



ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

February 27, 2025

TO: Chairperson Jerome Schad, Vice-Chair Peggy Legree and
Treasurer Michele Iannello

CC: Terrence D. McCracken, Secretary to the Authority

FROM: Jennifer Hibit, Director of Human Resources

SUBJECT: **Mandated Annual Training – Informal quotes and
recommendations**

The Authority's contract with Kantola training ended on January 31, 2025. Kantola was the provider for our annual mandated trainings for sexual harassment, workplace violence and recently added cyber-security training. Kantola was bought out by another company and so I began researching other options.

After careful review of various training providers, I obtained quotes from the following:

- Enterprise Training Solutions
- HR Learning Center
- Traliant Operating, LLC ("Traliant")

The quotes came in as follows:

- Enterprise learning Center provided two levels of pricing:
 - For just New York State approved Workplace harassment prevention and Workplace violence and bullying the annual fee for year one was \$10,880 with an additional 5% fee if we only did a one-year contract.
 - For New York State approved Harassment Prevention, Workplace violence and Cyber security the annual fee was \$12,787 with an additional 5% fee for a one-year contract.
- HR learning Center provided the training via online seminar and did not have the ability to do individual trainings – the charge was \$1500 multiplied by the number of webinars you want to provide to employees. My estimated cost put this at least \$12,000 for 8 webinars, which would be the minimum we would need to cover our various locations and shifts. This quote also did not include cyber security training.

- Traliant quoted for 250 Licenses \$25.90 per seat which equals \$6,475 per year and covers not only Sexual Harassment training, Workplace Violence training for both employees and managers, it also included Cybersecurity training which will be mandated by New York State this year. It allows employees to complete at their leisure and provides a method of tracking completed trainings.

My recommendation:

After a thorough review of the quotes, I recommend entering into a service agreement with Traliant. Traliant provides the training mandated by New York State, it allows for employees to do it when they can with a format they are accustomed to, as they have a similar set up of our former training program. The price is reasonable and comparable to our former costs and all their training courses are New York State approved and aligns with the objectives of the Authority.

A resolution approving the execution of the service agreement with Traliant has been included for your consideration at the meeting of March 20, 2025. Thank you for your consideration.

Budget Information:

Unit 8010 Human Resources

Item No. 920737 Training Payments

**ERIE COUNTY WATER AUTHORITY
AUTHORIZATION FORM
For Approval/Execution of Board Meeting Documents**

Document Name: _____ **Project No.:** _____

Description: _____

Item Description:

Choose one:

Other: _____

Action Requested:


Choose one:

Other: _____

Approvals Required:

APPROVED AS TO CONTENT:

Chief Financial Officer



Date: 03/10/2025

Chief Operating Officer



Date: 03/05/2025

Claims Rep. – Risk Manager

Date: _____

Comptroller

Date: _____

Director of Administration



Date: 03/05/2025

Director of Distribution

Date: _____

Director of Human Resources

Date: _____

Director of IT

Date: _____

Director of Production

Date: _____

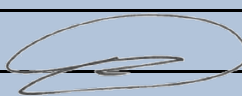
Director of Water Quality

Date: _____

Executive Engineer

Date: _____

General Counsel (Legal)




Date: 3/10/2025

Other: _____

Date: _____

APPROVED FOR BOARD RESOLUTION:

Secretary to the Authority



Date: 3/10/2025

Remarks: _____

Resolution Date: _____ **Item No:** _____



Services Agreement

This Services Agreement (“**Agreement**”), by and between Traliant Operating, LLC, a Delaware limited liability company located at 169 Madison Ave., #2429, New York, NY 10016 (“**Traliant**”), and Erie County Water Authority, located at 295 Main Street, Room 350, Buffalo, NY 14203 (“**Client**”), is effective as of February 14, 2025 (“**Effective Date**”) and governs Client's access to and use of Traliant's compliance training, tools and compliance services (collectively referred to as “**Services**”). Traliant and Client shall be individually referred to as a “**Party**” and collectively referred to as the “**Parties**.”

