



500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEM



Date: October 18, 2022

To: Mark F. Miller, City Manager

From: Robert J. Bruner, Assistant City Manager
Dee Ann Irby, Controller
Kurt Bovensiepe, Public Works Director
Alex Bellak, Information Technology Director
Paul Trosper, Water/Sewer Operations Manager
Emily Frontera, Purchasing Manager

Subject: Bid Waiver: Swift Comply Cross Connection Program Management Software for Water and Sewer Division

History

The State of Michigan requires all Municipal Water Systems have an active Cross Connection Control Program. A Cross Connection Program is in place to assist in record keeping and compliance of testable back flow devices that protect the water system from cross contamination. The City of Troy program manages data and testing on approximately 18,000 testable back flow devices. This program is overseen by one staff member who uses an older program XC2 (now Swift Comply) and does not have a web-based platform. Upgrading to the electronic entry Swift Comply program will allow testers to electronically enter tests and view entries online. This will allow our staff more time to perform field inspections and be an overall more efficient operation.

Purchasing

Swift Comply (Formerly XC2) of Pleasanton, CA is the program supplier the City of Troy currently has been using since 2010 for Cross Connection test management. By upgrading to the enhanced web-based Swift Comply program, staff will be able to bring all historic files into the new program without loss of data. Initial setup cost is reduced due to our data being transferable.

- Initial Setup Cost \$3,000 plus first year use charge of \$16,558.75
- Annual recurring charge \$16,558.75 (subject to change yearly due to number of testable devices)

Financial

Funds are available in the operating budgets for the Water and Sewer Division for the Fiscal Year 2023. Expenditures will be charged to the Water Customer Cross Connection Operating Supplies General - Account Number 591.537.538.7740.010



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Recommendation

City Management recommends the purchase of the *Swift Comply of Pleasanton, CA* Cross Connection Management Program to replace the obsolete management program for an estimated total cost of \$19,558.75 for the implementation and first year's data fees. Additionally, City Staff requests authorization to expend budgeted operating funds for the data fees related to the assemblies and test submissions in future years.

Legal Review

This item was submitted to the City Attorney for review pursuant to the City Charter Section 3.17



SwiftComply Backflow

Commercial Proposal for Troy, MI to manage the Cross Connection Control (CCC) Program.

Prepared for:

Matthew Kapcia Troy

Created by:

Reilly Kirk SwiftComply
reilly.kirk@swiftcomply.com 503-522-3544

Troy – Why

The challenge

Having worked with hundreds of CCC program managers and field teams over more than 20 years, we have seen the challenges associated with implementing a CCC program. We know how paper-based and time consuming running a CCC program often is. And as water purveyor requirements continue to change and become more complex, managers are being asked to do more with less.

The solution

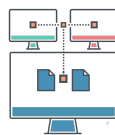
Our CCC management solutions are designed with one thing in mind – do more with less. We deliver timely and relevant communications to testers and water customers and provide an easy-to-use online portal to submit test reports. This allows you to prioritize high-risk areas and deliver accurate regulatory reports.

How SwiftComply works



Manage your program online

Say goodbye to paper and endless hours of admin by allowing testers to upload reports directly to the city database.



Streamline your compliance process

Integrate your entire network compliance data in one application & use advanced reports to identify patterns.

