|  |  |  |
| --- | --- | --- |
|  |  | AGREEMENT NUMBER |
|  |  | **[Agreement number]** |

1. In this services agreement (“**Master Agreement**”), the term “**Contractor**” refers to **[Contractor name]**, and the term “**JCC**” refers to the **Judicial Council of California (“Judicial Council” or “JCC”)**.

2. This Master Agreement is effective as of **[Date]** (“**Effective Date**”) and terminates five (5) years from the Effective Date, or if renewed pursuant to Section 5.1 of the Master Agreement, then at the end of such renewal term (“**Expiration Date**”).

3. The maximum amount the JCC may pay Contractor under this Master Agreement is $**[Dollar amount]** (the “**Contract Amount**”).

4. The purpose or title of this Master Agreement is: **IWMS Master Agreement**.

*The purpose or title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Master Agreement.*

5. The parties agree that this Master Agreement, made up of this coversheet, the terms and conditions below (including the listed exhibits), and any current and future Service Orders (including any attachments attached thereto), contains the parties’ entire understanding related to the subject matter of this Master Agreement and is mutually binding on the parties in accordance with its terms.

**Exhibit A:** Definitions

**Exhibit B:** Service Order Form (Template)

**Exhibit C:** Service Levels and Support

**Exhibit D**: Professional Services Requirements

**Exhibit E:** Information Security Requirements

**Exhibit F**: Insurance Requirements

**Exhibit G:** Contractor Expense and Travel Reimbursement Guidelines

**Exhibit H:** Unruh Civil Rights Act and California Fair Employment and Housing Act Certification

**Exhibit I:** Pricing Exhibit

**Exhibit J:** Change Management

**Exhibit K:** Business and Technical Requirements

Service Order #1 and attached schedules

| **JCC’S SIGNATURE** | **CONTRACTOR’S SIGNATURE** |
| --- | --- |
| **Sample Only – Do Not Sign** |  |
| **Judicial Council of California** | CONTRACTOR’S NAME *(if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc., and the state or territory where Contractor is organized)*  **[Contractor name]** |
|  |  |
| BY *(Authorized Signature)*  ✍ | BY *(Authorized Signature)*  ✍ |
|  |  |
| PRINTED NAME AND TITLE OF PERSON SIGNING  **[Name and title]** | PRINTED NAME AND TITLE OF PERSON SIGNING  **[Name and title]** |
| DATE EXECUTED | DATE EXECUTED |
|  |  |
| ADDRESS  **[Address]** | ADDRESS  **[Address]** |

