

Defined Terms – Information Technology

“Acceptance” is defined in Appendix C, Section 2.2.

“Agreement” means this Standard Agreement as defined on the Coversheet, including the following: Appendix A (Statement of Work), Appendix B (Pricing and Payment), Appendix C (General Provisions), and Appendix D (Defined Terms).

“Applicable Law” means any applicable laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders.

“Business Day” means any day other than Saturday, Sunday or a scheduled JBE holiday.

“Claims” means claims, suits, actions, arbitrations, demands, proceedings, fines, penalties, losses, damages, liabilities, judgments, settlements, costs, and expenses (including reasonable attorneys’ fees and costs), including those based on the injury to or death of any person or damage to property.

“Confidential Information” means: (i) any information related to the business or operations of Judicial Branch Entities, including information relating to Judicial Branch Entities’ personnel and users; (ii) all financial, statistical, personal, technical and other data and information of the Judicial Branch Entities (and proprietary information of third parties provided to Contractor) that is designated confidential or proprietary, or that Contractor otherwise knows, or would reasonably be expected to know is confidential; and (iii) all Deliverables, Developed Works, JBE Works and JBE Data. Confidential Information does not include information (that Contractor demonstrates to the JBE’s satisfaction, by written evidence): (a) that Contractor lawfully knew prior to the JBE’s first disclosure to Contractor, (b) that a Third Party rightfully disclosed to Contractor free of any confidentiality duties or obligations, or (c) that is, or through no fault of Contractor has become, generally available to the public.

“Consulting Services” refers to the services performed under “Consulting Services Agreements,” which are defined in Public Contract Code section 10335.5, substantially, as contracts that: (i) are of an advisory nature; (ii) provide a recommended course of action or personal expertise; (iii) have an end product that is basically a transmittal of information, either written or oral, that is related to the governmental functions of state agency administration and management and program management or innovation; and (iv) are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type. The end product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

“Contract Amount” has the meaning set forth on the Coversheet.

“Contractor Key Personnel” means the Contractor Project Manager and those Project Staff members identified as “Key Personnel” as set forth in a Statement of Work.

“Contractor Project Manager” means the employee identified in a Statement of Work as the Contractor project manager.

“Contractor Service Location(s)” means any location (except for a JBE Service Location) from which Contractor performs Services.

“Contractor Works” means Works owned or developed prior to the provision of the Services, or developed by Contractor independently from the provision of the Services and without use of the JBE Works or Confidential Information.

“Coversheet” refers to the first sheet of this Agreement.

“Data Safeguards” means industry-standard safeguards against the destruction, loss, misuse, unauthorized disclosure, or alteration of the JBE Data or Confidential Information, and such other related safeguards that are set forth in Applicable Laws, a Statement of Work, or pursuant to JBE policies or procedures.

“Default” means if any of the following occurs: (i) Contractor breaches any of Contractor’s obligations under this Agreement, and this breach is not cured within ten (10) days following notice of breach or is not capable of being cured within this cure period; (ii) Contractor or Contractor’s creditors file a petition as to Contractor’s bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business; (iii) Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading; or (iv) any act, condition, or item required to be fulfilled or performed by Contractor to (x) enable Contractor lawfully to enter into or perform its obligations under this Agreement, (y) ensure that these obligations are legal, valid, and binding, or (z) make this Agreement admissible when required is not fulfilled or performed.

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“Defect” means any failure of any Deliverable to conform to and perform in accordance with the requirements of this Agreement and all applicable Specifications and Documentation.

“Deliverables” means any Developed Works, Contractor Works and Third Party Works, or any combination thereof (including those identified as “Deliverables” in a Statement of Work, together with all Upgrades thereto), as well as any other items provided pursuant to the Services.

“Developed Works” means Works created, made, or developed by Contractor or Subcontractors, either solely or jointly with the Judicial Branch Entities or JBE Contractors, in the course of the performance of the Services under this Agreement, and all Intellectual Property Rights therein and thereto, including, without limitation, (i) all work-in-process, data or information, (ii) all modifications, enhancements and derivative works made to Contractor Works, and (iii) all Deliverables; provided, however, that Developed Works do not include Contractor Works.

“Documentation” means all technical architecture documents, technical manuals, user manuals, flow diagrams, operations guides, file descriptions, training materials and other documentation related to the Deliverables; together with all Upgrades thereto.