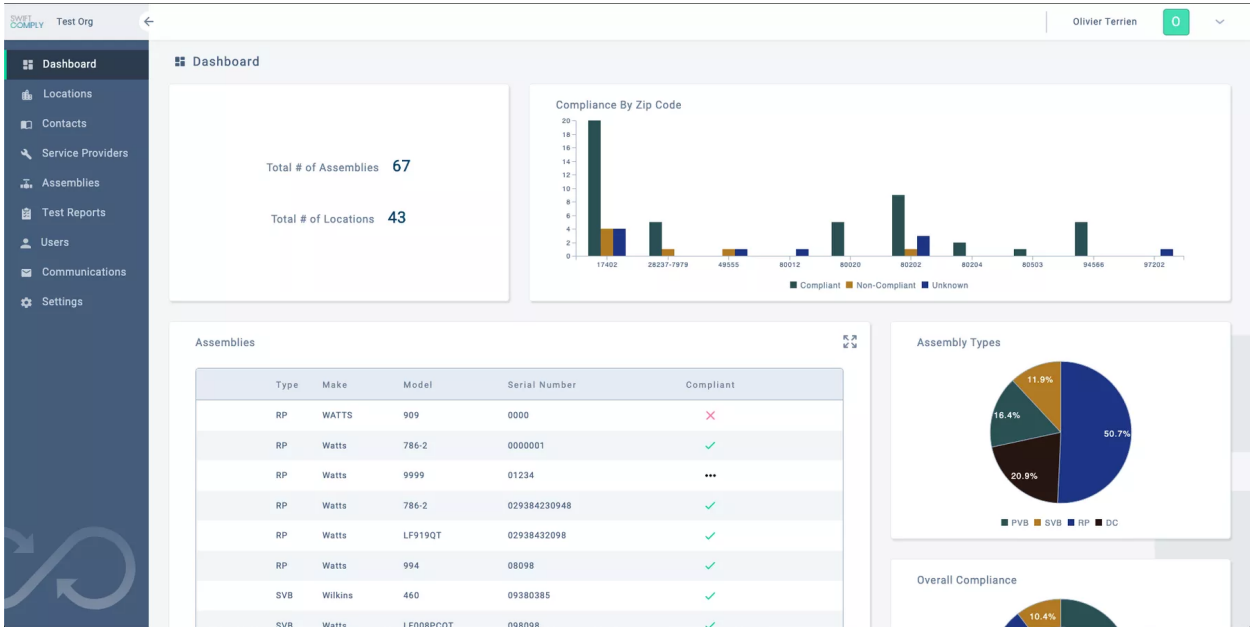


Automate complex and repetitive tasks

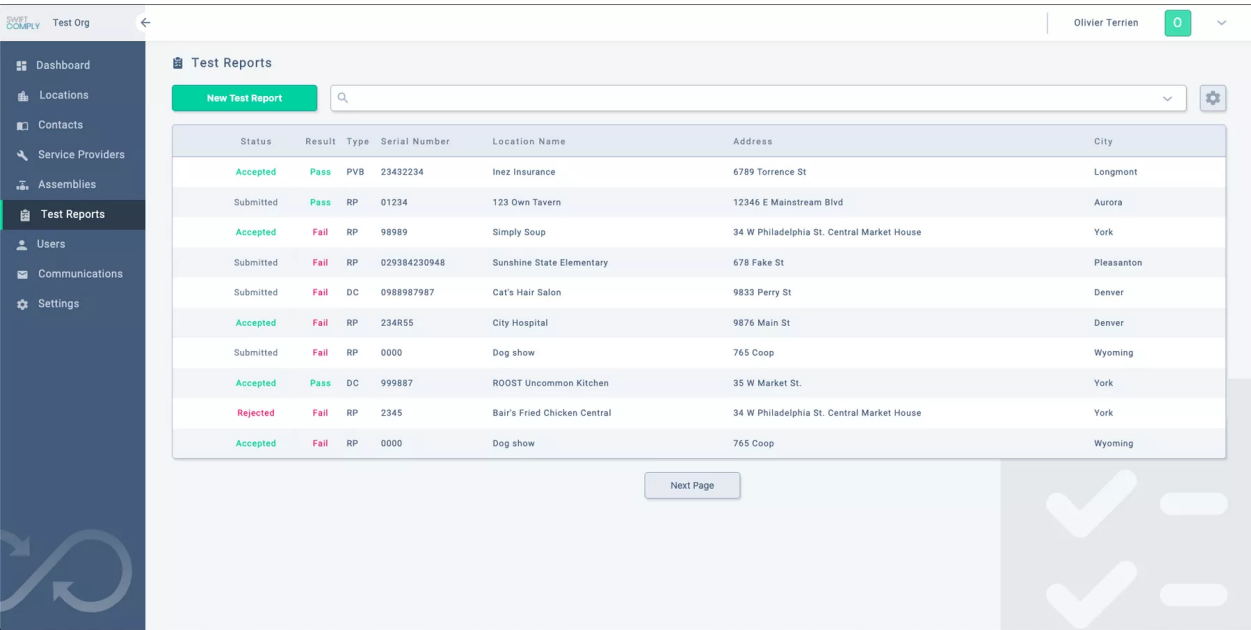
Give your team the time and tools to develop new efficiencies by automating your most time-consuming processes.



SwiftComply – A closer look



Automate repetitive tasks, organize data, and access real-time reports for a deeper insight into the current CCC situation in your district. GIS integrations, compliance tracking and mapping, online test report entry are just some of the features available.



Highly flexible test notifications engine and Mobile friendly surveys/inspections to increase productivity in the office and on the field.

1st BFP Test Reminder

DETAILS

Notice Name *
1st BFP Test Reminder

Type *
Assembly
Compliance Type *
Assembly Test

Period *
7 Days
Before

☒ Active
☐ Use First Available Method

Contact Types *
1. Primary
2. Administrative
Contact Methods *
1. Email
2. Letter

Email Subject *
Backflow Assembly Test Required

Email Body *
Please see attachment for your backflow assembly test requirements.