1. Master AGREEMENT – TERMS AND CONDITIONS
   1. **Services.**
      1. **Provision of Services**. Contractor shall provide to JCC, any applicable Judicial Branch Entity, and its Authorized Users the Services in accordance with this Master Agreement, including all exhibits hereto. Contractor shall provide all resources necessary for the provision of the Services. Time is of the essence regarding Contractor’s performance of the Services. Unless otherwise approved by JCC in writing in advance, the Services may not be performed outside of the United States.
      2. **Service Orders**. JCC may purchase Services from Contractor by issuing orders (“**Service Orders**”) substantially in the form of [**Exhibit B (Service Order Form)**](#Exhibit_B). Service Orders will be effective only if mutually signed by the parties. JCC may procure Services and Deliverables under this Master Agreement for its own account or on behalf of one or more Judicial Branch Entities.
         1. **Service Order #1.** This Master Agreement includes Service Order #1 upon its execution.
         2. **Service Order Completion Process.**
            1. JCC may initiate future Service Orders after Service Order #1 in its sole discretion. To initiate a Service Order, the JCC Project Manager may draft a Service Order (sequentially numbered from the previous one) substantially in the form of **Exhibit B (Service Order Form)** and will include all information as deemed necessary by the JCC Project Manager, including adding attachments, such as statements of work (collectively, the “**Draft Service Order**”). After the JCC Project Manager completes the Draft Service Order to the JCC Project Manager’s satisfaction, the JCC Project Manager will send an electronic copy of the unsigned Draft Service Order to the Contractor.
            2. Upon the Contractor’s receipt of the Draft Service Order, the parties may mutually agree to discuss limited revisions to the Draft Service Order so that it appropriately describes the Services ordered by JCC and applicable pricing pursuant to the rates in the Master Agreement. Upon the parties’ mutual decision to revise the Draft Service Order, the parties will discuss and mutually agree to applicable revisions. The Contractor will revise the Draft Service Order to reflect such agreed-upon revisions. Upon completion of the revisions to the Draft Service Order, the Contractor will deliver a copy of such revised Draft Service Order to the JCC Project Manager for further review by the JCC.
            3. If the JCC Project Manager is satisfied with the revised Draft Service Order, the JCC Project Manager will attach the revised Draft Service Order to a purchase requisition and submit for JCC’s internal approval. If the purchase requisition is internally approved by the JCC, the approved requisition will be assigned to the JCC procurement department whereby a unique Service Order number (in the form of a contract shell number) will be created for the Services specified in the Draft Service Order.
            4. Upon the creation of the unique Service Order number, the JCC procurement department will send the final Draft Service Order electronically to the Contractor for the Contractor’s review and signature. The Contractor will sign and return the Draft Service Order to JCC for JCC’s counter signature.
            5. Once fully executed by both parties, the Draft Service Order will convert to a Service Order. JCC will provide a copy of the fully executed Service Order to the Contractor. Contractor will proceed with the Services described in the Service Order in accordance with the terms of the Service Order and this Master Agreement only after the Contractor’s receipt of a copy of the fully executed Service Order from JCC.
      3. **Service Levels and Support**. Contractor shall provide the service levels, support, and maintenance and operations services set forth in and in accordance with [**Exhibit C** **(Service Levels and Support)**](#Exhibit_C) (the “**Maintenance and Operations Support Services**” or “**M&O Support Services**”).
      4. **Professional Services**. If Contractor is to provide any Professional Services to JCC under this Master Agreement or any Service Order, the terms of [**Exhibit D (Professional Services Requirements)**](#Exhibit_D) will apply and Contractor shall comply with such terms.
      5. **Project Managers, Subcontractors, and Personnel.**
         1. **Contractor Project Manager.** The Contractor Project Manager shall serve, from the Effective Date, as the Contractor’s project manager and primary Contractor representative under this Master Agreement. The Contractor Project Manager shall (i) have overall responsibility for managing and coordinating the performance of Contractor’s obligations under this Master Agreement, including the performance of all Subcontractors; and (ii) be authorized to act for and bind Contractor and Subcontractors in connection with all aspects of this Master Agreement. The Contractor Project Manager shall respond promptly and fully to all inquiries from the JCC Project Manager.
         2. **Subcontractors**. Without limiting its obligations under [**Exhibit E (Privacy and Information Security Requirements)**](#Exhibit_F), Contractor may not subcontract or otherwise delegate its obligations under this Master Agreement (“**Subcontract**”), (including, without limitation, the provision of Services or Deliverables) without JCC’s prior written consent. JCC may withdraw its approval of a Subcontractor if JCC determines in good faith that the Subcontractor is, or will be, unable to effectively perform its responsibilities. If JCC rejects any proposed Subcontractor in writing, Contractor shall assume the proposed Subcontractor’s responsibilities. Even if not approved by JCC, Contractor is responsible for all of its Personnel, and Contractor shall be liable to JCC for all of its Personnel’s acts or omissions relating to this Master Agreement. No subcontracting shall release Contractor from its responsibility for performance of its obligations under this Master Agreement and Contractor shall remain fully responsible for the performance of Subcontractors hereunder, including all work and activities of Subcontractors providing services to Contractor in connection with the Services. Contractor shall be the sole point of contact with Subcontractors under this Master Agreement, and Contractor shall be solely responsible for Subcontractors, including, without limitation, payment of any and all charges resulting from any subcontract. JCC’s consent to any subcontracting or delegation of Contractor’s obligations will take effect only if there is a written agreement with the Subcontractor, stating that the Contractor and Subcontractor: (i) are jointly and severally liable to the for performing the duties in this Master Agreement; (ii) affirm the rights granted in this Master Agreement to JCC; (iii) make the representations and warranties made by the Contractor in this Master Agreement; (iv) appoint JCC an intended third party beneficiary under Contractor’s written agreement with the Subcontractor; and (v) shall comply with and be subject to the terms of this Master Agreement, including with respect to Intellectual Property Rights, Confidential Information, and all data protection obligations. Contractor shall regularly monitor all of its Personnel’s compliance with such agreements.
         3. **Contractor Key Personnel.** JCC reserves the right to interview and approve proposed Contractor Key Personnel prior to their assignment to JCC. Contractor shall not replace or reassign any Contractor Key Personnel unless JCC consents in advance in writing provided that the JCC will not unreasonably withhold consent where such Contractor Key Personnel (i) voluntarily resigns or takes a leave of absence from Contractor, (ii) has his/her employment, professional or other for-hire relationship terminated by Contractor, (iii) fails to perform his or her duties and responsibilities pursuant to this Master Agreement, or (iv) dies or is unable to work due to his or her disability. If Contractor needs to replace a Contractor Key Personnel for any of the foregoing reasons, Contractor shall (1) notify the JCC promptly, (2) provide resumes for proposed replacement Contractor Key Personnel within two (2) Business Days after so notifying the JCC, and (3) be responsible for all costs and expenses associated with any replacement of any Contractor Key Personnel member (including, without limitation, any costs and expenses associated with training, project orientation or knowledge transfer reasonably required for replacement personnel to provide the applicable Services).
         4. **Personnel**. Contractor shall ensure: (i) that Personnel assigned to the Services have suitable training and skills to provide the Services, and (ii) sufficient staffing to adequately provide the Services. Contractor shall make commercially reasonable efforts consistent with sound business practices to honor the specific request of JCC with regard to assignment of its employees. JCC may require Contractor to remove any Personnel that interact with any Personnel of the Judicial Branch Entities or JCC Contractors (including, without limitation, the Contractor Project Manager) upon providing to Contractor a reason (permitted by law) for such removal. Contractor may, with the JCC’s consent, continue to retain such Personnel in a role that does not interact with any Personnel of the Judicial Branch Entities or JCC Contractors. The Contractor Project Manager and the JCC Project Manager shall work together to mitigate any impact on the schedule as set forth in a Service Order caused by any replacement of an applicable Personnel. Contractor shall be responsible for all costs and expenses associated with any Personnel replacement. Contractor shall assure an orderly and prompt succession for any Personnel who is replaced. If the Contract Amount is over $200,000 (excluding consulting services), then Contractor shall give priority consideration in filling vacancies in positions funded by this Master Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.
         5. **Conduct of Personnel and Subcontractors.**
            1. While at the JCC Work Locations, Contractor shall, and shall cause its Personnel and Subcontractors to: (1) comply with the requests, standard rules and regulations, and policies and procedures of the Judicial Branch Entities regarding safety and health, security, personal and professional conduct generally applicable to such JCC Work Locations, and (2) otherwise conduct themselves in a businesslike manner.
            2. Contractor shall enter into with each Personnel and Subcontractor an agreement, which assigns, transfers, and conveys to Contractor all of such Personnel and Subcontractor’s right, title, and interest in and to any Developed Materials, including all Intellectual Property Rights in and to Developed Materials.
            3. Contractor shall cooperate with the JCC if JCC wishes to perform any background checks on Contractor’s employees or contractors by obtaining, at no additional cost, all releases, waivers, and permissions JCC may require. Contractor shall not assign Personnel who refuse to undergo a background check. Contractor shall provide prompt notice to JCC of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by JCC and performed by Contractor. Contractor shall remove any Personnel or Subcontractor assigned to the Services who refuses to undergo such background checks and any other person whose background check results are unacceptable to Contractor or that, after disclosure to JCC, JCC advises are unacceptable to the JCC or the Judicial Branch Entities.
      6. **Authorized Users.**
         1. **Authorized Users**. The Services shall be made available to those Authorized Users selected by JCC and the Judicial Branch Entities. JCC or the Judicial Branch Entities (as applicable) will be responsible for use of the Services and compliance with this Master Agreement by their respective Authorized Users.
         2. **Passwords**. JCC will take reasonable measures to inform each Authorized User to maintain a secure password for use of the Subscription Services and keep such password confidential.
         3. **Authorized Subscriptions**. Each Service Order for Subscription Services will specify a number of Authorized Users permitted to access and use the applicable Subscription Service (the “**Authorized Subscriptions**”). If Authorized Subscriptions are used by more Authorized Users or otherwise in excess of that permitted in the applicable Service Order pertaining to such Authorized Subscriptions, then the maximum that JCC will be responsible for paying with respect to such use are the fees that would have been payable for the use had it been authorized.
         4. **Increases**. JCC may purchase additional Authorized Subscriptions in excess of the number set out in the applicable Service Order and Contractor shall provide the applicable Subscription Services also making available the applicable Documentation to such additional Authorized Users in accordance with the provisions herein. The fees for additional Authorized Subscriptions shall be prorated to coincide with the price per Authorized Subscription set forth in the Service Order and the time remaining in the current term of the Service Order. The additional Authorized Subscriptions shall terminate on the same date as the pre-existing Authorized Subscriptions.
         5. **Reductions**. JCC may reduce the Authorized Subscriptions from the number set out in the applicable Service Order by providing notice thereof to Contractor, and Contractor shall reduce the applicable fees on a prorated basis, based upon the price per Authorized Subscription set forth in the Service Order and the time remaining in the current term of the Service Order.
      7. **Stop Work Orders.**
         1. **Effect.** JCC may, at any time, by written stop work order to Contractor, require Contractor to stop all, or any part of the Services for a period of up to ninety (90) days after the stop work order is delivered to Contractor, and for any additional period to which the parties may agree. Upon receipt of a stop work order, Contractor shall promptly comply with the terms of the stop work order and take all reasonable steps to end the incurrence of any costs, expenses or liabilities allocable to the Services covered by the stop work order during the period of work stoppage. JCC shall not be liable to Contractor for loss of profits arising out of such stop work order. Within ninety (90) days after a stop work order is delivered to Contractor, or within any extension of that period mutually agreed to by the parties, JCC shall either: (i) cancel the stop work order; or (ii) terminate the Services covered by the stop work order.
         2. **Expiration or Cancellation.** If a stop work order is canceled by JCC or the period of the stop work order or any extension thereof expires, Contractor shall promptly resume the Services covered by such stop work order. JCC shall make an equitable adjustment in the delivery schedule, and the applicable Service Order shall be modified, in writing, accordingly, if: (i) the stop work order directly and proximately results in an increase in the time required for the performance of any part of the Service Order; and (ii) Contractor asserts its right to such equitable adjustment within thirty (30) days after the end of the period of work stoppage.
      8. **Change Orders.** From time to time during the Term, the parties may mutually agree on a change to the Services, which may require an extension or reduction in the schedule and/or an increase or decrease in the fees and expenses and/or the Services (each, a “**Change**”), including: (i) a change to the scope or functionality of the Deliverables; or (ii) a change to the scope of the Services. In the event the Parties agree on a Change, the Parties will seek to mutually agree on a change order identifying the impact and setting forth any applicable adjustments in the Service Order and/or payments to Contractor. An authorized representative of each Party shall promptly sign the mutually agreed upon change order to acknowledge the impact and to indicate that Party’s agreement to the adjustments.
      9. **Third Party or JCC Services.** Notwithstanding anything in this Master Agreement to the contrary, JCC shall have the right to perform or contract with a third party to provide any services or goods within or outside the scope of the Services, including services to augment or supplement the Services or to interface with the IT Infrastructure of the Judicial Branch Entities or JCC Contractors. In the event JCC performs or contracts with a third party to perform any such service, Contractor shall cooperate in good faith with the Judicial Branch Entities and any such third party, to the extent reasonably required by the JCC. Such cooperation shall include, without limitation, providing such information as a person with reasonable commercial skills and expertise would find reasonably necessary for JCC or a third party to perform its services relating to the Services.
   2. **Intellectual Property, Deliverables, and Acceptance.**
      1. **Licenses.**
         1. **Contractor License Grant**. Contractor hereby grants to JCC, Judicial Branch Entities, and the Authorized Users a non-exclusive, worldwide right and license during the applicable Service Order Term, to access, use, and operate the Subscription Services, including any software components of such Subscription Services; and (ii) install, access, use, display and perform (whether publicly or otherwise), reproduce and distribute the Contractor Materials, in connection with the business and operations of the Judicial Branch Entities. The foregoing license includes the right to sublicense to, and have all rights exercised on behalf of, Judicial Branch Entities and Authorized Users.
         2. **JCC License Grant**. JCC grants to Contractor a non-exclusive, non-sublicensable (except to Subcontractors), royalty-free, worldwide license under JCC’s Intellectual Property Rights in JCC Input and JCC Output to use such JCC Input and JCC Output solely to perform the Services for JCC under this Master Agreement.
      2. **Ownership**. Subject to Section 2.3 (JCC Output and Deliverables) and the licenses expressly granted in this Master Agreement:
         1. **JCC Reservation of Rights**. JCC reserves all of its right, title, and interest in and to JCC’s Background IP and JCC Input;
         2. **Contractor Reservation of Rights**. Contractor reserves all of its right, title, and interest in and to the Contractor Background IP and Contractor Retained IP (but in all events excluding JCC Data).
      3. **JCC Output, Developed Materials, and Deliverables.**
         1. **Assignment**. Contractor hereby assigns and agrees to assign to JCC all Intellectual Property Rights and other right, title and interest in and to the JCC Output and the Developed Materials (if any) (excluding the Contractor Retained IP). During and after the Term, Contractor will assist JCC in every reasonable way to secure, maintain, and defend for JCC’s benefit all such assigned Intellectual Property Rights and other rights, title and interest. Contractor further agrees to execute, and shall cause its Personnel and Subcontractors to execute, any documents or take any other actions as may be reasonably necessary to perfect JCC’s or its designee’s ownership of any JCC Output and Developed Materials and to obtain and enforce Intellectual Property Rights in or relating to the JCC Output and Developed Materials.
         2. **License**. To the extent that (i) any Intellectual Property Rights or other rights in or to the JCC Output or the Developed Materials (excluding the Contractor Retained IP) are not assignable, or (ii) Contractor retains any right, title or interest in and to any JCC Output or any Developed Materials (excluding the Contractor Retained IP), Contractor (1) unconditionally and irrevocably waives the enforcement of such rights, and all claims and causes of action of any kind against JCC with respect to such rights; (2) agrees, at JCC’s request and expense, to consent to and join in any action to enforce such rights; and (iii) hereby grants to JCC a perpetual, irrevocable, fully paid-up, royalty-free, transferable, sublicensable (through multiple levels of sublicensees), exclusive, worldwide unrestricted right and license to the JCC Output or Developed Materials (excluding the Contractor Retained IP) for any purpose and in any form or media (now known or later developed).
