class mail; (iii) by registered or certified mail, postage prepaid, return receipt requested; or (iv) by a nationally recognized overnight courier. A notice sent by certified mail or express courier shall be deemed given on the date of receipt or refusal of receipt. A notice sent by electronic mail or facsimile shall be deemed given on the date of electronic confirmation of receipt. Notices shall be sent to the respective addresses of each party as follows.

If to Skillssoft:  
Skillssoft Corporation  
107 Northeastern Blvd  
Nashua, NH 03062  
Attn: Contracts Dept Admin  
Fax: (603) 821-5151

If to Customer:  
County Of Riverside  
2980 Washington St  
Riverside, CA, 92504  
Attn: Walter Mack

9.5 Prevailing Party. In any litigation, arbitration, or other proceeding arising out of or related to this Agreement, the prevailing party shall be entitled to receive its reasonable attorneys' fees, and reasonable costs and expenses.

9.6 Severability. If any provision herein is held invalid or unenforceable by a court of competent jurisdiction, then such provision shall, to the extent of such invalidity or unenforceability, be severed. All other provisions shall continue in full force and effect and shall be construed so as to best effectuate the intention of the parties in executing it.

9.7 Contractor Services licensed under this Agreement are Commercial Computer Software under United States Federal Government Acquisition Regulations and agency supplements thereto. Contractor Services are provided to the federal government and its agency only under the Restricted Rights Provision of the Federal Acquisition Regulations applicable to commercial software developed at private expense and not in the public domain. The use, duplication or disclosure by the government is subject to restrictions as set forth in subdivision (c) (1) (ii) of the Rights in Technical Data and Computer Software at DFAR 252 227-7013. Unless exempt, Customer and Skillssoft shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. If applicable, the Customer and Skillssoft shall also abide by the requirements 41 CFR § 61-300.10 regarding veterans' employment reports and 29 CFR Part 471, Appendix A to Subpart A regarding posting a notice of employee rights.

9.8 No Third Party Beneficiary. This Agreement is made and entered into for the sole protection and benefit of the parties hereto and is not intended to convey any rights or benefits to any third parties, nor will this Agreement be interpreted to convey any benefits or rights to any person except the parties hereto. A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

9.9 Governing Law and Venue. This Agreement and all disputes hereunder, and the rights and obligations of the parties hereto, shall be governed by and construed in accordance with the laws of the state of California without reference to its conflicts or choice of law provisions.

9.10 Waiver. The failure or delay by either party in exercising any right or remedy hereunder shall not operate as a waiver of any such right, power or remedy. Waiver by either party of any default shall not waive any prior, concurrent or subsequent defaults by the other party.

9.11 Counterparts. This Agreement may be executed in counterpart(s), all of which shall be originals and which together shall constitute a single agreement.

9.12 Press Release. Customer agrees to permit Skillssoft to use Customer's name in a press release and/or marketing communication piece(s) that promote this Agreement and the relationship between the parties. Skillssoft shall provide Customer with a courtesy copy of the final approved press release prior to public release. Skillssoft shall obtain Customer approval prior to public release of all other customer-provided information.

9.13 Headings. The descriptive headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. Each of the recitals set forth at the beginning of this Agreement is incorporated into this Agreement and is binding upon the parties hereto.

9.14 Relationship of the Parties. The relationship of Skillssoft and Customer established by this Agreement is of licensor and licensee, each to constitute an independent contractor. Nothing in this Agreement shall be construed to give either party the power to direct or control the daily activities of the other party, or to constitute the parties as



principal and agent, employer and employee, franchisor and franchisee, partners, joint ventures, co-owners, or otherwise as participants in a joint undertaking. The parties understand and agree that, except as specifically provided in this Agreement, Skillssoft does not grant Customer the power or authority to make or give any agreement, statement, representation, warranty, or other commitment on behalf of Skillssoft, or to enter into any contract or otherwise incur any liability or obligation, express or implied, on behalf of Skillssoft, or to transfer, release, or waive any right, title, or interest of Skillssoft.