CC
1.
BCC
1.

Description

Dashboard
Locations
Contacts
Service Providers
Assemblies
Test Reports
Surveys
Users
Communications
Settings

Surveys / New Survey

Test Report
Location Information

Service Name *
Bills Balloun Bonanza (DP test changing location name)
Service Street Address *
1111 Helium Way
Service Address Line 2
Service City *
San Rafael
Service State *
California
Service Zip Code *
94901
Contact Name *
Contact Phone *
Contact Cell
Contact Email
Account #

Location Information
Repair Information
Survey Information

Management of certified testers, service providers, assemblies and locations with intuitive workflows. Following registration, testers receive secured access to upload test reports online.

Location & SP
2 of 5

Location Account Number
4576566796
Location Name
Providence Hospital
Location Contact Phone Number
334-687-3256
Service Address
532 Chetsworth Lane
Seattle, Washington 98104
Service Provider Account Number
23332212
Service Provider Name
5 Star Backflow Services
Service Provider Phone Number
334-543-4441
Service Provider Email
5StarBackflow@gmail.com

Test Values
3 of 5

Check Valve #1
Hold at 8 psi
Closed Tight?
Leaked?
Check Valve #2
Hold at 3 psi
Closed Tight?
Leaked?
Check Valve #3
Hold at 4 psi
Closed Tight?
Leaked?

Tester Information
4 of 5

Tester Certification Number
456453445
Initial Test Tester Name
Tiffany Marks
Initial Test Date
11/1/2019
Test Kit Serial Number
98454093462
Comments
Access to the property was initially impossible due to the locked basement. Brian Fantana arrived 20 minutes later to provide access. His number is 999-343-2567.

Submit Test Report
5 of 5

I certify that all submitted information to be true at the time of testing
Tiffany Marks
11/1/2019



SwiftComply Value Benchmark

Capabilities	SwiftComply Backflow	Benefits
User Experience	Modern and intuitive interface. Configurable fields.	Increased productivity and transitioning. Easier and faster to learn and use.
Data Integrity	Best industry practices to structure and organize data. Relational database with location, assemblies, contacts.	Improved reliability and trust.
Reporting	Customizable dashboard + Analytics.	Increased visibility and control over long-term program goals.
Workflow automation	E-mail and/or mail notifications, real-time notifications of non-compliance.	Streamlined outreach processes.
Field activity	Mobile device friendly: user interface adapts to screen sizes. Unlimited number of inspection/survey templates.	<ul style="list-style-type: none"> Increased field productivity with all data just a click away. No need to sync data. Everything updated in real-time.
Access	<ul style="list-style-type: none"> Web-based from any browser. Unlimited Users. Ruled based access rights (e.g. admin, edit, view only). 	<ul style="list-style-type: none"> Ubiquitous access from any computer with internet (office, field, home). No shuffling/sharing of licenses to avoid extra charges. Greater team collaboration and information sharing.
Online Test Report	Native capability with the ability to review before accepting them.	Frictionless process to digitize the CCC program and stay in control of its integrity.
Knowledge base	Online videos training, users forum.	Resources and best practices sharing between professional peers to get the most out of your investment.
Update	Automatic and no hardware upgrade required.	Lower IT maintenance and leverage the latest new features as released.
Storage & Back-up	Unlimited, encrypted storage and back-ups are done in multi-region automatically.	Peace of mind, reduced risk of data loss or corrupted files.
Security	24/7 monitoring.	Lower IT maintenance.
Integration	Published RESTful API.	Open architecture to integrate with third party software such as GIS, Billing System or Workforce management.



Pricing Table & Scope of Services – Exhibit A

CCC Program Management - One-Time Fee.	Price	QTY	Discount	Subtotal
Backflow – Initial Setup System setup and configuration, CSV file data transfer, online user training and tester onboarding.	\$9,875.00	1	-\$6,875.00	\$3,000.00

Tax **\$0.00**

Total \$3,000.00

Recurring after Go Live date	Price	QTY	Discount	Subtotal
Backflow Essentials – Up to 10,000 assemblies Yearly Subscription for the Software and Customer Success	\$9,875.00	1	-\$2,468.75	\$7,406.25
Online backflow test submissions – paid by city Test submissions through online portal by backflow testers – per passing test	\$1.25	7322	\$0.00	\$9,152.50

Tax **\$0.00**

Total \$16,558.75

Payment terms:

- One time set-up fee: lump sum billed in advance. Net 30 days.
- Recurring fee: pre-paid yearly in advance after go live date. Net 30 days.
- Testers required to submit online
- Sales tax not included and to be confirmed.