         3. **Contractor Retained IP**. To the extent any Contractor Retained IP is incorporated in the JCC Output or Development Deliverables, Contractor grants to JCC, the Judicial Branch Entities, and the Authorized Users a non-exclusive, sublicensable, royalty-free, fully paid up, worldwide, perpetual, irrevocable, non-terminable license and right under Contractor’s Intellectual Property Rights and other rights in such Contractor Retained IP to use, make, have made, reproduce, sell, offer to sell, import, display and perform (whether publicly or otherwise), create derivative works of, distribute, and otherwise exploit the JCC Output or Deliverables, as applicable.
         4. **Delivery of Deliverables.** Unless otherwise specified by JCC, Contractor will deliver all tangible Deliverables purchased by JCC “Free on Board Destination Freight Prepaid” to JCC at the address and location specified by JCC. Title to all Deliverables purchased by JCC will vest in JCC upon payment of the applicable purchase price. Contractor shall bear the risk of loss for any Deliverables until JCC receives such Deliverables or Materials at the specified location.
         5. **Acceptance of Services and Deliverables.** All Services and Deliverables are subject to written acceptance by JCC, in the form substantially similar to the Acceptance and Sign-Off Form in [Annex 2 to **Exhibit B (Service Order Form)**](#Exhibit_B_Annex_2). JCC may reject any Service or Deliverable that: (i) fails to meet applicable requirements, Specifications or acceptance criteria; (ii) are not warranted; (iii) are performed or delivered late, or not provided in accordance with this Master Agreement; or (iv) contain Defects. Payment does not imply acceptance of Contractor’s invoice or Services.
         6. **Rejection of Services and Deliverables.** If JCC provides Contractor with a notice of rejection for any Services or Deliverables, Contractor shall modify such rejected Services or Deliverables at no expense to JCC to correct the relevant Defects and shall perform such Services or deliver such corrected Deliverables to JCC within ten (10) Business Days after Contractor’s receipt of such notice of rejection, unless otherwise agreed in writing by the parties. Thereafter, the parties shall repeat the process set forth in this Section (F) (Rejection of Services and Deliverables) until JCC provides Contractor with a written acceptance of the corrected Services or Deliverables. (each such JCC written acceptance, an “**Acceptance**”); provided however, that if JCC rejects any Services or Deliverables on at least two (2) occasions, JCC may terminate the portion of this Master Agreement which relates to the rejected Services or Deliverables at no expense to JCC.
      4. **JCC Data**. Contractor may collect, receive, store, derive, organize or maintain JCC Data only: (A) if expressly authorized under an applicable Service Order; (B) by means expressly authorized under this Master Agreement; (C) as necessary for Contractor to perform the Services in accordance with this Master Agreement; and (D) in accordance with [**Exhibit E (Privacy and Information Security Requirements)**](#Exhibit_E).
      5. **Contractor/Third-Party Materials.** Contractor shall set forth in an exhibit to each Service Order for Professional Services all Contractor Materials and Third Party Materials that Contractor intends to include in Deliverables provided as part of Professional Services in connection with that Service Order. JCC shall have the right to approve in writing the introduction of any Contractor Materials or Third Party Materials into any such Deliverables prior to such introduction. Contractor hereby grants and agrees to grant to the Judicial Branch Entities, together with all JCC Contractors, without additional charge, a perpetual, irrevocable, royalty-free, fully-paid up, worldwide, nonexclusive license to use, reproduce, perform, display, transmit, distribute, modify, create derivative works of, make, have made, sell, offer for sale, and import Contractor Materials and Third Party Materials (including Source Code) in connection with such Deliverables and to sublicense such rights to other entities, in each case for California judicial branch business and operations.
   3. **Fees and Payment.**
      1. **Fees.** In consideration of, and subject to the satisfactory performance an delivery by Contractor of the Services, JCC shall pay Contractor all undisputed amounts for the Services as set forth in **Exhibit I (Pricing Exhibit)** and this Section 3 (Fees and Payment): (i) such fees are the entire compensation for all Services under this Master Agreement; and (ii) all expenses relating to the Services are included in such fees and shall not be reimbursed by JCC. The maximum amount payable to Contractor under this Master Agreement will not exceed the Contract Amount. The Contract Amount may be changed only by amendment to this Master Agreement. Notwithstanding any provision in this Master Agreement to the contrary, payments to Contractor are contingent upon the timely and satisfactory performance of Contractor’s obligations under this Master Agreement. Contractor shall immediately refund any payment made in error. JCC shall have the right at any time to set off any amount owing from Contractor to JCC against any amount payable by JCC to Contractor under this Master Agreement. JCC may use an Acceptance and Sign-off Form for any Services subject to acceptance.
      2. **Fee Disputes.**  JCC may dispute invoices in good faith by written notice to Contractor. The parties will make good faith efforts to resolve disputed amounts within thirty (30) days after such notice. Neither JCC’s failure to dispute any invoiced amounts prior to payment, nor JCC’s failure to withhold any amount, constitutes a waiver of any right JCC may otherwise have to dispute any Fees. Regardless of any ongoing dispute over the Fees, Contractor shall continue to perform the Services in accordance with this Master Agreement.
      3. **Price Increases and Adjustments.** Except as set forth in this Section 3 (Fees & Payment), the prices set forth in this Master Agreement (including **Exhibit I (Pricing Exhibit)**) may not be modified or increased during the Term without written agreement by both parties.
      4. **Expenses.** All permissible and authorized expenses under this Master Agreement shall be subject to JCC guidelines set forth in **Exhibit G (Contractor Expense and Travel Reimbursement Guidelines)**.
         1. **Limitation on Travel Expenses.** All travel is subject to preauthorization and approval by JCC.
         2. **Required Certification.** Contractor must include with any request for reimbursement from JCC a certification that Contractor is not seeking reimbursement for costs incurred to assist, promote or deter union organization. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor shall maintain records sufficient to show that no reimbursement from JCC was sought for these costs, and Contractor shall provide those records to the Attorney General upon request.
      5. **Invoices.** Subject to Section 5.4(Termination Due to Lack of Funding and Changes in Applicable Law), Contractor will invoice JCC for the Services on a monthly basis, unless otherwise expressly set forth in this Master Agreement, an applicable Service Order, or other writing between the parties. All invoices must include the applicable Service Order number and must contain enough detail to allow JCC to determine their accuracy, and must be accompanied by appropriate documentation to support any third party charges that JCC has agreed to pay. All invoices will be in U.S. dollars. Payments may be made electronically. Payment of an invoice without asserting a dispute does not waive any claim or right.
      6. **Taxes and Tax Delinquency.**
         1. **Taxes.** Unless otherwise required by law, JCC is exempt from federal excise taxes and no payment will be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. Contractor is responsible for all taxes, duties, levies, and similar charges under Applicable Law levied on amounts payable by JCC to Contractor for the Services (“**Taxes**”). If the parties agree in a Service Order that JCC will pay Taxes, JCC will only be responsible for such Taxes if they are identified on the applicable invoices as separate line items; provided, however, that JCC shall only pay for any state or local sales, service, use, or similar taxes imposed on the Services rendered or Materials or software supplied to JCC pursuant to this Master Agreement. In no event shall JCC s be responsible for any ad valorem, income, gross receipts, franchise, privilege, value added or occupational taxes of Contractor. Contractor shall be responsible for the payment of all taxes, interest, and penalties related to any assessment by a taxing authority to the extent that Contractor fails to accurately and timely invoice JCC for such taxes and remit such taxes directly to the applicable taxing authority.
         2. **Tax Delinquency.** Contractor must provide notice to JCC immediately if Contractor has reason to believe it may be placed on either (i) the California Franchise Tax Board’s list of five hundred (500) largest state income tax delinquencies, or (ii) the California Board of Equalization’s list of five hundred (500) largest delinquent sales and use tax accounts. JCC may terminate this Master Agreement immediately “for cause” pursuant to Section 5.3 (Termination by JCC for Cause) if (1) Contractor fails to provide the notice above, or (2) Contractor is included on either list mentioned above.
      7. **Retention Amount**. Notwithstanding anything to the contrary in this Section 3 (Fees & Payment), and without limiting the rights of JCC under this Master Agreement, JCC shall have the right at the time of Acceptance, with respect to those Deliverables in each Service Order, on a Service Order-by-Service Order basis, to withhold ten percent (10%) from the amounts to be paid by JCC to Contractor therefor, until Acceptance of the final Deliverable under such Service Order.
   4. **Audits and Progress Reports.**
      1. **Audits.** During the Term and for four (4) years following final payment of the Services under this Master Agreement (or longer, if required by Applicable Law): (A) Contractor shall maintain accurate and complete records relating to the Services; and (B) JCC or its authorized representatives may, no more than once in any twelve-(12-)month period (except if a prior audit revealed material nonconformities with this Master Agreement) and during normal business hours, audit Contractor’s relevant records to confirm Contractor’s compliance with this Master Agreement. JCC shall pay for any such audit, unless the audit reveals an overcharge of more than two percent (2%) in any twelve(12-)-month period and Contractor fails to correct any errors and deficiencies by the twentieth (20th) day of the month following JCC’s review or audit, in which event Contractor shall pay for such audit. Contractor shall repay JCC any overcharged amounts within thirty (30) days after JCC’s invoice for such amounts. JCC may share Contractor’s audit findings with any Judicial Branch Entity who are receiving Deliverables or Services from Contractor or Contractor Personnel. Contractor shall provide to the JCC or its agents, on Contractor’s premises (or, if the audit is being performed of a Subcontractor, Subcontractor’s premises if necessary), space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office related equipment and duplicating services as the JCC may reasonably require to perform the audits described in this Section. Without limiting the foregoing, this Master Agreement is subject to examinations and audit by the State Auditor for a period three (3) years after final payment of the Services.
      2. **Progress Reports.** As directed by JCC, Contractor must deliver progress reports or meet with JCC Personnel on a regular basis to allow: (i) JCC to determine whether the Contractor is on the right track and the project is on schedule, (ii) communication of interim findings, and (iii) opportunities for airing difficulties or special problems encountered so that remedies can be developed quickly.
   5. **Term and Termination.**
      1. **Term**. Unless otherwise terminated under this Section 5 (Term and Termination), this Master Agreement will start on the Effective Date and continue until the Expiration Date described on the cover page of this Master Agreement (the “**Initial Term**”), or if there is a Service Order still in effect, then the Term of this Master Agreement will continue until the Service Order expires or terminates. JCC may, at its sole option and upon notification to Contractor prior to the expiration of the Initial Term, renew this Master Agreement for up to three (3) additional years (the “**First Renewal Term**”). Thereafter, JCC may again, at its sole option and upon notification to Contractor prior to the expiration of the First Renewal Term, renew this Master Agreement for two (2) additional years (the “**Second Renewal Term**”), at the end of which this Master Agreement will automatically expire. For purposes of this Master Agreement, the Initial Term, First Renewal Term, and Second Renewal Term mean, collectively, the “**Term**.”
      2. **Termination by JCC for Convenience**. JCC may terminate, in whole or in part, this Master Agreement or any Service Order for any or no reason, by giving ninety (90) days’ prior notice to Contractor. JCC’s notice obligations under the foregoing sentence shall not apply to any stop work orders issued by JCC under this Master Agreement or any Service Order.
      3. **Termination by JCC for Cause.** JCC may terminate this Master Agreement or any Service Order:
         1. **Violation of Law**. Immediately upon notice to Contractor if Contractor violates Applicable Law or causes JCC to be in violation of Applicable Law;
         2. **OFAC**. Immediately upon notice to Contractor if Contractor, an individual with an ownership or controlling interest Contractor, or any Affiliate, officer, or director of Contractor, is an individual or entity with whom JCC is prohibited from dealing by Applicable Law (including an individual or entity appearing on the United States Office of Foreign Assets Control’s Specially Designated Nationals and Blocked Persons List);
         3. **Bankruptcy**. Immediately upon notice to Contractor if Contractor becomes insolvent, is adjudicated bankrupt, or files a petition (voluntarily or involuntarily) for bankruptcy that is not dismissed within sixty (60) days, or seeks any similar relief under any bankruptcy law or related statute; or
         4. **Material Breach**. Upon ten (10) days’ prior written notice to Contractor, identifying the basis for termination, for Contractor’s breach of this Master Agreement (but only if Contractor has not cured such breach within such notice period or if such breach is not capable of being cured within such notice period in the opinion of JCC).
      4. **Termination Due to Lack of Funding and Changes in Applicable Law.** The parties agree that they are entering into this Master Agreement with the mutual understanding that JCC, as a state agency, is funded on an annual basis. JCC may terminate this Master Agreement or limit the Services (and proportionately, Contractor’s fees) upon written notice to Contractor without prejudice to any right or remedy of the Judicial Branch Entities if: (i) expected or actual funding to compensate Contractor is withdrawn, reduced or limited; or (ii) JCC determines that Contractor’s performance under the Master Agreement has become infeasible due to changes in Applicable Law.
      5. **Termination by Contractor for Cause; Suspension.**
         1. **Nonpayment**. Contractor may terminate an applicable Service Order upon thirty (30) days’ prior written notice to JCC identifying the basis for termination, for JCC’s failure to pay undisputed fees in excess of $10,000 in breach of Section 3.1 (Fees) with respect to that applicable Service Order and does not cure such breach within sixty (60) days of receipt of Contractor’s written notice stating Contractor’s intent to terminate.
         2. **Subscription Services Suspension Event.** Contractor may suspend JCC’s right to access or use any portion of a Subscription Service upon prior notice to JCC if JCC’s use of such Subscription Service is in material breach of this Master Agreement and directly causes a material security risk to such Subscription Service, or a denial of service attack or similar material adverse impact on such Subscription Service (a “**Subscription Services Suspension Event**”). Upon JCC’s cure of such breach and resolution of the issues leading to the Subscription Services Suspension Event, Contractor shall immediately restore JCC’s right to access and use such Subscription Service.
      6. **Effect of Termination.**
         1. **Remedies.** All remedies provided for in this Master Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify JCC immediately if Contractor is in default, or if a third party Claim is brought or threatened that alleges facts that would constitute a default under this Master Agreement. If Contractor is in default, JCC may do any of the following: (i) withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Master Agreement or any other agreement between a Judicial Branch Entity and Contractor; (ii) require Contractor to enter into nonbinding mediation; (iii) exercise, following notice, JCC’s right of early termination of this Master Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.
         2. **Third Party Goods and Services.** If JCC terminates this Master Agreement or any Service Order in whole or in part for cause, JCC may acquire from third parties, under the terms and in the manner JCC considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the JCC for any excess costs for those goods or services. Notwithstanding any other provision of this Master Agreement, in no event shall the excess cost to the Judicial Branch Entities for such goods and services be excluded under this Master Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the JCC or Judicial Branch Entities. Contractor shall continue the Services not terminated hereunder.
         3. **Services and Fees.** Upon termination or expiration of this Master Agreement or any Service Order, Contractor shall stop all work in connection with this Master Agreement or such Service Order, subject to Section 5.6(E) (Termination Assistance). JCC shall pay Contractor for all Services received prior to the effective date of termination, on a pro rata basis (unless prohibited by Applicable Law) and Contractor shall refund to JCC any prepaid fees for Services not received prior to the effective date of termination.
         4. **Return of Deliverables and Materials.** In the event of any expiration or termination of this Master Agreement or the applicable Service Order, Contractor shall promptly provide JCC with all originals and copies of the Deliverables (including: (i) any partially-completed Deliverables and related work product or materials; (ii) any Contractor Materials, Third Party Materials, and Developed Materials comprising such Deliverables or partially-completed Deliverables; (iii) Confidential Information; and (iv) JCC Materials, including all portions of each of the foregoing, in its possession, custody, or control (provided that JCC Data shall be returned as set forth in subsection (G) below)). In the event of any termination of this Master Agreement or a Statement of Work, JCC shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the JCC’s termination is not based on a Default, JCC shall pay any fees due under this Master Agreement for Deliverables completed and accepted as of the date of the JCC’s termination notice.
         5. [Termination Assistance.
            1. From the date that a party receives notice of termination or expiration of this Master Agreement or any Service Order until eighteen (18) months after the termination or expiration of this Master Agreement or any Service Order, JCC reserves the right to request from Contractor termination assistance services, which services are described under this Section 5.6(E) (Termination Assistance) and/or the applicable Service Order.
            2. At JCC’s request, during the Termination Assistance Period, Contractor shall provide to JCC and any successor service provider identified by JCC all assistance reasonably requested by JCC to allow the terminating or expiring Services to continue without interruption, to mitigate any disruption to the operation of JCC, and to facilitate an orderly transition of the applicable Services to JCC or to a third party successor service provider identified by JCC.