9.15 Entire Agreement; Amendment This Agreement and any and all Order Forms issued hereunder constitute the entire understanding and agreement between the parties with respect to the subject matter thereof and supersede all prior and contemporaneous proposals, agreements, and/or nondisclosure agreements, and representations between them, whether written or oral. In the event of any conflict between the foregoing general terms and conditions (General Terms and Conditions) and any Order Form(s) issued hereunder, the Order Form(s) shall govern. Any amendments to this Agreement must be in writing and signed by an authorized representative of Customer and Skillssoft. Any terms or conditions contained in any Customer purchase orders or other documents shall be void and of no force or effect.

**END OF AGREEMENT**





**ORDER FORM**

This Order Form together with any Exhibits attached hereto which are hereby incorporated by reference (the "Order Form") is effective as of 31 December 2014 (the "Effective Date") by and between Skillsoft Corporation ("Skillsoft") and County Of Riverside ("Customer") and issued in accordance with the terms and conditions and made a part of the Master License Agreement between Skillsoft and County Of Riverside dated 31 December 2014 (the "Agreement").

**1. LICENSE DETAILS**

**START DATE:** 31 DECEMBER 2014

**END DATE:** 30 DECEMBER 2015

SKILLSOFT PRODUCT	AUTHORIZED AUDIENCE
COMPLIANCE LIBRARY LICENSE: 5 COURSE OBJECTS	4,000
LEADERSHIP ADVANTAGE	1,000
LEADERSHIP CHANNEL	1,000
SKILLCHOICE BUSINESS (US ENGLISH)	1,000
SKILLCHOICE DESKTOP (US ENGLISH)	1,000
SKILLCHOICE IT (US ENGLISH)	100
SKILLSOFT DESKTOP VIDEOS	1,000
SKILLSOFT IT VIDEOS	100

**DEPLOYMENT METHOD:** SkillPort via Extranet Hosting Services

**2. LICENSE FEES AND COMMITMENT.** Customer's total commitment hereunder is set forth below and is calculated as follows (the "Commitment Fee"). Applicable state and local taxes are not included in the totals below and will be calculated as of the date of the invoice(s) issued hereunder:

YEAR/TERM	ANNUAL LICENSE FEES
Y1	\$161,800.00
TOTAL	\$161,800.00

All fees shall be invoiced annually in advance and are due and payable net 100% net 30 days from the date of invoice.

**2.1 Option Year 1.** The parties agree that Customer may elect to extend the License Term of this Order Form for an additional one (1) year, December 31, 2015 through December 30, 2016, for the same Skillsoft Product(s) and Authorized Audience set forth herein, for an annual license fee of \$166,654.00. In the event Customer elects to extend this Order Form pursuant to this Section 2.1, Customer shall provide Skillsoft with written notice of such election thirty (30) days prior to December 31, 2015 and the parties shall execute a mutually agreeable amendment to the Agreement and this Order Form to memorialize such extension.

**2.2 Option Year 2.** The parties agree that Customer may elect to extend the License Term of this Order Form for an additional one (1) year, December 31, 2016 through December 30, 2017, for the same Skillsoft Product(s) and Authorized Audience set forth herein, for an annual license fee of \$171,654.00. In the event Customer elects to extend this Order Form pursuant to this Section 2.2, Customer shall provide Skillsoft with written notice of such election thirty (30) days prior to December 31, 2016 and the parties shall execute a mutually agreeable amendment to the Agreement and this Order Form to memorialize such extension.

**2.3 Option Year 3.** The parties agree that Customer may elect to extend the License Term of this Order Form for an additional one (1) year, December 31, 2017 through December 30, 2018, for the same Skillsoft Product(s) and Authorized Audience set forth herein, for an annual license fee of \$176,803.00. In the event Customer elects to extend this Order Form pursuant to this Section 2.3, Customer shall provide Skillsoft with written notice of such election thirty (30) days prior to December 31, 2017 and the parties shall execute a mutually agreeable amendment to the Agreement and this Order Form to memorialize such extension.

**2.4 Option Year 4.** The parties agree that Customer may elect to extend the License Term of this Order Form for an additional one (1) year, December 31, 2018 through December 30, 2019, for the same Skillsoft Product(s) and Authorized Audience set forth herein, for an annual license fee of \$182,107.00. In the event Customer elects to extend this Order Form pursuant to this Section 2.4, Customer shall provide Skillsoft with written notice of such election thirty (30) days prior to December 31, 2018 and the parties shall execute a mutually agreeable amendment to the Agreement and this Order Form to memorialize such extension.

**3. ORDER FORM DEFINITIONS.** Any term not otherwise defined herein shall have the meaning provided it in the Agreement.