The Parties hereby agree as follows:

1. **Provision of Services.** In consideration for the fees (“**Fees**”) set out in applicable Order Form(s) executed by the Parties (“**Orders**”), Traliant agrees to provide Client the Services as described in the Order(s). Orders shall follow the format set forth in Exhibit A of this Agreement and shall not be binding until signed by both Parties. All executed Orders shall be governed by this Services Agreement, unless otherwise stated in an Order. Traliant grants Client a non-exclusive, non-transferrable, non-sublicensable, limited right to access and use the Services during the term indicated on the Order (“**Order Term**”) to (a) display and/or use the Services on Client’s internal systems (including hosting training on a standards-compliant learning management system [“**LMS**”]) or on Traliant’s hosted LMS, solely for the purpose of delivering the Services to Client’s own employees; (b) use any tools provided as part of the Services solely for the purpose of configuring, provisioning, and administering the Services; and (c) allow employees and other authorized learners (“**Authorized Learners**”) to have unlimited access to the Services described in the Order(s), provided that the actual number of learners accessing the Services may not exceed the total number of learners indicated on the Order.

2. **Hosting.** Client may choose to self-host the Services on internal platforms (such as an internal LMS), access the Services through Traliant’s LMS, or both. If Client selects self-hosted Services, Traliant will provide AICC/SCORM-compliant training packages suitable for hosting by Client on its LMS. If Client selects use of Traliant’s hosted LMS, Traliant will provide Client with access to the Services via Traliant’s internet website at lms.traliant.com. Client will be responsible for obtaining internet access for its Authorized Learners through its third-party internet provider. Client may request changes in the method of access to Services during the Term of an Order.

3. **Post-Integration Support.** Traliant will provide (a) corrections, patches, fixes, and updates to the Services during the Term; (b) content updates from time to time to reflect changes in laws and associated regulations (although the content may not be current between updates); and (c) access to customer support (support@traliant.com) from 9:00am to 8:00pm Eastern Standard Time during business hours Monday – Friday (exclusive of U.S. federal holidays).

4. **Intellectual Property Rights.** Traliant retains all rights, title, and interest in the Services and shall own all intellectual property rights, including copyrights, trade secrets, know-how, derivative works and all other rights (collectively, “**Intellectual Property Rights**”) in and to any training, documents, videos, manuals, handbooks, Traliant logos and trademarks, and any other materials that are delivered to Client under this Agreement, except for materials provided by Client, which shall remain the property of Client. Traliant shall own all Intellectual Property Rights to any materials that arise out of or are prepared or created by Traliant or on Traliant’s behalf during the provision of Services under this Agreement.

5. **Restrictions.** Except as expressly permitted in this Agreement, Client shall not (and shall not allow any third party) to (a) modify, translate or create “Derivative Works” (as defined at 17 U.S.C. § 101) of the Services other than the limited right to implement the Services (“**Implementation**”) and customize the training content in the Services (“**Customization**”) as set forth in an Order; (b) reproduce or distribute the Services (other than as required to provide the Services to Authorized Learners); (c) sublicense the Services, or provide access to the Services either directly or as a service to any third party; (d) use the Services in connection with developing or offering any service in connection with or in furtherance of a service that competes or aims to compete with Traliant; (d) allow the removal, alteration, covering, or obscuring of any copyright notice or any other notice or mark that appears on any materials, copies or media provided as part of the Services; or (e) reverse engineer or interfere with the operation of the Services.

6. **Disclaimer of Legal Services and Warranties.** TRALIAN IS NOT A LAW FIRM AND IS NOT ENGAGED IN PROVIDING LEGAL SERVICES. TRALIAN AND ITS EMPLOYEES DO NOT PROVIDE LEGAL ADVICE, OPINIONS, OR RECOMMENDATIONS REGARDING CLIENT’S OR ITS EMPLOYEES’ LEGAL RIGHTS,