            3. JCC shall pay Contractor for all Services received during such period at the rates set forth in Exhibit I (Pricing Exhibit).
            4. Contractor shall perform the termination assistance described above pursuant to a plan agreed in writing by the parties (which plan is incorporated by reference into this Master Agreement) that describes the expected termination assistance period, services and any other parameters reasonably requested by JCC. Such termination assistance shall be considered “Services” under this Master Agreement. At JCC’s option and election, JCC may extend the Termination Assistance Period for an additional six (6) months.
            5. Without limiting the foregoing, if a termination of this Master Agreement or any Service Order, or any part thereof occurs, then on JCC’s request, Contractor will continue to provide the Services in accordance with the terms and conditions of this Master Agreement. The fees for these Services will be no different than those on-going fees for any terminated Service as identified in the applicable Service Order. If JCC requests Contractor to perform any Services beyond the remaining term of this Master Agreement or the applicable Service Order, then the parties shall execute an amendment to this Master Agreement or the Service Order, or both, extending the expiration date(s) of such for the duration requested by JCC, and at a price not to exceed the pro-rated price for the terminated Service(s) based on the price in the most recent applicable Service Order(s).] [**NTD:** Final language in this Section 5.6(E) is subject to finalization of the applicable section on Termination Assistance in the SOW attached to Service Order #1.]
         6. **No Prejudice**. Either party’s termination of this Master Agreement in accordance with its terms is without prejudice to any other rights or remedies it may have at law or in equity, and does not relieve either party of breaches occurring prior to the effective date of termination.
         7. **Return of JCC Data**. Upon termination or expiration of this Master Agreement (except as otherwise provided in **Exhibit E (Privacy and Information Security Requirements)**), Contractor shall return to JCC, or at JCC’s request, destroy and give notice of destruction, all copies of any JCC Data held by Contractor.
         8. **Survival**. The terms and conditions of this Master Agreement that by their nature and context are intended to survive termination hereof will so survive, including the following 2.2 (Ownership), 2.3 (JCC Output, Developed Materials, Deliverables), 3.6 (Taxes and Tax Delinquency), 4 (Audits), 5.5(B) (Effect of Termination), 6 (Confidential Information), 7 (Compliance), 8 (Representations and Warranties), 9 (Indemnification), 10 (Limitation of Liability), 12 (Dispute Resolution), and 13 (Miscellaneous), as well as **Exhibit A (Definitions)**, **Exhibit E (Privacy and Information Security Requirements)**, and **Exhibit F (Insurance Requirements)** (in accordance with its terms). [**NTD:** To be finalized in final draft.]
   6. **Confidential Information.**
      1. **General Obligations.** During the Term and at all times thereafter, Contractor shall: (a) hold all JCC Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Master Agreement, and (c) refrain from disclosing or permitting others to disclose any JCC Confidential Information to any third party without obtaining JCC’s express prior written consent on a case-by-case basis. Contractor will disclose JCC Confidential Information only to applicable Contractor Staff (including Subcontractors) with a need to know in order to provide the Services hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this Section 6 (Confidential Information). The provisions of this Section 6 (Confidential Information) will survive beyond the expiration or termination of this Master Agreement. Contractor shall protect JCC Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than reasonable care and industry-standard care. As between the Parties, JCC will own all right, title and interest in JCC Confidential Information. Contractor shall notify JCC promptly upon learning of any unauthorized disclosure or use of JCC Confidential Information and will cooperate fully with JCC to protect such JCC Confidential Information. Notwithstanding any provision to the contrary, Contractor shall keep all Personal Information confidential, unless otherwise authorized by JCC in writing.
      2. **Removal; Return**. Contractor shall not remove any JCC Confidential Information from Judicial Branch Entities’ facilities or premises without JCC’s express prior written consent. Upon the JCC’s request and upon any termination or expiration of this Master Agreement, Contractor will promptly (a) return to JCC or, if so directed by the JCC, destroy all JCC Confidential Information (in every form and medium), and (b) certify to the JCC in writing that Contractor has fully complied with the foregoing obligations.
      3. **Breach of Confidentiality**. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor’s obligations hereunder, that any such breach will likely result in irreparable harm, and therefore, that upon any breach or threatened breach of the confidentiality obligations, JCC shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law..
      4. **Relationship Data**. To the extent Contractor collects or receives Relationship Data in the course of creating or managing its relationship with JCC, such Relationship Data is JCC’s Confidential Information. Without limiting the foregoing, Contractor may use or disclose Relationship Data only as permitted under this Section 6 (Confidential Information).
      5. **Data Protection**. Contractor shall comply with the requirements set forth in **Exhibit E (Privacy and Information Security Requirements)**.
   7. **Compliance.**
      1. **Compliance with Applicable Law**. Contractor shall comply with all Applicable Law in the performance of its obligations under this Master Agreement.
      2. **JCC Guidelines**. Contractor shall comply with, and shall instruct all Personnel performing Services to be aware of and to comply with, all guidelines, policies and procedures provided by JCC, as may be modified by JCC from time to time, including JCC’s Contractor Expense and Travel Reimbursement Guidelines, as set forth in **Exhibit G**.
      3. **Equal Opportunity Employer**. Contractor represents, warrants, and covenants that it is an equal opportunity employer that does not discriminate in employment of persons or award of subcontracts because of a person’s race, sex, age, religion, national origin, sexual orientation, gender identity, veteran status, handicap status or any other factor that is irrelevant to the ability to provide Services to JCC and that provides a workplace free of discrimination of harassment.
      4. **No Harassment/Nondiscrimination.** Contractor represents, warrants, and covenants that:
         1. Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Master Agreement, and Contractor has taken all reasonable steps to prevent harassment from occurring.
         2. Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California’s Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.).
         3. Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 years and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation; and
         4. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor’s obligations of nondiscrimination.
      5. **Domestic Partners, Spouses, Gender, and Gender Identity Discrimination.** Contractor represents, warrants, and covenants that if the Contract Amount is $100,000 or more, Contractor is in compliance with: (i) Public Contract Code section 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) Public Contract Code section 10295.35, which places limitations on contracts with contractors that discriminate in the provision of benefits on the basis of an employee’s or dependent’s actual or perceived gender identity.
      6. **National Labor Relations Board Orders**. Contractor represents, warrants, and covenants that no more than one (1), final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two (2-)-year period because of Contractor’s failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.
      7. **Child Support Compliance Act**. Contractor represents, warrants, and covenants that if the Contract Amount is $100,000 or more: (A) Contractor recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and (ii) Contractor has provided and will provide the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
      8. **Export Controls**. Contractor shall comply with all Applicable Law related to imports and exports (“**Export Controls**”). Contractor shall advise JCC of all Export Controls applicable to the Services and Deliverables and a description of the technology contained within the Services or Deliverables that is subject to Export Controls. Contractor shall, at its expense, obtain any export licenses required to perform its obligations under this Master Agreement, and provide JCC with copies of such licenses or information reasonably sufficient to substantiate that no license is required. Upon JCC’s written request, Contractor shall use commercially reasonable efforts to assist JCC with obtaining any export licenses required for JCC to exercise its rights and perform its obligations under this Master Agreement.
      9. **Financial Monitoring**. Upon JCC’s request, Contractor shall provide JCC with a copy of Contractor’s most recent audited financial statements, a letter from Contractor’s certified public accountant, or other documentation acceptable to JCC, setting forth Contractor’s then-current financial status. Contractor represents, warrants, and covenants that all such documentation is and will be complete, accurate, and prepared in accordance with Generally Accepted Accounting Principles. If Contractor is a publicly-traded company, information required to be disclosed under this Section 7.9 (Financial Monitoring) will be limited to that which Contractor is permitted to disclose under Applicable Law. Financial information disclosed under this Section 7.9 (Financial Monitoring) may be used by JCC solely for the purpose of determining Contractor’s ability to perform its obligations under this Master Agreement.
      10. **Security and Risk Assessments**. Without limiting Contractor’s obligations in **Exhibit E (Privacy and Information Security Requirements),** JCC, or any designee to whom Contractor is providing a Service, may conduct a detailed security and risk assessment of Contractor (“**Assessment**”) to ensure Contractor’s ability to comply with this Master Agreement. Contractor shall reasonably cooperate with JCC during any Assessment. The Assessment may include: (A) JCC or its designated agent performing an onsite assessment of Contractor’s security and risk programs during normal business hours; and (B) penetration testing of all software applications, infrastructure, and datacenters that handle or store JCC Data. JCC may re-conduct Assessments annually in its sole discretion. Contractor shall, upon JCC’s request and at Contractor’s expense, negotiate in good faith a Service Order to resolve any issues identified in the Assessment and address Contractor’s implementation of any additional security measures that JCC requires. JCC will be entitled to terminate Contractor's Processing of JCC Data or suspend such Processing until all issues identified in the Assessment are resolved or all additional security measures required by JCC are implemented to JCC’s satisfaction.
      11. **Licenses and Approvals.** Contractor shall obtain and keep current all necessary licenses, approvals, permits, and authorizations required by Applicable Laws to perform the Services under this Master Agreement. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any Applicable Law.
   8. **Representations and Warranties.**
      1. **Mutual Warranties**. Each party represents, warrants, and covenants to the other party that: (A) it has full power and authority to enter into this Master Agreement; and (B) it has (and during the Term will retain) all necessary rights to grant the licenses and fulfill its obligations under this Master Agreement.
      2. **Services and Deliverables**. Contractor represents, warrants, and covenants to JCC as of the Effective Date and during the Term that:
         1. **Performance**. Contractor will perform the Services with professional diligence and skill in accordance with best industry standards;
         2. **Specifications**. The Services and any Deliverables will meet any Specifications or other technical requirements set forth in this Master Agreement, all applicable Service Orders, and any Documentation;
         3. **Title to Deliverables**. Upon the delivery of each Deliverable, the Deliverable will be merchantable, and free and clear of all liens, encumbrances, security interests, or other claims;
         4. **Non-Infringement.** The Services and Deliverables, including use for their intended purpose, do not infringe upon, violate, or misappropriate any intellectual property rights or any other rights of any third party in any country.
         5. **No Harmful Code**. The Subscription Services, Contractor Materials, and any Deliverables: (i) are not (and during the Term will not be) subject to any open source license or other terms that, in the course of using or distributing Subscription Services, Contractor Materials, or any Deliverables as permitted under this Master Agreement, would require JCC Materials or JCC Output (a) be disclosed or distributed in source code form, (b) become subject to any third party or open source license, including those permitting creation of derivative works, or (c) be redistributable at no charge; (ii) do not contain any Network Open Source; (iii) are (and during the Term will be) free from any viruses or other malicious code; and (iv) do not (and during the Term will not) contain any copy protection, automatic shut-down, lockout, “time bomb,” or similar mechanisms that could interfere with JCC’s exercise of its rights under this Master Agreement. Without limiting the foregoing, Contractor shall use best efforts and all necessary precautions to prevent the introduction and proliferation of any viruses or malicious code in the Judicial Branch Entities’ IT Infrastructure or networks or in the Contractor’s systems used to provide the Services. In the event Contractor or JCC discovers the existence of any viruses or malicious code, Contractor shall use its best efforts, in cooperation with JCC, to effect the prompt removal of the viruses or malicious code from the Services and the Judicial Branch Entities’ IT Infrastructure and the repair of any files or data corrupted thereby. The expenses associated with the removal of such viruses or malicious code and restoration of the data shall be borne by Contractor. In no event will Contractor or any of its Subcontractors invoke any viruses or malicious code.
         6. **Updates**. No Update will: (i) impair the operation of, or inhibit any functions of, the Subscription Services; or (ii) adversely affect function, reliability, safety, or serviceability of the Subscription Services;
         7. **Four-Digit Date Compliance.** Contractor will provide only Four-Digit Date Compliant Work to JCC. “**Four-Digit Date Compliant**” Work can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries.
         8. **Rights in Deliverables**. The Deliverables are an original work of Contractor, and any third parties involved in the development of Deliverables have signed or will sign written agreements assigning their rights in or to Deliverables to Contractor;
         9. **Export**. Except for restrictions on trade with countries or individuals against which the United States government has imposed a general embargo, there is no restriction on the export or use of any of the Services or Deliverables;
         10. **OFAC**. Neither Contractor nor any Affiliate, officer, or director of Contractor is (or during the Term will be) an individual or entity with whom JCC is prohibited from dealing by Applicable Law (including an individual or entity appearing on the United States Office of Foreign Assets Control’s Specially Designated Nationals and Blocked Persons List), and Contractor shall not cause JCC or any Judicial Branch Entity to be in violation of any regulation administered by the United States Office of Foreign Assets Control;
         11. **Conflict Minerals.** Contractor certifies either: (i) it is not a “scrutinized company” as defined in PCC 10490(b), or (ii) the goods or services the Contractor will provide to the JCC are not related to products or services that are the reason the Contractor must comply with Section 13(p) of the Securities Exchange Act of 1934; and
         12. **No Conflicts. T**his Master Agreement does not conflict with any of Contractor’s other agreements or understandings with third parties, and Contractor has caused and will cause its Subcontractors not to enter into any arrangement with any third party, which could reasonably be expected to abridge any rights of JCC under this Master Agreement.
      3. **Additional Representations and Warranties.** Contractor represents, warrants, and covenants to JCC as of the Effective Date and during the Term that:
         1. **No Gratuities or Conflict of Interest.** Contractor represents, warrants, and covenants to JCC as of the Effective Date and during the Term that it: (i) has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Master Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Master Agreement; and (ii) has no interest that would constitute a conflict of interest under Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.
         2. **No Litigation.** Contractor represents, warrants, and covenants to JCC as of the Effective Date and during the Term that no claims or governmental investigation is pending or threatened against or affecting Contractor or Contractor’s business, financial condition, or ability to perform this Master Agreement.
         3. **Not an Expatriate Corporation**. Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1, and is eligible to contract with JCC.
      4. **Warranty Procedure**. Without limiting JCC’s other rights or remedies, if JCC gives written notice to Contractor that the Services or Deliverables are not in compliance with Section 8.2 (Services and Deliverables), Contractor shall re-perform the Services or repair and replace the non-conforming Deliverables at no additional cost to JCC, as soon as reasonably possible, in a manner that conforms to the Specifications and other requirements in this Master Agreement.
      5. **Disclaimer of Warranties**. Except for the warranties set forth in this agreement, each party disclaims all other warranties whether express or implied by law, course of dealing, course of performance, usage of trade, or otherwise, including, but not limited to, any: (a) warranty of merchantability; or (b) warranty of fitness for a particular purpose. All JCC Confidential Information AND JCC INPUT ARE provided by JCC “as is” and without any warranty, express, implied, or otherwise, regarding its accuracy or performance.
   9. **Indemnification.**
      1. **Indemnification of JCC**. At JCC’s option and election, Contractor shall indemnify and defend (with counsel satisfactory to JCC) JCC, any applicable Judicial Branch Entities, and Judicial Branch Personnel (each an “**Indemnified Party**”) against all Losses arising out of or relating to:
         1. **Breach of Confidentiality; Data; Security**. Contractor’s or its Personnel’s actual or alleged breach of Sections: 1.6 (Subcontractors and Personnel) or 6 (Confidential Information) or any other actual or alleged unauthorized access or use of JCC Data;
         2. **Services; IP Infringement**. Any allegation, claim, suit, action or proceeding that the Services, Contractor Materials, Deliverables, or JCC’s, the Judicial Branch Entities, or the Authorized Users’ exercise of their rights under this Master Agreement with respect to any of the foregoing, infringes, misappropriates, or violates a third party’s rights, including Intellectual Property Rights;
         3. **Non-Compliance with Law**. Contractor’s or any of its Personnel’s non-compliance with Applicable Law;
         4. **Taxes**. Contractor’s breach of any of Section 3.6 (Taxes and Tax Delinquency) including timely payment of all Taxes;
         5. **Misconduct**. Contractor’s or any of its Personnel’s bad faith, willful misconduct, negligence, fraud, or misrepresentation; or