Your signature below confirms your order with SwiftComply. Once received, a member of our team will contact you as soon as possible to discuss implementation.

Date:

Name:

Signature:

Offer valid until December 16th, 2022.

If you have any question please contact:

Olivier Terrien - (415) 450-8979 - SwiftComply - Koll Center Pkwy Suite 250, Pleasanton, CA 94566 USA



Terms & Conditions

This Contractor Services Agreement (this "Agreement") is entered into as of day this agreement is fully executed (the "Effective Date") between SwiftComply US OpCo, Inc, located at Suite 250, 6701 Koll Center Parkway, Pleasanton, CA 94566 ("Contractor") and the Troy ("Customer").

SERVICES

Subject to Customer's ongoing compliance with this Agreement, Contractor grants Customer a non-exclusive, non-transferable right, during the Term (as defined in Section 3.1), to Use (as defined in Section 1.2) the Contractor Service. As used herein, "Contractor Service" means an instance of Contractor's web-based Cross Connection Control (CCC) or Backflow Prevention (BFP) or Reclaimed Water (RW) or Pretreatment or fats, oil and grease ("FOG"), stormwater and other compliance management applications, which is hosted as a single-tenant solution for Customer, as identified in Exhibit A – Scope of Services. During the Term, subject to Customer's ongoing compliance with this Agreement, Contractor will make the Contractor Service available to Customer in accordance with the service levels set forth in Exhibit C. For purposes of clarity, the parties acknowledge and agree that the Contractor Service is hosted by Contractor or its third party service providers, and that Contractor will not be obligated to deliver any software code for the Contractor Service to the Customer.

Authorized Users. "Use" means that Customer's employees and personnel who are acting on behalf of Customer ("Authorized Users") may access and use the Contractor Service solely for Customer's compliance program purposes and otherwise in accordance with this Agreement. Customer will keep, and will ensure that its Authorized Users keep, all credentials for the Contractor Service confidential. Customer is solely responsible for any use of the Contractor Service by Authorized Users or any other third party that accesses the Contractor Service using credentials issued to Customer and/or an Authorized User, including any violation of this Agreement by such third parties, and will promptly notify Contractor of any unauthorized access using such credentials.

Restrictions. Customer shall not, directly or indirectly, and shall not authorize any person, to the maximum extent permitted by applicable law, to: (i) decompile, disassemble, reverse engineer or attempt to reconstruct or discover any elements of; (ii) translate, adapt, or modify; (iii) write or develop any program based upon; (iv) sell, sublicense, transfer any rights in, use for the benefit of, or allow access to, unauthorized persons to; (v) transmit unlawful, infringing or harmful data, viruses or code to or from; (vi) attempt to undermine the security or integrity of; (vii) use, or misuse in any way which may impair the functionality of; (viii) attempt to gain unauthorized access to; (ix) transmit, or input any files, content, material or Customer Data that may be offensive or in violation of any law (including material protected by copyright or trade secrets which Customer does not have the right to use); or (x) otherwise use except as expressly permitted hereunder, in each case of (i) – (x), the Contractor Service (including all technology constituting or used to provide such service) or any data provided by Contractor, as applicable (collectively, "Contractor Technology")

Integration Services. The integration with a third party software system via Contractor RESTful API and/or via a .CSV file upload are described in Exhibit A - Scope of Services. If new integration services arise during the course of the contract, any additional integration service fees shall be agreed in advance.

Support. During the Subscription Term, Contractor will provide commercially reasonable email or phone (not onsite) support between 7am-7pm EST Monday to Friday except US national public holidays. Exhibit C details the Service Level Agreement.

PAYMENT

Payment. The fees that are payable by Customer to Contractor for Services as defined in Exhibit A following the Effective Date (the "Contract Period") are set forth on Exhibit A - Fees Schedule ("Fees"). All Fees are due and payable in U.S. dollars. Customer shall not be liable for any additional expenses of Contractor not specified by this Agreement unless Customer first approves such expenses in writing.

TERM AND TERMINATION

Term. The initial term of this Agreement will begin on the Effective Date and continue for 3 years thereafter (the "Initial Term"); after which this Agreement will automatically renew for additional 2 year terms (each, a "Renewal Term" and together with the Initial Term, the "Term"), unless either party provides at least 30 days' notice of its intent not to renew to the other party prior to the start of any Renewal Term. During each term all fees are fixed. Contractor may increase the Fees, with such increases becoming effective at the start of the next Renewal Term, by providing notice to the Customer of the Fee increase at least 60 days prior to the start of such Renewal Term. At a minimum, the Contractor may increase its fees in accordance with the Consumer Price Index ("CPI") and at a maximum 5% per year (five per cent), excluding predefined discounts.