OBLIGATIONS, REMEDIES, DEFENSES, OR STRATEGIES. THE SERVICES PROVIDED UNDER THIS AGREEMENT, AND ANY INFORMATION PROVIDED IN CONNECTION WITH THE SERVICES, WILL NOT FORM AN ATTORNEY-CLIENT RELATIONSHIP BETWEEN TRALIAN AND CLIENT. INFORMATION PROVIDED TO CLIENT IN CONNECTION WITH THE SERVICES IS OFFERED FOR INFORMATIONAL PURPOSES ONLY AND IS NEITHER INTENDED TO NOR CONSTITUTES LEGAL ADVICE OR LEGAL SERVICES IN ANY FORM OR MANNER. TRALIAN WILL NOT BE LIABLE FOR ANY DECISIONS MADE BY CLIENT IN RELIANCE ON THE ACCURACY OR COMPLETENESS OF THE SERVICES, NOR FOR ANY ACTIONS CLIENT'S EMPLOYEES MAY OR MAY NOT TAKE AS A RESULT OF UNDERGOING THE TRAINING. EXCEPT AS PROVIDED HEREIN, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED "AS IS." TRALIAN CANNOT GIVE ANY ASSURANCES THAT THE CONTENT IS UP TO DATE AT ANY POINT IN TIME. TRALIAN DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, ORAL OR WRITTEN, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF THE TRADE.

7. Fees and Payment

A. Fees. All Service Fees, Implementation Fees, Advanced Customization Fees, Maintenance Fees, and Translation Fees, as may apply to an Order, shall be set forth in the Order. All undisputed Fees are non-refundable, except as expressly permitted herein.

B. Taxes. Client is subject to and shall pay any sales, use, and any other tax (collectively, "Taxes") imposed by applicable taxing authorities unless a valid and current tax exemption certificate is provided by Client. All applicable Taxes shall be separately listed on each invoice. If Client has tax-exempt status, Client shall submit tax exemption certificates to payments@traliant.com.

C. Payment Terms. Invoices are due Net 30 days from receipt. Overdue accounts are subject to a late fee of one percent (1%) per month, or the highest rate allowed under the law, whichever is lower, on any overdue amounts. In the event the Client disputes any invoiced amount, the Client shall provide written notice to Traliant of the dispute and the basis for such dispute prior to the due date. The Parties agree to negotiate such dispute in good faith to reach a resolution of the disputed charges within thirty (30) days (or such longer period of time as agreed to by the Parties) of the Client's notice. If an invoice includes both disputed and undisputed amounts, the Client shall pay all undisputed amounts on a timely basis. Upon resolution of any dispute, Client shall pay the agreed amount within fifteen (15) business days of the resolution. Traliant reserves the right, upon ten (10) days prior written notice, to suspend or terminate the Services if payments are more than sixty (60) days past due.

D. Methods of Payment. Traliant's preferred method of payment is via ACH to the banking information provided on the invoice. Payments made by paper check shall be made payable to the following remittance address:

Traliant Operating, LLC P O Box 844090 Boston, MA 02284

E. Client Hosted Usage Report. Service Fees are calculated based on the number of Authorized Learners set forth in the Order, commencing on the Order's effective date. At the end of each six (6) month period during the Order Term, Client shall provide Traliant with a report indicating the total number of unique employees who have accessed Services ("Total Usage"). In the event Client's Total Usage exceeds the number of Authorized Learners on the associated Order, Traliant will invoice, and Client will pay, the incremental per Authorized Learners Service Fee reflecting the Total Usage for the entire current Term. No refund will be provided for under-usage. Upon any Renewal Term, the Parties will mutually agree on the number of Authorized Learners to be used in the calculation of the prospective Service Fee.