         6. **Damage**. Any property damage, personal injury, or death arising out of or related to Contractor’s or any of its Personnel’s performance of the Services.
      2. **Procedures**. The Indemnified Party shall notify Contractor in writing of any allegation, claim, suit, action or proceeding described in Section 9.1 (Indemnification of JCC) (each, an “**Indemnified Claim**”) and provide reasonable cooperation to Contractor, at Contractor’s expense. An Indemnified Party’s failure to so notify Contractor will not diminish Contractor’s indemnity obligations under this Master Agreement except to the extent such failure actually prejudices Contractor’s defense of the Indemnified Claim. JCC and the Indemnified Party may participate in the defense and settlement of Indemnified Claims with each of their own counsel and any settlement shall be subject to the Indemnified Party’s and JCC’s prior written consent, which shall not be unreasonably withheld.
      3. **Exclusions**. Contractor shall have no liability under Section 9.1(B) (Services; IP Infringement) to the extent arising solely from alterations or modifications to Services, Contractor Materials, or the Deliverables that were made solely by JCC or JCC Personnel and not recommended, performed, instructed or authorized by Contractor or any of its Personnel.
      4. **Additional Remedies**. If a third party obtains an injunction due to the Services, Contractor Materials, or the Deliverables, or JCC’s, the Judicial Branch Entities, or the Authorized Users’ actions with any of the foregoing, infringing, misappropriating, or violating a third party’s rights, or JCC requests, due to its reasonably belief, that JCC’s, the Judicial Branch Entities, or the Authorized Users’ actions with the foregoing, may be enjoined, then Contractor shall at Contractor’s option and expense take the following actions in the listed order of preference:
         1. **License**. Obtain a license to continue providing the Services, Contractor Materials, and/or the Deliverables to JCC, the Judicial Branch Entities, and the Authorized Users, and for JCC, the Judicial Branch Entities, and the Authorized Users to continue their actions with the Services, Contractor Materials, and /or Deliverables permitted under this Master Agreement without restriction; or
         2. **Modification**. Modify the Services, Contractor Materials, and/or the Deliverables to be non-violating without reducing their functionality;
         3. **Substitution**. Substitute the Services, Contractor Materials, and/or the Deliverables with comparable offerings acceptable to JCC.
      5. **Cancellation**. If none of the foregoing remedies in Section 9.4 (Additional Remedies) are reasonably available to Contractor, then at Contractor’s request, and only with JCC’s prior written consent, JCC will terminate its use of the violating Services, Contractor Materials, or the Deliverables and Contractor shall refund any prepaid fees applicable to periods after the date of termination.
   10. **Limitation of Liability.**
       1. **Limitation**. Except as otherwise described in Section 10.2 (Exclusions), regardless of whether the claim giving rise to such damages is based upon breach of warranty, breach of contract, negligence, tort, or other theory of liability, and even if a party has been advised of the possibility of such damages, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES.
       2. **Exclusions**. Notwithstanding anything to the contrary in this Master Agreement, Section 10.1 (Limitation) will not apply to liability for: (A) breach of Sections 1.6 (Project Managers, Subcontractors, and Personnel), 2.2 (Ownership), 6 (Confidential Information) or 7 (Compliance); (B) liability arising under Section 9 (Indemnification); (C) personal injury or death resulting from its negligence or the negligence of either party’s employees, agents or Personnel; (D) either party’s fraud, willful misconduct, or gross negligence; or (E) any matters for which liability cannot be limited under Applicable Law.
   11. **Insurance**. Contractor shall comply with the insurance requirements set forth in **Exhibit F (Insurance Requirements)**.
   12. **Dispute Resolution**.
       1. **Disputes**. If there is any controversy, dispute or claim arising out of or relating to this Master Agreement, including any Service Order (“**Dispute**”), then either party may submit the Dispute for resolution under this Section 12.1 (Disputes) by providing prior written notice (a “**Dispute Notice**”) to the other party of the nature of the Dispute with as much detail as is practicable and any documentation reasonably necessary to evaluate such Dispute; provided that this Section shall not apply to controversies, disputes or claims relating to or affecting in any way the ownership of or the validity of any Intellectual Property Rights, or fraud by either party. During any Dispute, Contractor agrees to continue performance relating to items not in dispute. Each of the parties shall appoint an individual at the [Senior Director level or above] to whom Disputes will be escalated (“**Escalation Officer**”). The Escalation Officers for each party shall meet (in person or by telephone) within seven (7) days of the date of receipt of the Dispute Notice to attempt to resolve the dispute. The Escalation Officers shall produce a report regarding the Dispute for an Executive Vice President (or equivalent within JCC’s and Contractor’s management structure) of each of the parties (each, a “**Management Representative**”). If the Escalation Officers are unable to agree upon action to resolve the Dispute, the Management Representatives shall meet (in person or by telephone) to attempt to resolve the Dispute. If the Management Representatives cannot resolve the Dispute or agree upon a written plan of action to do so within thirty days following the date of receipt of the Dispute Notice, or if any agreed-upon completion dates in a written plan of action are exceeded without extension, subject to Section 12.2 (Non-U.S. Entities), Section 14.1 (Governing Law; Jurisdiction), and Section 14.2 (Injunctive Relief), the parties may pursue any rights they have at law or equity. Notwithstanding any of the foregoing, either party may, without inconsistency with this Section 12.1 (Disputes), apply to any court having jurisdiction hereof and seek interim provisional, injunctive or other equitable relief for a party’s breach of Section 6 (Confidential Information) in accordance with Section 14.2 (Injunctive Relief).
       2. **Non-U.S. Entities**. If Contractor is a non-U.S. entity, any dispute between the parties arising out of this Master Agreement which cannot be settled by the parties will be finally and exclusively settled by binding arbitration (“**Arbitration**”) upon the written request of either party. The Arbitration will be administered by the American Arbitration Association under its Commercial Arbitration Rules in force when the notice of arbitration is submitted (the “**Rules**”). The Arbitration will be conducted by one arbitrator selected in accordance with the Rules. The seat of the Arbitration will be in the County of San Francisco, California. The Arbitration will be conducted in English. The Arbitration award will be final and binding upon the parties, and judgment upon such award may be entered in any court having jurisdiction thereof. The arbitrator’s award may include compensatory damages against either party but the arbitrator will not be authorized to award punitive damages against either party.
   13. **Special Provisions.**
       1. **Agreements Providing for Compensation of $50,000 or more; Union Activities Restrictions.** As required under Government Code sections 16645-16649, if the Contract Amount is $50,000 or more, Contractor agrees that no JCC funds received under this agreement will be used to assist, promote or deter union organizing. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor shall maintain records sufficient to show that no JCC funds were used for those expenditures and no reimbursement from the JCC was sought for these costs. Contractor shall provide those records to the Attorney General upon request.
       2. **DVBE Commitment.** This section is applicable if Contractor received a disabled veteran business enterprise (“**DVBE**”) incentive in connection with this Master Agreement. Contractor’s failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of the Master Agreement. If Contractor used DVBE subcontractor(s) in connection with this Master Agreement: (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless JCC approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Master Agreement; and (ii) Contractor must within sixty (60) days of receiving final payment under this Master Agreement certify in a report to JCC: (1) the total amount of money Contractor received under the Master Agreement; (2) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Master Agreement; (3) the amount each DVBE subcontractor received from Contractor in connection with the Master Agreement; and (4) that all payments under the Master Agreement have been made to the applicable DVBE subcontractors. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.
       3. **Competitively Bid Contracts; Antitrust Claims.**  If this Master Agreement resulted from a competitive bid, Contractor shall comply with the requirements of the Government Code sections set out below.
          1. Contractor shall assign to the JCC all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to JCC pursuant to the bid. Such assignment shall be made and become effective at the time JCC tenders final payment to the Contractor. (GC 4552)
          2. If JCC receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from JCC any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the JCC as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (GC 4553)
          3. Upon demand in writing by the Contractor JCC shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (1) the JCC has not been injured thereby, or (2) the JCC declines to file a court action for the cause of action. (GC 4554)
       4. **Iran Contracting Act.** If the Contract Amount is $1,000,000 or more, Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“**Iran List**”) created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending $20,000,000 or more in credit to another person, for forty-five (45) days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the JCC to enter into this Master Agreement pursuant to PCC 2203(c).
       5. **Loss Leader Prohibition**. If this Master Agreement involves the purchase of goods, this section is applicable. Contractor shall not sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.
       6. **Recycling.** If this Master Agreement provides for the purchase or use of goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods. Without limiting the foregoing, if this Master Agreement includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable. Contractor shall use recycled products in the performance of this Master Agreement to the maximum extent doing so is economically feasible. Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.
       7. **Sweatshop Labor.** If this Master Agreement provides for the laundering of apparel, garments or corresponding accessories, or for furnishing equipment, materials, or supplies other than for public works, this section is applicable. Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to JCC under this Master Agreement have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and PCC 6108. Contractor agrees to cooperate fully in providing reasonable access to Contractor’s records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Contractor’s compliance with the requirements under this section and shall provide the same rights of access to JCC.
       8. **Federally-funded Agreements.** If this Master Agreement is funded in whole or in part by the federal government, then:
          1. It is mutually understood between the parties that this Master Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the Master Agreement were executed after that determination was made.
          2. This Master Agreement is valid and enforceable only if sufficient funds are made available to JCC by the United States Government for the fiscal year in which they are due and consistent with any stated programmatic purpose. In addition, this Master Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Master Agreement in any manner.
          3. The Parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Master Agreement is intended to be paid, this Master Agreement shall be deemed amended without any further action of the parties to reflect any reduction in funds.
          4. The parties may amend the Master Agreement to reflect any reduction in funds.
       9. **Equipment Purchases.** If this Master Agreement includes the purchase of equipment, this section is applicable. JCC may, at its option, repair any damaged or replace any lost or stolen items and deduct the cost thereof from Contractor’s invoice to JCC, or require Contractor to repair or replace any damaged, lost, or stolen equipment to the satisfaction of JCC at no expense to JCC. If a theft occurs, Contractor must file a police report immediately.
       10. **Small Business Preference Contract Clause**. This section is applicable if Contractor received a small business preference in connection with this Master Agreement. Contractor’s failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Master Agreement. Contractor must within sixty (60) days of receiving final payment under this Master Agreement report to JCC the actual percentage of small/micro business participation that was achieved. If Contractor is a nonprofit veteran service agency (“**NVSA**”), Contractor must employ veterans receiving services from the NVSA for not less than seventy-five percent (75%) of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Master Agreement.
   14. **Miscellaneous**.
       1. **Governing Law; Jurisdiction**. The Master Agreement is governed by the laws of the State of California without reference to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Master Agreement. Subject to Section 12 (Dispute Resolution), all claims arising under this Master Agreement will be litigated exclusively in the federal district courts or state courts of California. The parties submit to the jurisdiction in those courts.
       2. **Injunctive Relief**. If either party breaches Section 6 (Confidential Information), the other party may suffer irreparable harm, and monetary damages may be inadequate to compensate the non-breaching party. Accordingly, either party may, in addition to any other remedies available to it at law or in equity, seek injunctive, specific performance or other equitable relief in response to any such breach.
       3. **Notice**. All notices under this Master Agreement must be: (A) delivered in person; (B) sent by registered or certified mail; or (C) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient as set forth on the cover page. A party may change its notice information by notifying the other party in accordance with this Section 14.3 (Notice). Notices will be considered to have been given at the time of actual delivery in person, three (3) Business Days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.
       4. **Independent Contractors**. The parties are independent contractors of each other. Contractor and Contractor Personnel are not employees or officers of the Judicial Branch Entities or JCC Contractors. Contractor is responsible for instructing and managing Personnel. This Master Agreement does not create any agency, partnership, or joint venture relationship between the parties. Neither party shall have the right, power or authority, express or implied, to bind the other.
       5. **No Third Party Beneficiaries**. There are no third party beneficiaries of this Master Agreement other than Judicial Branch Entities and Authorized Users.
       6. **Assignment; Change of Control**. Contractor shall not assign this Master Agreement or delegate its performance or rights hereunder without JCC’s prior written consent, and any such purported assignment or delegation or attempt to do so is null and void. JCC may assign this Master Agreement or delegate its performance or rights hereunder without Contractor’s consent. For purposes of this Section, the change of control, acquisition, sale, reorganization, merger, consolidation or any assignment by operation of law or otherwise of Contractor, or its Affiliates, including if, directly or indirectly, or through the completion of a single transaction or series of transactions, will be considered an assignment of this Master Agreement. This Master Agreement is binding upon and inures to the benefit of the parties to this Master Agreement and their respective permitted successors and assigns.  No assignment or delegation shall relieve Contractor of any of its rights or obligations unless JCC enters into a signed agreement releasing the Contractor of its obligation under the Master Agreement. This Master Agreement is binding upon and inures to the benefit of the parties to this Master Agreement and their respective permitted successors and assigns. No assignment or delegation shall relieve the assigning or delegating party of any of its rights or obligations unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Master Agreement. Any assignment made in contravention of the foregoing shall be void and of no effect.
       7. **Nature of Rights**. The licenses granted under this Master Agreement are rights in “intellectual property” within the scope of Section 101 (or its successors) of the United States Bankruptcy Code (the “**Code**”). Each party as licensee shall have and may fully exercise all rights available to a licensee under the Code, including under Section 365(n) or its successors.
       8. **Follow-On Contracting.** Subject to certain exceptions, no person, firm, or subsidiary thereof who has been awarded a Consulting Services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the Consulting Services contract.
       9. **Headings; Construction**. Section headings are for convenience only and are not intended to affect the meaning or interpretation of this Master Agreement. The words “include,” “includes” and “including” will be deemed to be followed by “without limitation.” The words “unreasonably withheld” will be deemed to be followed by, to the extent not set forth “conditioned or delayed.” The word “or” will not be exclusive. The phrase “to the extent” will mean the degree to which a subject or other matter extends, and such phrase will not simply mean “if.” Where a word is defined herein, references to the singular will include references to the plural and vice versa. All references to “$” and dollars will be deemed to refer to United States currency unless otherwise specifically provided. All references to a day or days will be deemed to refer to a calendar day or calendar days, as applicable, unless otherwise specifically provided.
       10. **Waiver**. Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under this Master Agreement.
       11. **Amendment**. This Master Agreement and any Service Order may only be amended in a writing signed by both parties and stating that it is amending this Master Agreement or the applicable Service Order.
       12. **Severability**. If any provision of this Master Agreement or portion of a provision is invalid, illegal, or unenforceable, the rest of this Master Agreement will remain in effect.
       13. **Counterparts**. The parties may sign this Master Agreement using electronic signatures, electronic copies, and counterparts.
       14. **Entire Agreement; Order of Precedence**. This Master Agreement constitutes the entire agreement and supersedes any other agreement the parties relating to its subject matter. Any preprinted or other standard terms set forth on any Contractor quotation, order acknowledgment, click through terms, website, documents, or other terms are of no force or effect, considered material alterations of this Master Agreement, and are expressly rejected by JCC, irrespective of whether such terms are countersigned or otherwise accepted by JCC. If there is a conflict between the terms and conditions of this Master Agreement and any other document, the following order of precedence will apply (with the first listed taking the most precedence): **Exhibit E (Privacy and Information Security Requirements)**, the terms and conditions of this Agreement, Service Orders, and Exhibits to this Master Agreement other than **Exhibit E (Privacy and Information Security Requirements)**.
2. EXHIBIT A  
   DEFINITIONS