Consumer Price Index shall refer to the Consumer Price Index, All Urban Consumers, subgroup All Items, for the San Francisco-Oakland-San Jose metropolitan area (base year 1982-84 equals 100), which is presently being published monthly by the United States Department of Labor, Bureau of Labor Statistics.

Termination for Convenience. Customer may terminate this Agreement for convenience by giving ninety (90) day notice to Contractor at any time during the Contract Period

Termination for Cause. Either party may terminate this Agreement for cause if: (i) the other party is in material breach of this Agreement, which is not cured within 60 days after written notice of such breach; or (ii) the other party files a petition for bankruptcy that is not dismissed within 90 days of such filing, is adjudicated bankrupt, or suffers any analogous event. Notwithstanding the foregoing sentence, Contractor may terminate this Agreement by written notice if Customer fails to pay any Fees payable to Contractor within 10 days after the date on which Contractor notifies Customer of nonpayment



Effect of Termination. Subject to Section 7 of Exhibit C, upon the effective date of expiration or termination of this Agreement for any reason: (i) access to Contractor Technology will automatically terminate; and (ii) Customer has 30 days to request the return of Customer Data, after which time Contractor has no further obligation to store or permit retrieval of such Customer Data. The following provisions of this Agreement will survive the expiration or termination of this Agreement for any reason: Sections 1.3 (Restrictions), 2 (Payment), 3.4 (Effect of Termination), 4 (Confidentiality; Ownership; Data), 5 (Indemnification), 6 (Disclaimer; Limitation of Liability), 7 (General Provisions); Section 7 of Exhibit C (End of Contract/Exit Strategy); and any other provision that by its nature should survive the expiration or termination of this Agreement.

CONFIDENTIALITY; OWNERSHIP; DATA

Definition. "Confidential Information" means, pursuant to applicable federal or State or STATE law, any information disclosed directly or indirectly by one party ("Disclosing Party") to the other party ("Receiving Party") that is designated in writing as "confidential" and as provided herein.

Confidential Information does not include any information which (i) is or becomes generally known and available to the public through no act or omission of the Receiving Party; (ii) was already in the Receiving Party's possession at the time of disclosure by the Disclosing Party, as shown by the Receiving Party's contemporaneous records; (iii) is lawfully obtained by the Receiving Party from a third party who has the express right to make such disclosure; or (iv) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information. As between Contractor and Customer, the Contractor Technology is the Confidential Information of Contractor, and the Customer Data is the Confidential Information of Customer.

Use; Maintenance. Neither party shall use the Confidential Information of the other party for any purpose except to exercise its rights and perform its obligations under this Agreement. Neither party shall disclose, or permit to be disclosed, either directly or indirectly, any Confidential Information of the other party, except to employees of the Receiving Party with a need to know, or to its advisors, or prospective investors or purchasers, each subject to a written obligation of confidentiality. Each party will take reasonable measures to protect the secrecy of, and avoid disclosure and unauthorized use of, the Confidential Information of the other party, and will take at least those measures that it takes to protect its own most highly confidential information. A Receiving Party will use reasonable efforts to provide timely notice of compelled disclosure to facilitate confidential treatment of Disclosing Party's Confidential Information, and will furnish only that portion of Confidential Information that it is legally required to disclose, after exercising reasonable efforts to obtain assurance that such information will receive confidential treatment. Contractor may list Customer as a customer in its promotional and marketing materials, including its website.

Ownership. Except for the limited rights granted in Sections 1.1 and 4.4 of this Agreement: (i) Contractor hereby retains all rights, title and interest, including all intellectual property rights, in and to the Contractor Technology, and (ii) Customer hereby retains all rights, title and interest in Customer Data.

Data and Feedback Licenses. Customer hereby grants, to the extent permitted by applicable law, to Contractor and its affiliates a worldwide, irrevocable, perpetual, royalty-free license (a) to use log and other information related to Customer's use of the Contractor Service to improve Contractor's products; and (b) to use all data (including report, survey, inspection, compliance, and enforcement records) made available to Contractor by or on behalf of Customer and its Authorized Users ("Customer Data") to perform its obligations hereunder.

Unauthorized Access. Contractor shall store and maintain Customer Data in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt Customer Information in any way. Contractor shall notify Customer immediately if the security or integrity of any Customer Data has been compromised or is believed to have been compromised, in which event, Contractor shall, in good faith, use all commercially reasonable effort to cooperate with Customer in identifying what information has been accessed by unauthorized means and shall fully cooperate with Customer to protect such Customer Data from further unauthorized disclosure.