8. Confidentiality. Each Party shall keep in confidence all non-public information relating to the business, affairs, customers, suppliers, plans, strategy, processes, product information, know-how, intellectual property or trade secrets of the disclosing Party or its Affiliates, as disclosed to it by the other Party that is either marked as confidential or that a reasonable person would recognize as being confidential to the other Party ("Confidential Information" or "CI"). The recipient of the CI shall

protect the CI by using the same standard of care, but not less than a reasonable standard of care, to prevent the unauthorized use, disclosure or publication of the CI as the recipient uses to protect its own CI. Further, the recipient will not disclose the CI to any third party other than, under no lesser standard of confidence, in furtherance of its activities pursuant to this Agreement. This Section shall not apply to information that is: (a) in the public domain other than as a result of a breach of the Agreement; (b) in the possession of the receiving Party before such disclosure has taken place; (c) obtained from a third party who is free from any obligations of confidentiality to disclose the same; or (d) developed by the receiving party independently of and without access to the CI. If either Party receives a demand from a competent authority or court to disclose the other Party's CI, the receiving Party may comply with such demand if it has, where legally permitted, given the other Party as much prior notice as possible for the other Party to object to the demand. The receiving Party must comply with this Section for a period of three (3) years following the disclosure of CI to it. The receiving Party shall return or destroy any Confidential Information upon the written request of the disclosing Party. The Parties acknowledge that a violation of this Section may cause irreparable harm to the disclosing Party for which monetary damages may not be an adequate remedy, and injunctive or other interlocutory relief may be sought by the disclosing Party.

9. Data Privacy and Security

A. Customer Data. To the extent Client provides Personal Information (“PI”) to Traliant, Client represents and warrants that it has all rights, authority, and permissions to provide such PI. Traliant may use information it receives from Client, including but not limited to metrics on Services usage and training performance, to measure the effectiveness of its Services and for other business purposes, to the extent permissible under applicable laws and regulations.

B. Data Security. Traliant maintains generally accepted industry organizational and technical measures to safeguard PI, including using such measures as are reasonable and appropriate to the nature of the PI received from Client, and to protect Services from cyber incursions and provide data security; and will comply with all applicable laws and regulations, including CCPA (as defined below), regarding the collection, storage, use, and transfer of PI.

C. Data Privacy Laws. To the extent the California Consumer Privacy Act Cal. Civ. Code § 1798.100 et seq., its implementing regulations, and amendments resulting from the California Privacy Rights Act (“CCPA”), or other similar state laws (together, “Applicable Data Privacy Laws”) apply, (i) if Client, as a Business (to the extent not defined herein, all terms are defined consistent with the CCPA), is disclosing PI to Traliant, Traliant shall process the PI solely as a Service Provider for the purposes set forth in this Agreement; (ii) Traliant will not retain, use, or disclose the PI outside of the direct business relationship and for any purpose other than those articulated in this Agreement, such as managing Client access to and use of Traliant's Services, or as permitted by Applicable Data Privacy Laws; (iii) Traliant will not Sell or Share PI for targeted advertising purposes; (iv) Traliant will comply with Client's directions as to PI, as may be necessary to comply with applicable law, including but not limited to consumers' proper requests under Applicable Data Privacy Laws relating to deletion of, access to, and correction of their PI. Traliant will reasonably work with Client in regard to such consumer requests following receipt of a request by Client. If Traliant receives a request to delete, access, or correct PI directly from an individual, Traliant will promptly inform Client of the request and, after consultation with Client, instruct the individual to contact Client directly; and (v) Traliant agrees to comply with applicable requirements of Applicable Data Privacy Laws. Client shall also have the right to take reasonable and appropriate steps to ensure compliance with Applicable Data Privacy Laws and to stop or remediate any unauthorized processing of PI by Traliant. Traliant will promptly notify Client if it determines that it can no longer meet its obligations under Applicable Data Privacy Laws.

10. Indemnification. Traliant shall indemnify, defend and hold Client harmless from and against all liabilities, losses, damages, settlements, penalties, fines, costs, or expenses (including reasonable attorneys' fees and other litigation expenses) (“Losses”) incurred by Client, to the extent arising from third-party claims (“Claims”) brought against Client and alleging that the Services (when used solely according to Traliant's instructions and excluding any Claims associated with Client's integration of Services with other systems, software, or tools not authorized by Traliant) constitute an infringement, misappropriation or violation of such third party's intellectual property rights. If Customer's use of the Services is enjoined by a court of competent jurisdiction or if Traliant concludes either that the Services may infringe the foregoing rights of a third party or that Client's use is otherwise likely to be enjoined, Traliant will, at its option and expense, either (a) procure for Client the right to continue using the Services in accordance with this Agreement; (b) replace the infringing components of the Software with other components with the same or similar functionality; or (c) modify the Services so that they are non-infringing. As a condition of Traliant's obligations under this Section, Client must (i) promptly notify Traliant in writing upon learning of any third-party claim for which indemnity is or may be sought under this Agreement (provided that Traliant