For the purposes of this Master Agreement, the following definitions apply:

* 1. “**Affiliate**” means any entity that controls, is controlled by, or is under common control of an entity, where “control” means ownership of fifty percent (50%) or more of the equity or other interests entitled to vote in the election of directors or corresponding managing authority of the Affiliate. If the percentage of control (as defined above) permitted under Applicable Law is less than that set forth above, then such percentage will apply.
  2. “**Applicable Law**” means all international, federal, state, provincial, and local laws, rules, regulations, binding regulatory guidance, directives, and governmental requirements applicable to the Deliverables, Materials, Services, or performance under this Master Agreement.
  3. “**Authorized Users**” means JCC, other Judicial Branch Entities, and their Personnel and vendors who are authorized by or on behalf of JCC or a Judicial Branch Entity to use the Subscription Services.
  4. “**Background IP**” means any Materials or Intellectual Property Rights owned, acquired, invented or otherwise created by a party: (a) before the Effective Date; or (b) during the Term but independently from this Master Agreement.
  5. “**Business Day**” means any day other than Saturday, Sunday or a scheduled court holiday.
  6. “**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.
  7. “**Confidential Information**” means information that either party (“**Discloser**”) discloses to the other party (“**Recipient**”) under this Master Agreement, and that is marked as confidential or would normally be considered confidential information under the circumstances. Except with respect to JCC Data and Personal Information, “Confidential Information” does not include information that is independently developed by Recipient, is rightfully given to Recipient by a third party without confidentiality obligations, or becomes public through no fault of Recipient. With respect to JCC, the JCC Data, JCC Input, JCC Output, all Deliverables (excluding Contractor Retained IP), Relationship Data, court records, information relating to court proceedings, security practices, JCC business methodologies, information relating to Judicial Branch Entities’ personnel, users, contractors or agents (including formation that JCC’s personnel, agents, and users upload, create, access or modify pursuant to the Master Agreement), all financial, statistical, technical and other data and information of the Judicial Branch Entities (and proprietary information of third parties provided to Contractor), including trade secrets and other intellectual property or proprietary information, data, are deemed JCC’s Confidential Information. With respect to Contractor, Contractor Retained IP is Contractor’s Confidential Information. Confidential Information does not include information (that Contractor demonstrates to JCC’s satisfaction, by written evidence (with respect to JCC Confidential Information)): (a) that the Recipient lawfully knew prior to the Discloser’s first disclosure to the Recipient, (b) that a third party rightfully disclosed to the Recipient free of any confidentiality duties or obligations, or (c) that is, or through no fault of Recipient has become, generally available to the public.
  8. “**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.
  9. “**Contract Amount**” means the maximum amount JCC may pay Contractor under the Master Agreement.
  10. “**Contractor Key Personnel**” means the Contractor Project Manager and those Contractor Personnel identified as “Key Personnel” as set forth in a Service Order.
  11. “**Contractor Materials**” means all Materials (including Contractor Tools) provided or made accessible by Contractor to JCC in connection with the Services, including via download or export from the Subscription Services (excluding all JCC Data and Deliverables).
  12. “**Contractor Project Manager**” means the employee identified in a Service Order as the Contractor project manager.
  13. “**Contractor Retained IP**” means any modifications or derivative works of Contractor’s Background IP incorporated in the Deliverables or JCC Output that are made by Contractor and described in the applicable Service Order as retained by Contractor.
  14. “**Contractor Tools**” means the methodologies, templates, developer tools, technologies, skill, and know-how generally applicable to development of Contractor’s products, technologies, and components and performance of services similar to the Services.
  15. “**Contractor Work Location**” means any Contractor facility at which Contractor provides Services.
  16. “**Data Safeguards**” means the highest industry-standard safeguards (including administrative, physical, technical, and procedural safeguards) against the destruction, loss, misuse, unauthorized disclosure, or alteration of JCC Data or Confidential Information, and such other related safeguards that are set forth in Applicable Laws, a Service Order or pursuant to JCC’s policies or procedures.
  17. “**Defect**” means any failure of any portion of the Services or Deliverables to conform to or perform in accordance with the requirements of this Master Agreement and all applicable Specifications and Documentation.
  18. “**Deliverable**” means any Developed Materials, Contractor Materials, Third Party Materials, or any combination thereof (including those identified as “Deliverables” in an applicable Service Order or otherwise made available to JCC in connection with Contractor’s provision of the Professional Services (excluding all Contractor Tools)), as well as any other items, goods, or equipment provided pursuant to the Services (except the Licensed Software).
  19. “**Developed Materials**” means Materials created, made, or developed by Contractor or Subcontractors, either solely or jointly with JCC or JCC Contractors, in the course of providing the Services under this agreement, and all Intellectual Property Rights therein and thereto, including, without limitation, (i) all work-process, data or information, (ii) all modifications, enhancements, and derivative works made to Contractor Materials, and (iii) all Deliverables; provided, however, that Developed Materials shall not include Contractor Materials.
  20. “**Documentation**” means user guides, operating manuals, and other similar Materials relating to the Services or any Deliverables, in any format.
  21. “**Good Industry Practice**” means standards, practices, methods, and procedures conforming to the degree of skill and care, diligence, and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.
  22. “**Intellectual Property Rights**” means all patent rights (including utility models), copyrights, moral rights, trademark and service mark rights, trade secret rights, and any other similar proprietary or intellectual property rights (registered or unregistered) throughout the world, together with all applications for any of the foregoing.
  23. “**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.
  24. “**JCC Contractors**” means the agents, Subcontractors, and other representatives of JCC, other than Contractor and Contractor’s Subcontractors.
  25. “**JCC Data**” means all data and information within the JCC Input and JCC Output that is collected for or received from or on behalf of JCC, in any form, format or media (including paper, electronic and other records) that Contractor has access to, obtains, uses, maintains, stores or otherwise handles in connection with JCC or Judicial Branch Entities’ use of the Subscription Services, the performance of Services or otherwise. JCC Data includes JCC’s Confidential Information and Personal Information.
  26. “**JCC Input**” means all Materials provided or made available by JCC, a Judicial Branch Entity or an Authorized User to Contractor under this Master Agreement or any Service Order, together with any modification or derivative work of such Materials.
  27. “**JCC Output**” means all Materials provided or made accessible by Contractor to JCC for download or export from the Subscription Services or otherwise made available through the Services or Deliverables, excluding JCC Input and Contractor Retained IP.
  28. “**JCC Project Manager**” means the individual appointed by JCC to communicate directly with Contractor Contract Project Manager.
  29. “**JCC Work Locations**” means any JCC facility at which Contractor provides Services.
  30. “**Judicial Branch Entity**” or “**Judicial Branch Entities**” means JCC, any California superior or appellate court, and the Habeas Corpus Resource Center; these entities comprise the “Judicial Branch.”
  31. “**Judicial Branch Personnel**” means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.
  32. “**Licensed Software**” means all software portions of the Subscription Services, together with all Updates and Documentation thereto.
  33. “**Losses**” means all liabilities, losses, damages, costs, expenses (including reasonable legal fees and costs and expenses of investigation, litigation, settlement, and judgment), interest, and penalties.
  34. “**Materials**” means all documentation, user guides, operating manuals, data (including end user data), information, reports, results, know-how, processes, methodologies, formulas, designs, drawings, works of authorship, inventions, software (including application programming interfaces and other interfaces), and other technology and materials.
  35. “**Personal Information**” means any and all JCC Data (regardless of format) that (i) relates to an identified or identifiable natural person (“**Data Subject**”), (ii) identifies or can be used to identify, contact or locate a Data Subject, either directly or indirectly, or (iii) is protected under applicable Data Protection Laws. Personal Information includes identifiers such as names, addresses, email addresses, phone numbers and identification numbers as well as biometric data, “personal data” (as defined in the GDPR) and any and all information about an individual’s computer or mobile device or technology usage, including (for example) IP address, MAC address, unique device identifiers, unique identifiers set in cookies, and any information passively captured about a person’s online activities, browsing, application or hotspot usage or device location.
  36. “**Personnel**” means a party’s employees, agents, consultants, contractors and Subcontractors, together with the personnel of any of the foregoing.
  37. “**Process**” or “**Processed**” or “**Processing**” means any operation or set of operations which is performed upon Personal Information, whether or not by automatic means, such as access, collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure or otherwise making available, dissemination, alignment, duplication, transmission, combination, blocking, restriction, redaction, erasure, or destruction.
  38. “**Professional Services**” means consulting, integration, configuration, customization, training, or other professional services provided by Contractor under this Master Agreement, which may be further described in any Service Order (excluding Subscription Services), including the creation or development of any Deliverables.
  39. “**Relationship Data”** means information that Contractor obtains or receives about JCC administrator(s) or other JCC-designated representatives or personnel responsible for creating and managing the JCC account with Contractor, excluding Personal Information for which Contractor acts as a Processor**.**
  40. “**Services**” means the services to be performed by Contractor under this Master Agreement, including the Subscription Services, the M&O Support Services, any Professional Services, any services set forth in any Service Order, the termination assistance services, and any services not specifically described in this Master Agreement or any Service Order but that are an inherent, necessary, or customary part of the Services, or are required for proper provision of the Services.
  41. “**Service Order Term**” means, for each Service Order, the term length set forth in such Service Order.
  42. “**SOC Report**” means a Service Organization Control - Type 2 report, or its successor, based on either Standards for Attestation Engagements (SSAE) No. 18 or International Standard on Assurance Engagements (ISAE) No. 3402, SOC for Service Organizations: Trust Services Criteria, that: (a) attests to Contractor’s or its Subcontractors’ controls, operations, and systems relevant to the provision of Services; (b) covers a minimum of six consecutive months in the twelve months preceding JCC’s request for such SOC Report; and (c) reports on controls relevant to security, availability, processing integrity, confidentiality, or privacy.
  43. “**Specifications**” means any functional specifications, technical specifications or other requirements and specifications or other requirements and specifications for Deliverables described in an applicable Service Order (including any statements of work attached thereto), **Exhibit K (Business and Technical Requirements**), and/or as otherwise provided to Contractor by JCC.
  44. “**Subcontractor**” means any individual or entity performing under this Master Agreement (including, without limitation the provision of Deliverables, Services, or Contractor Materials) on behalf of a party where such performance would otherwise be provided directly by a party.
  45. “**Subscription Services**” means services provided by Contractor under this Master Agreement that are partially or wholly maintained at Contractor’s facilities or at a third party’s facilities on Contractor’s behalf, including any software-as-a-service, platform-as-a-service, or similar “cloud” services, which may be further described in any Service Order.
  46. “**Termination Assistance Period**” means the period commencing upon the expiration or termination of this Master Agreement and each Service Order and expiring six (6) months thereafter, as such period may be extended by the parties.
  47. “**Third Party Materials**” 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 that are licensed or obtained by Contractor from a third party.
  48. “**Updates**” means all patches, updates, and new versions of the Subscription Services that Contractor makes available to Contractor’s other customers purchasing similar Subscription Services.