**Compliance Library License** shall mean a license model that allows customer to select a defined number of Environmental, Health & Safety Environmental, Safety & Health (ES&H) and/or Legal Compliance Course Object(s) (**Course Level**) for its Authorized Audience. Customer is entitled to exchange up to 20% of the current Compliance based Course Level objects, four (4) times during each annual license term, by providing Skillsoft with written notice at least ten (10) days prior to the date of exchange. Additionally, with respect to a License Term of greater than one year Customer may elect, one month prior to each twelve (12) month anniversary date, to exchange one or more Compliance Based Course Object(s) to a maximum of the current Course Level. This election must be in writing and provided to Skillsoft thirty (30) days prior to the anniversary date. In the event that Skillsoft retires a Compliance Based Course Object included in Customer's Course selection during an annual term, Customer will be required to select a new Compliance Based Course Object upon the next anniversary date.

**Course Object** shall mean current and future online computer based training materials developed and owned by Skillsoft and/or its licensors in the content areas relating to



business skills, employee health and safety, legal compliance, financial services industry, desktop applications and information technology, including all hard copy, machine-readable materials that comprise the object, including, all related software, data, disks, tapes, CD-ROM, Documentation and packaging delivered, including by electronic delivery, to Customer. Planned Course Object(s) that are not commercially available at the time of Customer's selection are available on a 'when and if' basis. A target date is indicative of the anticipated release date but is subject to change or removal by Skillsoft without notice. The materials provided hereunder have been developed with subject matter expertise from various third parties but are intended for informational and educational purposes only and do not constitute legal advice or guarantee compliance with any federal, state or local laws or regulations. Although Skillsoft undertakes all reasonable efforts to maintain the legal accuracy of this content and make updated content available to customers, neither Skillsoft nor any third party represents or warrants that the content reflects current legal developments; customers are encouraged to consult local counsel before taking any action based on the content or information provided hereunder.

**Leadership Channel** means the video lessons and other content and materials pursuant to this Order Form, including, without limitation, on demand video programs, all lesson summaries, ideas for action, and questions to ask provided by Skillsoft in connection with any video lesson. Skillsoft reserves the right to modify, restrict or update any content contained in Leadership Channel throughout the License Term.

**Leadership Advantage** is a targeted leadership development program comprised of a collection of assets selected and organized by leadership experts. Individual learning tracks offer a combination of new and existing Skillsoft and Referenceware learning assets combining multiple modes of instruction, including text, video, and interactive practice activities. Customer shall be entitled to new learning tracks if and when they are made commercially available.

**License Term** shall mean the period of time from the Start Date through the End Date.

**Mentoring Service** shall mean a service that enables a user to ask questions relating to specific information technology courses or the general subject matter of those courses and receive responses from experts in the field of information technology. The Mentoring Service is only available for Customers that purchase a license to Extranet Hosting Service and/or Skillport via Extranet Hosting Services.

**Platform Software** shall mean the technology infrastructure selected by Customer in Section 1 of this Order Form above as further defined in Section 3 of this Order Form.

**Referenceware** shall mean the Books24x7 online library of third party reference materials, editorial materials, electronic books and other resources hosted by Books24x7.com, Inc. Skillsoft reserves the right to modify, restrict or update any content contained in a Referenceware collection throughout the term of this Order Form.

**SkillChoice Business** is a prepackaged offering of the Skillsoft Products set forth below:

- Business Strategy and Operations Solution Area
- Finance, Human Resources, and Administration Solution Area
- Management and Leadership Solution Area
- Professional Effectiveness Solution Area
- Project Effectiveness Solution Area
- Sales and Customer Facing Skills Solution Area
- Mentoring Service
- Platform Software
- BusinessPro Referenceware

**SkillChoice Desktop** is a prepackaged offering of the Skillsoft Products set forth below:

- Desktop Computer Skills Solution Area
- Mentoring Service
- Platform Software
- OfficeEssentials Referenceware

**SkillChoice IT** is a prepackaged offering of the Skillsoft Products set forth below:

- Software Development Solution Area
- Operating Systems and Server Technology Solution Area
- Internet and Network Technologies Solution Area
- Enterprise Database Systems Solution Area
- Web Design Solution Area
- Enterprise Resource Planning Systems Solution Area
- Project Effectiveness Solution Area
- Mentoring Service
- Platform Software
- ITPro Referenceware