will be relieved of its obligations under this Section due to any failure or delay to provide notice only to the extent Traliant is actually prejudiced thereby); (ii) authorize Traliant to conduct and control the defense and any related settlement negotiations related to the applicable third-party claim; and (iii) provide such information and assistance as Traliant may reasonably request in connection with such defense and/or settlement negotiations, provided that Traliant shall reimburse Customer's actual and reasonable out-of-pocket expenses incurred to provide such information and assistance. Traliant will not settle a Claim that requires Client to admit fault or that affects Client's goodwill without Client's prior written consent.

11. Term and Termination.

A. Term of this Agreement. This Agreement shall be effective as of the Effective Date and shall remain in full force and effect for as long as Orders remain in effect pursuant to the terms and conditions contained herein, unless earlier terminated pursuant to this Section.

B. Order Terms. Each Order shall set forth the applicable initial Order Term. The initial Order Term and any subsequent renewal term ("**Renewal Term**") shall be automatically renewed for successive Renewal Terms unless notice of non-renewal is given by either Party in writing at least sixty (60) days before the end of the then-current term.

C. Termination. Either Party may terminate an Order for cause in the event of a material breach by the other Party upon thirty (30) days' notice setting forth the substance of the alleged breach, provided that such breach is not cured during the notice period. Either Party may terminate this Agreement for cause in the event of a material breach by the other Party that affects all Orders hereunder upon a similar notice, provided that termination of this Agreement in this circumstance will terminate all Orders as of the same date. Any termination of an Order or this Agreement by Traliant for cause shall accelerate all Fees payable during the remainder of the Order Terms for all affected Orders. Any termination of an Order or this Agreement by Client for cause shall entitle Client to receive a pro-rata portion of the Service Fees based on usage.

D. Survival. Those provisions of this Agreement that by their nature are intended to survive the termination of this Agreement shall so survive.

12. Limitation of Liability. In no event shall either Party be liable to the other party for any indirect, incidental, consequential, special, or punitive damages; for lost profits, revenues or goodwill; or for business interruption in connection with this Agreement, however caused, even if the other Party was aware of the possibility of such damages. Each Party's total liability for any loss arising out of this Agreement shall not exceed the Fees paid by Client for the Services giving rise to the claim during the 12-month period preceding the date of the claim, except that each Party's total liability hereunder for its material breach of Section 9 (Data Privacy and Security) shall not exceed One Million Dollars (\$1,000,000). The exclusions and limitations set forth above shall not apply to a Party's indemnification obligations, breach of confidentiality, or gross negligence or willful misconduct.

13. General.

A. Governing Law; Jurisdiction. This Agreement shall be governed by the laws of the State of New York, without giving effect to any conflict of law principle that would provide for the application of the law of a different jurisdiction. The Parties submit to the exclusive jurisdiction and venue of federal and state courts located in New York City, New York. Each Party waives its rights to a jury trial.

B. Assignment. Neither Party will assign, sublicense, rent, lease or otherwise transfer its rights, duties or obligations under this Agreement to any person or entity without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may assign this Agreement, without consent of the other Party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other Party. Any attempted assignment in violation of this Section will be void.

C. Independent Contractors. The Parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created herein between the Parties. Neither Party will have the power to bind the other or incur obligations on the other's behalf without the other Party's prior written consent.



D. Compliance with Laws. Each Party shall comply with all laws and regulations applicable to its activities pursuant to this Agreement, including but not limited to those dealing with anti-corruption and bribery, data protection and privacy, discrimination, harassment, and child labor.