“Effective Date” has the meaning set forth on the Coversheet.

“Intellectual Property Rights” means all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including copyrights, moral rights, and mask work rights; (b) trademark and trade name rights and similar rights; (c) trade secret rights; (d) patent and industrial property rights; (e) other proprietary rights in intellectual property of every kind and nature; and (f) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses (a) through (e) of this sentence.

“IT Infrastructure” means software and all computers and related equipment, including, as applicable, central processing units and other processors, controllers, modems, servers, communications and telecommunications equipment and other hardware and peripherals.

“JBE” has the meaning defined in the coversheet of this Agreement.

“JBE Contractors” means the agents, subcontractors and other representatives of the Judicial Branch Entities, other than Contractor and Subcontractors.

“JBE Data” means all data and information of the Judicial Branch Entities or JBE Contractors disclosed to or accessed by Contractor or Subcontractors, including all such data and information relating to the Judicial Branch Entities and their respective contractors, agents, employees, technology, operations, facilities, markets, products, capacities, systems, procedures, security practices, court records, court proceedings, research, development, business affairs and finances, ideas, concepts, innovations, inventions, designs, business methodologies, improvements, trade secrets, copyrightable subject matter, patents and other intellectual property and proprietary information.

“JBE Project Manager” means the individual appointed by the JBE to communicate directly with the Contractor Project Manager.

“JBE Service Locations” means any JBE facility at which Contractor performs Services.

“JBE Works” means Works owned, licensed, made, conceived, or reduced to practice by a Judicial Branch Entity or a JBE Contractor, any Works developed or acquired separate from this Agreement, and all modifications, enhancements, derivative works, and Intellectual Property Rights in any of the foregoing.

“Judicial Branch Entity” or “Judicial Branch Entities” means the JBE and any California superior or appellate court, the Judicial Council of California, the Administrative Office of Courts, and the Habeas Corpus Resource Center; these entities comprise the “Judicial Branch.”

“Judicial Branch Personnel” means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.

“Malicious Code” means any (i) program routine, device or other feature or hidden file, including any time bomb, virus, software lock, trojan horse, drop-dead device, worm, malicious logic or trap door that may delete, disable, deactivate, interfere with or otherwise harm any of the Judicial Branch Entities’ hardware, software, data or other programs, and (ii) hardware-limiting, software-limiting or services-limiting function (including any key, node lock, time-out or other similar functions), whether implemented by electronic or other means.

“Parties” means the JBE and Contractor, collectively.

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“Party” means either the JBE or Contractor, as the case may be.

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“Project Staff” means the personnel of Contractor and Subcontractors who provide the Services.

“Service Fees” means the fees for the Services set forth in Appendix B or the applicable Statement of Work.

“Service Location(s)” means any JBE Service Location or Contractor service location.

“Services” means, collectively, the services provided under this Agreement, including those services and Deliverables set forth in a Statement of Work, and any incidental services or responsibilities that are reasonable and customary in the industry and not specifically described in this Agreement (or the Statement of Work), but which are required for the performance and delivery of these services.

“Source Code” means human-readable program statements written by a programmer or developer in a high-level or assembly language that are not directly readable by a computer and that need to be compiled into object code before they can be executed by a computer.

“Specifications” means with respect to each Deliverable, the detailed statements and documents setting out the functionality and requirements for each component of the Deliverable.

“Statement of Work” means one or more statements of Services and/or Deliverables to be provided pursuant to and governed under the terms of this Agreement, substantially in the form attached as Appendix A, as agreed to by the Parties.

“Subcontractor” means the agents, subcontractors and other representatives of Contractor performing Services hereunder who are not employees of Contractor.

“Term” means the term of this Agreement.

“Termination Assistance Period” means the period commencing upon the expiration or termination of this Agreement and each Statement of Work and expiring six (6) months thereafter, as such period may be extended by the Parties.

“Third Party” means any person or entity other than the JBE or Contractor.

“Third Party Works” means Works that are licensed or obtained by Contractor from a Third Party.

“Upgrades” means all new versions, bug fixes, error corrections, workarounds, updates, upgrades, modifications, patches and new releases of software, Deliverables, or Documentation.

“Works” means all inventions (whether patentable or not), discoveries, literary works and other works of authorship (including software), designations, designs, know-how, technology, tools, ideas and information.