DISCLAIMER; LIMITATION OF LIABILITY

Information and Customer Data. Any information of any type which is obtained from the Contractor Service is presented for guidance purposes only and should not be relied on. Contractor does not: (i) warrant the accuracy, comprehensiveness, or utility of any information obtained from the Contractor Service; or (ii) assume, endorse or accept responsibility for the accuracy or reliability of any such information. Under no circumstances will Contractor be responsible for any loss or damage resulting from Customer's reliance on information or other content obtained through the Contractor Service. The information which Customer obtains by using the Contractor Service will be determined to a large extent by the Customer Data. It is solely Customer's responsibility to evaluate the accuracy, relevance and completeness of the Customer Data.

Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CONTRACTOR'S PROPOSAL AND CONTRACTOR'S CONTRACTOR TECHNOLOGY SOFTWARE DOCUMENTATION, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, LOSS OF DATA, ACCURACY OF RESULTS, OR ARISING FROM COURSE OF DEALING OR RELIANCE. CONTRACTOR DOES NOT WARRANT ANY THIRD PARTY WEBSITE CONTENT OR FUNCTIONALITY, THAT THE CONTRACTOR SERVICE WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT ITS SECURITY MEASURES WILL PREVENT THIRD-PARTY ACCESS TO CUSTOMER DATA.

Limitation of Liability. EXCEPT IN CONNECTION WITH CONTRACTOR'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 5 OF THIS AGREEMENT, DEATH OR PERSONAL INJURY, IN NO EVENT WILL CONTRACTOR BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, TREBLE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, WHETHER BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF THE OTHER PARTY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CONTRACTOR'S TOTAL LIABILITY (INCLUDING ATTORNEYS' FEES) ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED TWICE THE AMOUNT PAID BY CUSTOMER UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE OR THE PROCEEDS OF ANY INSURANCE REQUIRED UNDER THIS AGREEMENT, WHICHEVER IS GREATER. NEITHER PARTY MAY BRING ANY ACTION, REGARDLESS OF FORM,



ARISING OUT OF THIS AGREEMENT AFTER THE APPLICABLE STATUTE OF LIMITATIONS PERIOD. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED OR EXCLUSIVE REMEDY. IN NO EVENT WILL CUSTOMER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, TREBLE, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, WHETHER BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF THE OTHER PARTY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER'S TOTAL LIABILITY (INCLUDING ATTORNEYS' FEES) ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED TWICE THE AMOUNT PAID BY CUSTOMER UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE.

GENERAL PROVISIONS

Assignment. Neither party may assign this Agreement or any of its rights or obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing sentence, Contractor may assign this Agreement without consent in connection with a corporate reorganization, change of control, consolidation, merger, reincorporation, sale of assets, or other similar transaction or series of transactions. Subject to the foregoing, this Agreement will be binding upon, and inure to the benefit of, the parties and their respective permitted successors and assigns.

Force Majeure. Except for the obligation to pay money, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including an act of war, terrorism, act of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet ("Force Majeure Event"). The delayed party shall give the other party notice of such Force Majeure Event and shall use its reasonable commercial efforts to correct such failure or delay in performance.

Non-Discrimination Covenant. Contractor, for itself, its personal representatives, assigns, sub contractors and successors in interest, as part of the consideration herein, agrees that in the performance of Contractor's duties and obligations hereunder, it shall not discriminate in the treatment or employment of any individual or group of individuals on any basis prohibited by law. IF ANY CLAIM ARISES FROM AN ALLEGED VIOLATION OF THIS NON-DISCRIMINATION COVENANT BY CONTRACTOR, ITS PERSONAL REPRESENTATIVES, ASSIGNS, SUBCONTRACTORS OR SUCCESSORS IN INTEREST, VENDOR AGREES TO ASSUME SUCH LIABILITY AND TO INDEMNIFY AND DEFEND CUSTOMER AND HOLD CUSTOMER HARMLESS FROM SUCH CLAIM.

Solicitation of Employees. Neither Customer nor Contractor shall, during the term of this Agreement and additionally for a period of one year after its termination, solicit for employment or employ, whether as employee or independent contractor, any person who is or has been employed by the other during the term of this Agreement, without the prior written consent of the person's employer. Notwithstanding the foregoing, this provision shall not apply to an employee of either party who responds to a general solicitation of advertisement of employment by either party.

Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without reference to conflict of laws principles. Disputes arising out of or related to this Agreement will be subject to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California, or the U.S. District Court for the Northern District of California and the parties hereby agree and consent to the exclusive jurisdiction and venue of these courts.