E. Insurance. Throughout the Term of this Agreement, Traliant will maintain insurance coverages of the types and in the amounts generally accepted in the industry, and all such policies shall be issued by insurance carriers with a minimum A.M. Best rating of “A-” or equivalent and licensed to do business in the United States.

F. Force Majeure. Neither Party shall be liable for any failure or delay in the performance of its obligations caused by or resulting from acts or events outside of its reasonable control, including but not limited to, severe weather, flood, landslide, earthquake, storm, lightning, fire, subsidence, epidemic, acts of terrorism, biological warfare, outbreak of military hostilities (whether or not war is declared), riot, explosions, strikes or other labor unrest, civil disturbance, sabotage, or expropriation by governmental authorities (“**Force Majeure Events**”). The Party experiencing a force majeure event will provide prompt notice to the other Party and will use all reasonable efforts to mitigate the impacts of the Force Majeure Event on itself and on the other Party. A force majeure event affecting Client shall not excuse it from its obligations to pay invoices when due, nor shall Client pay for Services not provided to it due to a force majeure event affecting Traliant.

G. Publicity. Client grants Traliant express permission to use Client’s name or logo for promotional and marketing activities.

H. Notices. Any notice to be given to Traliant under the terms of this Agreement shall be addressed to the following:

Traliant Operating, LLC
169 Madison Avenue #2429
New York, NY 10016

Any notice to Client will be sent to Client at the address set forth in the introductory paragraph of this Agreement.

I. Severability. If any provision hereof is held to be invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall remain binding and enforceable by and between the Parties.

J. Waiver. No failure or delay by any Party in exercising any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any other right hereunder.

K. Entire Agreement. This Agreement constitutes the complete and exclusive statement of the mutual understanding of the Parties relating to the subject matter hereof and supersedes all prior or contemporaneous agreements or understandings relating to the subject matter of this Agreement.

L. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed as an original, and all of which together, shall constitute one and the same Agreement. Signatures sent by email (including scanned images of signatures forwarded by email) shall have the same binding effect as original signatures.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Agreement Effective Date.

UNDERSTOOD AND AGREED:

TRALIAN OPERATING, LLC

Erie County Water Authority

Signature: _____

Signature: _____

Printed Name: Levent Onar

Printed Name: _____

Title: Director of Customer Success

Title: _____

Date: _____

Date: _____

Exhibit A

ORDER FORM

CLIENT NAME: Erie County Water Authority

ORDER TERM: 3 Years, beginning on the last signature date of this Order.

Products

Products	Details
Courses	Preventing Workplace Harassment Workplace Violence Prevention Cybersecurity Awareness
Language(s)	English
Advanced Customizations	
Hosting (Traliant/Client/Both)	Traliant
Client LMS (Name)	

Total Annual Investment

Year	Item	# Learners*	Cost / Learner	Total Annual Investment
Year 1	Annual Service Fee	250	\$25.90	\$6,475.00
Year 2	Annual Service Fee	250	\$25.90	\$6,475.00
Year 3	Annual Service Fee	250	\$25.90	\$6,475.00

**Client may purchase additional Authorized Learners during the initial term at the annual cost per learner listed above for each year, invoiced by Traliant.*

The Annual Investment Includes:

- Traliant's Standard Customizations (a customized introduction for each course purchased; adding your logo on each slide of the courses; embedding your policies in the courses)
- SCORM files for self-hosting or hosting on the Traliant Learning Center (TLC)
- Customized Certificate with Client's logo

Counterparts. This Order may be executed in any number of counterparts, each of which when so executed will be deemed as an original, and all of which together, shall constitute one and the same agreement. Signatures sent by email (including scanned images of signatures forwarded by email) shall have the same binding effect as original signatures.

Except as otherwise specifically modified by this Order, all other terms and conditions of the Agreement dated on February 14, 2025 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Order as of the Order Effective Date.

TRALIAN OPERATING, LLC

Erie County Water Authority

Signature: _____

Signature: _____

Printed Name: Levent Onar

Printed Name: _____

Title: Director of Customer Success

Title: _____

Date: _____

Date: _____