1. EXHIBIT B

SERVICE ORDER FORM

**(Template Sample Only)**

Service Order #[system doc #](“**Service Order**”)

**General Information.**

This Service Order is governed by the Master Agreement, JCC Agreement Number: [XXXXXXX], effective as of [month, day, 20xx] between [Full legal name of JCC entity] and [Full legal name of Contractor] (the “**Master Agreement**”).

|  |  |
| --- | --- |
| **Full Legal Name of JCC Entity:** | [Insert full name here] (“**JCC**”) |
| **Full Legal Name of Contractor:** | [Insert full name here] (“**Contractor**”) |
| **Service Order Effective Date:** | [month, day, 20xx] |
| **JCC Business Unit:** | [\_] |
| **JCC Project Manager:** | Name: [\_]  Email: [\_]  Phone: [xxx-xxx-xxxx] |
| **Contractor Project Manager:** | Name: [\_]  Email: [\_]  Phone: [xxx-xxx-xxxx] |

**Subscription Services**

|  |  |
| --- | --- |
| **Subscription Services:** | [Enter description of Contractor’s product information] |
| **Service Order Term:** | [one (1) year,] expiring on [month, day, 20xx] |
| **Maximum Number of Authorized Users:** | The total number of Authorized Users shall not exceed: [##] |
| **Subcontractors:** | 🞎 Contractor will not be subcontracting any Subscription Services under this Service Order  🞎 Contractor will be using Subcontractors during the performance of Subscription Services under this Service Order. JCC consents to the use of the following Subcontractors: [List here] |
| **Key Personnel:** |  |
| **Is Contractor utilizing hosted services Subcontractor(s) to host JCC Data?** | 🞎 Yes  🞎 No |
| **If the answer to above question is Yes, list the Subcontractor(s); otherwise, enter N/A:** | [\_] |
| **Location of [Contractor data centers] [hosted services Subcontractor data centers] where JCC Data will be stored:** | [\_] |

**Professional Services.**

|  |  |
| --- | --- |
| **Professional Services:** | [\_] |
| **Services will be performed at the following location(s):** | [\_] |
| **Service Order Term:** | [Until completion of the Professional Services] |
| **Intended Completion Date for Professional Services** | [month, day, 20xx] |
| **Training Services:** | [\_] |
| **Transition Assistance Period and Transition Plan: [*Training Note – this is only used for assistance during a decommission*]** | Transition Period: [XX months, beginning on the Service Order Effective Date]  Transition Plan: [\_] |
| **Project Schedule:** | [\_] |
| **Deliverables:** | 🞎 Contractor will not be providing any Deliverables under this Service Order  🞎 Contractor will be providing Deliverables under this Service Order, as listed in a separate Statement of Work attached hereto as Attachment 1. |
| **Contractor’s Background IP:** | Contractor will be incorporating the following into the Deliverables and will be considered Contractor Retained IP: [List here] |
| **Specifications:** | [\_] |
| **Acceptance Criteria:** | [\_] |
| **Subcontractors:** | 🞎 Contractor will not be subcontracting any Professional Services under this Service Order  🞎 Contractor will be using Subcontractor(s) during the performance of Professional Services under this Service Order. JCC consents to the use of the following Subcontractors: [List here] |
| **Key Personnel:** |  |

**Cost of the Services.**

|  |  |
| --- | --- |
| **Fees:** | Subscription Services Fees: [Insert annual subscription fees or other cost metric for Subscription Services] / year  Professional Services Fees: [Insert fees for Professional Services]  All Other Fees: [The final contract will include any other negotiated prices, if necessary. Examples include training or conversion fees.] |
| **Reimbursable Expenses:** | Reimbursable Expenses, including travel-related expenses, will be reimbursed in accordance with Section 7.2 (JCC Guidelines) of the Master Agreement and will not exceed [$0.00]. |
| **Total Costs Not to Exceed:** | Contractor will perform the Professional Services set forth in this Service Order, including delivery of any Deliverables, for a charge that will not exceed $0.00. |
| **Other Pricing Terms** | [ ] |

**Invoicing and Payments.**

|  |  |
| --- | --- |
| **Payment:** | Correct and undisputed invoices will be paid within sixty (60) days from receipt. |

**Signature Approval.**

The parties hereby agree to the terms of this Service Order as of the Service Order Effective Date. This Service Order will only be considered a valid and binding agreement upon final signature by both parties. No changes to this Service Order will be considered valid unless they have been made in writing and duly signed by each party. Anything to the contrary will be considered null and void.

|  |  |
| --- | --- |
| **[Judicial Council of California]** | **[Contractor]** |
| By:  Name:  Title:  Date: | By:  Name:  Title:  Date: |

1. ANNEX 1 TO EXHIBIT B SERVICE ORDER FORM  
   ACCEPTANCE AND SIGN-OFF FORM

**Description of Services provided by Contractor:** [\_\_\_\_\_\_\_\_\_]

***Date submitted:*** [\_\_\_\_\_\_\_\_\_]

**Services are:**

1) Submitted on time: 🞎 yes 🞎 no. If no, please note length of delay and reasons.

2) Complete: 🞎 yes 🞎 no. If no, please identify incomplete aspects of the Work.

3) Technically accurate: 🞎 yes 🞎no. If no, please note corrections required.

**Please note level of satisfaction:**

🞎 Poor 🞎 Fair 🞎 Good 🞎 Very Good 🞎Excellent

**Comments, if any:**

🞎 Work is accepted.

🞎 Work is unacceptable as noted above.

**Name:**

**Title:**

**Date:**

1. EXHIBIT C  
   SERVICE LEVELS AND SUPPORT

[**NTD:** Finalization of this Exhibit C is subject to finalization of the applicable section(s) on M&O Support Services in the SOW attached to Service Order #1; applicable language from the SOW will be incorporated into this Exhibit C.].

The terms set forth in this **Exhibit C (Service Levels and Support)** shall apply to all Subscription Services, unless alternate M&O Support Services terms are set forth in a Service Order with respect to the specific Subscription Services identified therein. This **Exhibit C (Service Levels and Support)** documents the agreed upon method by which JCC will measure and manage Contractor’s delivery of the Services, and describes the SLA Credits and certain rights that will result from Contractor’s failure to deliver the Services in accordance with the standards of performance set forth in this **Exhibit C (Service Levels and Support)**.

* 1. Definitions.
     1. “**Downtime**” means the time that users of the Subscription Services are not able to: (A) access the Subscription Services; (B) perform ordinary functions to use or receive Subscription Services in accordance with the Specifications; or (C) utilize the Subscription Services for normal business operations due to failure, malfunction, or delay. Downtime does not include any unavailability of the Subscription Services due to Excused Downtime.
     2. “**Error**” means any bug, defect, or error in the Subscription Services.
     3. “**Excused Downtime**” means time that the Subscription Services are not accessible to JCC or any Judicial Branch Entity due to scheduled maintenance (subject to Section 4.1 of this **Exhibit C (Service Levels and Support)**) or a Force Majeure Event.
     4. “**Severity Level 1**” is an emergency condition which makes the use or continued use of any one or more functions of the Subscription Services impossible or significantly impaired.
     5. “**Severity Level 2**” is, other than any Severity Level 1 Problem, any condition which makes the use or continued use of any one or more functions of the Subscription Services difficult and which JCC cannot reasonably circumvent or avoid on a temporary basis without the expenditure of significant time or effort.
     6. “**Severity Level 3**” is, other than any Severity Level 1 Problem or Severity Level 2 Problem, any limited problem condition which is not critical in that no loss of JCC Data occurs and which JCC can reasonably circumvent or avoid on a temporary basis without the expenditure of significant time or effort.
     7. “**Severity Level 4**” is, other than any Severity Level 1 Problem, Severity Level 2 Problem or Severity Level 3 Problem, a minor problem condition or documentation error which JCC can easily circumvent or avoid. Additional requests for new feature suggestions are classified as Severity Level 4.
     8. “**Standard Support Hours**” means 7:00 a.m. to 7:00 p.m. (PST) on all Business Days. See table below for breakdown of all support coverage hours:

| **Abbreviated Requirement Name** | **Tech Category** | **Requirement Description** | **Service Availability** | **Minimum Performance** |
| --- | --- | --- | --- | --- |
| Help Desk & Support | Support Coverage | Help Desk - "Normal Hours" Support Coverage | Monday - Friday 0700-1900 Pacific Time (7:00 AM - 7:00 PM PT) | 100.00% |
| Help Desk & Support | Support Coverage | Help Desk - "Extended Hours" Support Coverage | Monday - Friday 1901-2200 Pacific Time (7:01 PM - 10:00 PM PT) | 100.00% |
| Help Desk & Support | Support Coverage | Help Desk - "After Hours" Support Coverage (e.g. pager) and Self Help Support | Monday - Friday 2201-0659 Pacific Time (10:01 PM - 6:59 AM PT) and Saturday - Sunday 0000-2400 Pacific Time (Including holidays and non-working periods recognized by the JCC client) | 100.00% |

* + 1. “**System Availability**” will be calculated on a monthly basis using the following formula:
    2. “**Technical Support Incident**” means a single indivisible problem reported or technical inquiry made regarding the Deliverable, service, Licensed Software or any other part of the Services, including without limitation user questions or Defect reports. A Technical Support Incident is only closed when mutually agreed by the parties. See the table below for breakdown of Incident Resolution times:

| **Abbreviated Requirement Name** | **Tech Category** | **Requirement Description** | **Performance Target** | **Minimum Performance** |
| --- | --- | --- | --- | --- |
| Incident Resolution | Time to Resolve | Incident Resolution - Severity Level 1 | Less than (<) 4 hours upon receipt of authorized request. | 95.00% |
| Incident Resolution | Time to Resolve | Incident Resolution - Severity Level 2 | Less than (<) 8 hours upon receipt of authorized request. | 95.00% |
| Incident Resolution | Time to Resolve | Incident Resolution - Severity Level 3 | End-of-Next Business Day upon receipt of authorized request. | 95.00% |
| Incident Resolution | Time to Resolve | Incident Resolution - Severity Level 4 | End-of-Next Business Day upon receipt of authorized request or mutually agreed prioritized request with Service Provider. | 95.00% |
| Help Desk & Support | Completion time | Disable End-User Account - During Standard Support hours. | Less than (<) 15 minutes upon receipt of authorized request | 99.00% |
| Help Desk & Support | Completion time | Password Reset - During Standard Support hours | Less than (<) 10 minutes upon receipt of authorized request | 95.00% |
| Help Desk & Support | Completion time | Terminate/Delete End-User Account - During Standard Support hours. | Less than (<) 5 Business Days upon receipt of authorized request | 99.00% |
| Incident Resolution | Completion time | Root Cause Analysis (RCA) - Resolution Reports | Less than (<) 6 Business Days upon receipt of authorized request. | 100.00% |
| Incident Resolution | Completion time | Root Cause Analysis (RCA) - Final Report for Severity (Priority) Level 1 or 2. | Less than or equal to (≤) 5 Business Days upon Incident Resolution or Stabilization of Severity (Priority) Level 1 or 2. | 98.00% |
| Incident Resolution | Scheduled review | Root Cause Analysis (RCA) - Resolution Report Monthly Review | Monthly Review of Severity (Priority) Level 1, Level 2 and Recurring Incident Areas. | 100.00% |
| Incident Resolution | Response time | Root Cause Analysis (RCA) - Initial Report | Less than or equal to (≤) 24 hours upon Incident Resolution or Stabilization of Severity (Priority) Level 1 or 2.  (OR by End of Next Business Day, if the calculated 24-hour time to provide the Initial Report, falls outside of Business Hours) | 98.00% |

* + 1. “**Total Scheduled Availability**” means seven (7) days per week, twenty-four (24) hours per day.
  1. **Generally**. Contractor shall maintain and support the Subscription Services to ensure performance in accordance with this **Exhibit C (Service Levels and Support)**. Contractor shall, at Contractor’s expense, promptly repair the Subscription Services to fix any Errors. Contractor shall provide the M&O Support Services on a 24x7 basis, 365 days per year.
  2. **Service Level**. During the Service Order Term, Contractor shall maintain the following service level requirements over one(1-)-month periods (the “**Service Level**”):

| **Abbreviated Requirement Name** | **Tech Category** | **Requirement Description** | **Required Service Availability, Response Time, or Recovery Time** | **Minimum Performance** |
| --- | --- | --- | --- | --- |
| Application System | System Availability | Production Environment - Availability | 100% of the time 24 hours x 7 days/week (Excluding scheduled maintenance window) | 99.90% |
| Application System | System Availability | Test Environment - Availability | 100% of time 12 hours x 5 days/week (Excluding scheduled maintenance window) | 99.50% |
| Application System | Application Response Time | Application Response Time - Login Page: Total elapsed time for an end-user request except for any local ISP and local Judicial Council infrastructure lag time. | Response time less than or equal to (≤) 3 seconds | 80.00% |
| Application System | Application Response Time | Application Response Time - Portal Page, subsequent pages/functions: Inclusive of standard real-time reports (does not include custom lengthy reports or uploads). Total elapsed time for an end-user request except for any local ISP and local Judicial Council infrastructure lag time. | Response time less than or equal to (≤) 10 seconds | 80.00% |
| Application System | Business Continuity | Production Environment - Business Continuity | Recovery time less than (<) 24 hours | N/A |
| Application System | Business Continuity | Production Environment - Business Continuity RTO Recovery Time Objective | Recovery time less than or equal to (≤) 24 hours | N/A |
| Application System | Business Continuity | Production Environment - Business Continuity RPO Recovery Point Objective (Maximum amount of missing data) | Recovery time less than or equal to (≤) 1 hour | N/A |
| Application System | Business Continuity | Test Environment - Business Continuity | Recovery time n/a | N/A |