Immigration Nationality Act. Contractor shall verify the identity and employment eligibility of its employees who perform work under this Agreement, including completing the Employment Eligibility Verification Form (I-9). Upon request by Customer, Contractor shall provide Customer with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Contractor shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any Contractor employee who is not legally eligible to perform such services. CONTRACTOR SHALL INDEMNIFY CUSTOMER AND HOLD CUSTOMER HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY CONTRACTOR, CONTRACTOR'S EMPLOYEES, SUBCONTRACTORS, OR AGENTS.

Notices. Any notice given by either party that is required or permitted under these Terms or required by law must be in writing and must be (i) delivered in person, (ii) sent by first class registered mail, or air mail, as appropriate, or (iii) sent by overnight air courier, properly posted and fully prepaid, in each case of (i) through (iii) to the applicable address below. Notices will be considered to have been given at the time of actual delivery in person, 3 business days after deposit in the mail as set forth above, 1 day after delivery to an overnight air courier service.

Public Information. Contractor acknowledges that Customer is a "governmental entity" within the meaning of the State of Michigan Public Information and/or Record Act and must comply with the State of Michigan Law for Open Meetings in response to requests for public records. Notwithstanding any provision to the contrary within this agreement, the parties expressly agree that Customer may make any disclosures required by applicable law. In the event there is a request for information marked Confidential or Proprietary, Customer shall promptly notify Contractor. It will be the responsibility of Contractor to submit reasons objecting to disclosure. A determination on whether such reasons are sufficient will not be decided by the Customer, but by the Office of the Attorney General of the State of U.S. District Court for Michigan or by a court of competent jurisdiction.

Right to Audit. Contractor agrees that Customer shall, until the expiration of three (3) years after final payment under this contract, or the final conclusion of any audit commenced during the said three years, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records, including, but not limited to, all electronic records, of Contractor involving transactions relating to this Agreement at no additional cost to Customer. Contractor agrees that Customer shall have access to such records involving only transactions relating to this Agreement during normal working hours to all necessary Contractor facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. Customer shall give Contractor reasonable advance notice of intended audits.



Miscellaneous. This Agreement, together with all exhibits attached hereto, is the sole agreement of the parties concerning the subject matter hereof, and supersedes all prior agreements and understandings with respect to said subject matter. No terms of any purchase order, acknowledgement or other form provided by Customer will modify this Agreement, regardless of any failure of Contractor to object to such terms. Any ambiguity in this Agreement shall be interpreted equitably and the parties waive the application of any rule of construction providing that ambiguities in an agreement will be construed against the party drafting such agreement. The headings in this Agreement are inserted for convenience and are not intended to affect the interpretation of this Agreement. The words "include" and "including" shall not be construed or interpreted as terms of limitation. The relationship between the parties shall be that of independent contractors. Waiver of any provision of this Agreement or forbearance to enforce any provision by either party shall not constitute a waiver as to any subsequent breach or failure of the same provision or a waiver of any other provision of this Agreement. Any provision found to be unlawful, unenforceable or void shall be modified so as best to accomplish the original intent of the parties to the fullest extent permitted by law, and the remaining provisions of this Agreement will continue in full force and effect. Customer agrees to comply with all applicable export control laws and regulations related to its use of the Contractor Service. This Agreement may be executed in counterparts. Modifications or amendments to this Agreement must be in writing and executed by an authorized representative of each party.

Exhibits. The Exhibits described below and attached to this Agreement shall be deemed to be integral parts of this Agreement and are incorporated into this Agreement. The Agreement and Exhibits shall, to the extent possible, be interpreted as consistent among each other. In the event of any conflict or inconsistency between the terms and conditions in the main body of this Agreement and the terms and conditions in any Exhibit, the terms and conditions of the main body of this Agreement shall control unless otherwise expressly stated in the provision giving rise to the conflict or inconsistency. Any conflict or inconsistency among the Exhibits shall be interpreted in terms most beneficial to the Customer. Any subsequent amendment or modification of this Agreement or any Exhibit shall not be deemed to eliminate or overwrite an existing provision unless such existing provision is explicitly referenced in the amendment or modification.

Exhibit "A" – Scope of Services

- See specific scope of services in proposal.

Fees Schedule - Exhibit A

- See Product Order page.

Service Level Agreement - Exhibit C

This Service Level Agreement ("SLA") applies to Customer's use of the Contractor Service during the Term in accordance with Section 1.1 of the Agreement. All terms used herein but not defined will have the meaning given to them in the Agreement.

1- Support 619.304.6022, hello@swiftcomply.com. Support office hours are 7am-7pm EST from Monday to Friday except US national public holidays. Knowledge base is available 24/7 at <https://knowledge.swiftcomply.com/hc/en-us>.