**Skillport® via Extranet Hosting Services** shall mean Skillport delivered through a method of delivery and access to the Course Object(s) and Skillport whereby Skillsoft shall host the Course Object(s) and Skillport on Skillsoft servers and Customer may obtain access to the Course Object(s) and Skillport on Skillsoft servers through the World Wide Web. Skillsoft will provide Skillport via Extranet Hosting Services as they relate to management of Course Object(s), including securing server space, installation and maintenance of Course Object(s) allocation of bandwidth and the ability to generate usage reports. If Customer licenses Skillport via Extranet Hosting Services and Skillsoft releases any Updates to Skillport, Skillsoft and Customer shall work together to determine a mutually agreeable time to upgrade the Customer's site to the latest version. If



Customer is not willing or able to upgrade to the latest version, Customer acknowledges that it will not be entitled to other Skillsoft Product Updates that are not compatible with Customer's version of Skillport. As a feature of Skillport via Extranet Hosting Services, Customer may elect to implement the credentialing functionality which enables Customer to provide information, credit tracking and certificate capabilities for pre-defined credentials. Such feature is dependent upon a minimum Skillport version. In the event Customer chooses the module to obtain continuing professional education ('CPE') credit for the Skillsoft Courses that are qualified by the National Association of State Boards of Accountancy ('NASBA'), Customer agrees that Skillsoft shall have access to Customer's Skillport administrator reporting feature of the module to print and maintain reports on NASBA CPE credits issued in accordance with its obligations of being a NASBA sponsor organization. The following are the requirements: CPE program sponsors must retain appropriate records for a minimum of five (5) years. To accomplish this, the records must contain the following: (1) program outline/materials; (2) records of participation; (3) date(s) and location(s) of presentation(s) or period during which program was available for purchase; (4) number of credits earned by participants; (5) results of program evaluations.

**Skillsoft Desktop Videos** shall mean a collection of short, instructional videos covering desktop related topics, hosted on Books24x7. Skillsoft reserves the right to modify, restrict or update any content contained in the Skillsoft Desktop Video collection at any time during the License Term of this Order Form.

**Skillsoft IT Videos** shall mean a collection of short, instructional videos covering IT related topics, hosted on Books24x7. Skillsoft reserves the right to modify, restrict or update any content contained in the Skillsoft IT Video collection at any time during the License Term of this Order Form.

**Solution Areas** shall mean the Course Object bundle(s) named in this Order Form and comprised of the Course Object(s) included in the respective bundle(s) as set forth in Skillsoft's course catalog which may be found at <http://www.skillsoft.com>, including any Updates thereto.

**Updates** shall mean (i) any new Skillsoft Product(s) added to a Solution Area licensed and/or (ii) all revisions, new versions and changes to, or modifications of, existing Skillsoft Product(s), which Skillsoft may, in its sole discretion, make generally available to its customers from time to time throughout the License Term; and/or (iii) removal of any retired Course Object from the licensed Solution Area. Skillsoft reserves the right to determine the schedule of Updates. Customer will not be provided Updates if they are not compatible with Customer's deployment method or the version of the Platform Software licensed by Customer.

**4. RATIFICATION.** The terms and conditions of the Agreement shall govern the use of the Skillsoft Products provided hereunder

The authorized representatives of Skillsoft and Customer have executed this Order Form signifying their agreement to its contents.

**SKILLSOFT CORPORATION**

**COUNTY OF RIVERSIDE**

Signature   
 Print Name **Mark P. Murray**  
 Title **Senior Director Finance**  
**Corporate Controller**  
 Date **11/25/14**

Signature \_\_\_\_\_  
 Print Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_



CUSTOMER INFORMATION EXHIBIT

BILL TO	County Of Riverside
CONTACT	Walter Mack
PHONE	(951) 955-0000
E-MAIL	wmack@co.riverside.ca.us
ADDRESS	2980 Washington St
CITY	Riverside
STATE	CA
COUNTRY	US
ZIP CODE	92504

SHIP TO	County Of Riverside
CONTACT	Walter Mack
PHONE	(951) 955-0000
E-MAIL	wmack@co.riverside.ca.us
ADDRESS	2980 Washington St
CITY	Riverside
STATE	CA
COUNTRY	US
ZIP CODE	92504