2- Service Commitment

Contractor will use commercially reasonable efforts to make the Contractor Service available with a Monthly Uptime Percentage (defined below) of 99.9%, during the Term (the "Service Commitment"). In the event Contractor does not meet the Service Commitment, Customer's sole remedy will be a Service Credit as described below.

Update process is continuous, typically once every two weeks and always deployed out of US work hours after extensive testing and validation in a staging environment.

3- Definitions

The following capitalized terms shall be given the meaning set forth below:

3.1- "Uptime Percentage" is calculated by subtracting from 100% the percentage of time during an applicable calendar month in which the Contractor Service was Unavailable for one or more continuous period of 3 minutes or more. Uptime Percentage measurements exclude downtime resulting directly or indirectly from any SLA Exclusion (defined below).

3.2- "Service Credit" is a dollar credit, calculated as set forth below, that Contractor will credit back to Customer as described in Section 4 of this SLA.

3.3- "Unavailable" and "Unavailability" means a period of time during which an Authorized User with valid credentials cannot log into the Contractor Service, retrieve a form, and log out.

4- Service Commitments and Service Credits



Service Credits are calculated, in accordance with the schedule set forth below, as a percentage of the total amounts paid by Customer for the Contractor Service that are attributable to the monthly period in which the Unavailability occurred.

Uptime Percentage	Service Credit Percentage
Less than 99.9% but equal to or greater than 98.0%	10% of the Fees attributable to such month
Less than 98.0% but equal to or greater than 90.0%	20% of the Fees attributable to such month
Less than 90.0%	30% of the Fees attributable to such month

Contractor will apply any Service Credits only against future payments otherwise due from Customer; provided, however, that if any Service Credits remain outstanding upon termination or expiration of the Agreement, then Contractor will provide a refund to Customer in the amount of such outstanding Service Credits. Customer's sole and exclusive remedy for any unavailability is the receipt of a Service Credit (if eligible) in accordance with the terms of this SLA.

5- Credit Request and Payment Procedures

To receive a Service Credit, Customer must submit a claim by sending an email to hello@swiftcomply.com. To be eligible, the credit request email must be received by Contractor no later than 30 days following the last day of the monthly period during which the Unavailability occurred and must include: (i) the words "SLA Credit Request" in the subject line; (ii) the dates and times of each Unavailability Incident Customer is claiming; and (iii) support request logs that document the errors and corroborate the Customer's claimed outage.

If the Uptime Percentage of such request is confirmed by Contractor and is less than the Service Commitment, then Contractor will issue a Service Credit to Customer within one billing cycle following the month in which Customer's request is confirmed by Contractor. Customer's failure to provide the request and other information as required above will disqualify Customer from receiving a Service Credit.

6- SLA Exclusions

The Service Commitment does not apply to any unavailability, suspension or termination of the Contractor Service, or any other performance issues, that: (i) are caused by factors outside of Contractor's reasonable control, including, without limitation, any Force Majeure Event or Internet access or related problems beyond the demarcation point of the Contractor Service or its direct hosting subcontractors (i.e. beyond the point in the network where Contractor maintains access and control over the Contractor Service); (ii) result from any actions or inactions of Customer or any third party (other than Contractor's direct hosting subcontractor); (iii) result from Customer's equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within Contractor's direct control); (iv) result from any scheduled maintenance (provided that Contractor gives the Customer notice of scheduled maintenance at least 48 hours in advance of the downtime, or, in the event of emergency maintenance, provides notice as soon as practicable); or (vi) arise from Contractor's suspension and termination of Customer's right to use the Contractor Service in connection with any breach by Customer of the Agreement (collectively, the "SLA Exclusions").

7- End of Contract/Exit strategy

When the Customer decides to terminate the agreement with Contractor, Contractor will assign a migration manager to develop and agree a transition plan. We recommend having one single point of contact on the Customer's side who will interface and coordinate tasks with the other Customer staff (operations, IT, legal, others) and the new solution provider.

During the transition, Contractor will make sure:

- 1- The Customer has access to and can retrieve all of its data stored in the database.
- 2- The Customer retrieves all the templates defined for the different forms.
- 3- Contractor agrees on a timeline to keep all the data and configuration during the transition to a maximum of 90 days after the contract expiration.
- 4- Contractor proceeds to the decommissioning of the Customer instance which includes the deletion of all data in our database, decommissioning of the API with Customer's third party software systems, all users access codes, removal of registration page.
- 5- Contractor confirms in writing that Contractor does not possess any electronic data owned by the Customer.