* 1. **System Maintenance**.
     1. System maintenance, including scheduled and emergency maintenance, will only be performed on Sunday between the hours of 8:00 a.m. and 6:00 p.m. (PST).
     2. Contractor shall provide JCC with at least ten (10) business days’ prior written notice of any scheduled maintenance of the Subscription Services. Contractor shall provide such notices by email to an address provided by JCC.
     3. Contractor shall provide JCC with at least sixty (60) minutes’ advance written notice for unscheduled emergency maintenance of the Subscription Services. Contractor shall provide such notices by (a) email to an address provided by JCC and (b) telephone; provided in the case of (b), the parties agree that leaving a voice message will not suffice and Contractor shall speak to a live representative of JCC.
  2. **Reporting**. Contractor shall provide monthly reports to JCC, within five (5) days after the end of each applicable month, that include Contractor’s performance with respect to the Service Level and such other metrics as reasonably requested by JCC from time-to-time.
  3. **SLA Credits**. If Contractor fails to meet the Service Level for System Availability, Contractor shall give JCC credits calculated as follows (the “**SLA Credits**”):
     1. If the System Availability during any given month falls below the Service Level, Contractor shall provide JCC with an SLA Credit equal to the percentage of the fees for the Subscription Services applicable to the month in which the Service Level failure occurred corresponding to the System Availability Level set forth in the chart below:

|  |  |
| --- | --- |
| **System Availability Level** | **SLA Credit** |
| 99.00-99.90% | 5% of fees for the Subscription Services applicable to month in which failure occurred |
| 97.50-98.99% | 10% of fees for the Subscription Services applicable to month in which failure occurred |
| 95.00-97.49% | 25% of fees for the Subscription Services applicable to month in which failure occurred |
| < 95% | 100% of fees for the Subscription Services applicable to month in which failure occurred |

* + 1. **SLA Credit Procedures**. Contractor shall, at JCC’s option, either: (A) credit all SLA Credits accrued to JCC in the month in which the SLA Credits accrue; or (B) pay such SLA Credits to JCC within thirty (30) days after the end of the month in which such SLA Credits accrue. JCC’s receipt of SLA Credits shall not limit JCC’s rights to pursue any other remedies available to JCC under the Master Agreement, at law or otherwise, arising out of the Service Level failure giving rise to the SLA Credit.
  1. **Chronic SLA Failure**. In addition to the SLA Credits set forth in Section 6.1 of this **Exhibit C (Service Levels and Support)**, if Contractor fails to meet the Service Level in any three (3) months in a rolling twelve(12-)-month period during the Service Order Term, JCC may terminate the Master Agreement or the applicable Service Order immediately upon written notice to Contractor and Section 5.5 (Effects of Termination) of the Master Agreement shall apply.
  2. **Updates and Upgrades**. Subject to the provisions of this Section 8 (Updates and Upgrades) and **Exhibit J (Change Management)**, Contractor shall update the Subscription Services and make available to JCC any Updates that Contractor makes available to Contractor’s other customers of the Subscription Services (“**Updates**”) and any Updates will be deemed part of the Subscription Services. Contractor represents, warrants, and covenants that no Update will: (A) impair the operation of, or inhibit any functions of, the Subscription Services; or (B) adversely affect function, reliability, safety, or serviceability of the Subscription Services. If suspension or impeding the SAAS Services or SAAS Application to implement Updates becomes necessary, then such interruption of Services must be scheduled at a time that JCC approves in writing.
  3. **Availability and Contacts**. Contractor shall make technical support available to JCC by toll-free telephone number, email, and a web ticketing process twenty-four (24) hours per day, seven (7) days per week. Contractor’s support personnel shall provide JCC with remote assistance for help in using and operating the Subscription Services and to accept reports of Errors. Contractor shall ensure that each of its Personnel performing any M&O Support Services are experienced, knowledgeable, and qualified in the use, maintenance, and support of the Subscription Services.

Contact information for technical support is as follows:

Toll-Free Telephone Number: [insert telephone number]

Email: [insert email address]

Web Ticketing System: [insert hyperlink]

* 1. **Error Correction**. If JCC reports to Contractor any Error (the Severity Level to be reasonably determined by JCC), Contractor shall, depending on the Severity Level, respond to the notice, provide a workaround for the Error, and/or resolve the Error within the timeframes in the chart below, starting from the time JCC notifies Contractor of the Error.

|  |  |  |  |
| --- | --- | --- | --- |
| Severity Level | Response Time | Resolution Hours | Resolution Time |
| Severity Level 1 Problem | Within 30 minutes | 24 hours per day, 7 days per week | 2 hours |
| Severity Level 2 Problem | Within 30 minutes | Standard Support Hours | 6 hours |
| Severity Level 3 Problem | Within 2 hours | Standard Support Hours | End of the next Business Day |
| Severity Level 4 Problem | Within 2 hours | Standard Support Hours | End of the next Business Day or a mutually agreed upon date. |

* 1. **General Obligations**. Contractor shall: (A) monitor the Subscription Services and supporting infrastructure controlled or maintained by Contractor for Errors; (B) identify root causes for any Errors; (C) correct Errors; and (D) minimize recurrences of Errors and missed Service Levels. Following the occurrence of any Error, upon JCC’s request, Contractor shall promptly provide to JCC Contractor’s plan for remediating the Error.

1. EXHIBIT D  
   PROFESSIONAL SERVICES REQUIREMENTS

[**NTD:** Contractor’s responses to the applicable sections of the SOW attached to Service Order #1 and the final language therein will be used to create this Professional Services Requirements Exhibit for inclusion in the final Master Agreement.]

1. EXHIBIT E  
   PRIVACY AND INFORMATION SECURITY REQUIREMENTS
   1. **Safety and Security Procedures.** Contractor shall maintain and enforce, at Contractor’s Work Locations, industry-standard safety and physical security policies and procedures. While at each JCC Work Location, Contractor shall comply with the safety and security policies and procedures in effect at such JCC Work Location.
   2. **Data Security.**
      1. Contractor shall comply with the Data Safeguards. Contractor shall implement and maintain a comprehensive information security program (“**Contractor’s Information Security Program**”) in accordance with the Data Safeguards. Contractor shall comply with all applicable privacy and data security laws and regulations, and other laws (including the California Rules of Court) and regulations relating to the protection, collection, use, distribution, and Processing of JCC Data (collectively, “**Data Protection Laws**”), as well as privacy and data security requirements and standards set forth in the JCC’s policies or procedures. To the extent that California Rule of Court 2.505 applies to this Master Agreement, Contractor shall provide access and protect confidentiality of court records as set forth in that rule and in accordance with this Master Agreement. In addition to the foregoing, Contractor represents and warrants that Contractor complies with, and throughout the term of this Master Agreement, Contractor and its performance of its obligations under this Master Agreement shall be in compliance with, the current NIST (National Institute of Standards and Technology) Special Publication 800-53, including without limitation any NIST 800-53 standards, guidelines, or requirements for security controls or data security protocols.
      2. Unauthorized access, use, disclosure, or Processing of JCC Data (including data mining, or any commercial use) by Contractor or third parties, is prohibited. Contractor shall not, without the prior written consent of an authorized representative of JCC, use, access, or otherwise Process the JCC Data for any purpose other than to provide the Work under this Master Agreement. In no event shall Contractor transfer the JCC Data to third parties, or provide third parties access to the JCC Data, except as may be expressly authorized in advance by JCC in writing and subject to the requirements of this Master Agreement, including without limitation Section 1.5 of the Master Agreement. Contractor is solely responsible for the security and confidentiality of the JCC Data. JCC owns and retains all right and title to the JCC Data, and retains the exclusive right to control its use.
      3. No Services shall be provided from outside the continental United States. Remote access to JCC Data from outside the continental United States is prohibited unless approved in writing in advance by the JCC. The physical location of Contractor’s data center, systems, and equipment where the JCC Data is stored shall be within the continental United States. Contractor shall ensure that access to the JCC Data will be provided to the JCC (and its authorized users) 24 hours per day, 365 days per year (excluding agreed-upon maintenance downtime). Upon the termination or expiration of the Master Agreement, or upon JCC’s request, all JCC Data in the possession of Contractor shall be provided to JCC in a manner reasonably requested by JCC and all copies shall be permanently removed from Contractor’s system, records, and backups, and all subsequent use of such information by Contractor shall cease.
      4. Confidential Information, sensitive information, and Personal Information shall be encrypted in transit and in storage in accordance with the highest industry standards, applicable laws, this Master Agreement, and JCC policies and procedures.
   3. **Data Breach.** If there is a suspected or actual Data Breach, Contractor shall notify the JCC in writing within two (2) hours of becoming aware of such occurrence. A “**Data Breach**” means any unauthorized access, acquisition, destruction, loss, theft, use, modification or disclosure of the JCC Data by an unauthorized party. Contractor’s notification shall identify: (i) the nature of the Data Breach; (ii) the data accessed, used or disclosed; (iii) who accessed, used, disclosed and/or received data (if known); (iv) what Contractor has done or will do to mitigate the Data Breach; and (v) corrective action Contractor has taken or will take to prevent future Data Breaches. Contractor shall promptly investigate the Data Breach and shall provide daily updates, or more frequently if required by JCC, regarding findings and actions performed by Contractor until the Data Breach has been resolved to the JCC’s satisfaction, and Contractor has taken measures satisfactory to the JCC to prevent future Data Breaches. Contractor shall conduct an investigation of the Data Breach and shall share the report of the investigation with JCC. JCC and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the JCC, its agents and law enforcement, including with respect to taking steps to mitigate any adverse impact or harm arising from the Data Breach. After any Data Breach, Contractor shall at its expense have an independent, industry-recognized, JCC-approved third party perform an information security audit. The audit results shall be shared with the JCC within seven (7) days of Contractor’s receipt of such results. Upon Contractor receiving the results of the audit, Contractor shall provide the JCC with written evidence of planned remediation with schedules within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Master Agreement.
   4. **Security Assessments.** Upon advance written notice by JCC, Contractor agrees that JCC shall have reasonable access to Contractor’s operational documentation, records, logs, and databases that relate to data security and the Contractor’s Information Security Program. Upon JCC’s request, Contractor shall, at its expense, perform, or cause to have performed an assessment of Contractor’s compliance with its privacy and data security obligations. Contractor shall provide to JCC the results, including any findings and recommendations made by Contractor’s assessors, of such assessment, and, at its expense, take any corrective actions.
   5. **Data Requests.** Contractor shall promptly notify JCC upon receipt of any requests which in any way might reasonably require access to the JCC Data. Contractor shall not respond to subpoenas, service of process, Public Records Act requests (or requests under California Rule of Court 10.500), or other legal requests directed at Contractor regarding this Master Agreement or JCC Data without first notifying JCC. Contractor shall provide its intended responses to JCC with adequate time for JCC to review, revise, and, if necessary, seek a protective order in a court of competent jurisdiction. Contractor shall not respond to legal requests directed at JCC unless authorized in writing to do so by JCC.
   6. **Data Backups.** Contractor shall:
      1. Ensure that any hosting facilities (including computers, network, data storage, backup, archive devices, and data storage media), and disaster recovery facilities (if applicable) shall be located exclusively within the continental United States;
      2. Perform a full backup of all JCC Data every day;
      3. Have the capability to recover data from the JCC Data backup copies, including the hourly snapshots;
      4. Have the capability to export the JCC’s raw data in human readable and machine readable format, and have the capability to promptly provide the JCC Data to JCC upon its request;
      5. Have the capability to import the JCC Data (subject to Contractor’s confidentiality and data security obligations);
      6. Perform hourly snapshot backups of the JCC Data (daily backups shall also be performed);
      7. Maintain recoverable, secure backups of the JCC Data offsite in a fire-protected, secure area, geographically separated from the primary datacenter; and
      8. Maintain and implement data backup and disaster recovery processes and procedures in accordance with the highest industry standards and Applicable Laws.
   7. **Transition Period.** For ninety (90) days prior to the expiration date of this Master Agreement or an applicable Service Order, or upon notice of termination of this Master Agreement or applicable Service Order (“**Transition Period**”), Contractor shall assist JCC in extracting and/or transitioning all JCC Data in the format determined by JCC. During the Transition Period, the Subscription Services and JCC Data access shall continue to be made available without interruption or alteration.
2. EXHIBIT F  
   INSURANCE REQUIREMENTS
   1. **Insurance**. Prior to the commencement of Services and at its own expense, Contractor shall procure the following insurance coverage. Thereafter, Contractor shall maintain all such coverage in effect during the Term, subject to Section 3 (“Claims Made” Coverage) below. With respect to any coverage that is issued on a claims-made basis, the retroactive coverage date will be no later than the date Services begin. Further, such claims-made policies will be maintained or include extended claim reporting for a period of not less than two years following the expiration or termination of this Master Agreement or any Service Order, whichever is later. All such coverage will be issued by insurers properly licensed to do business in the jurisdictions in which the Services are performed. Each such insurer will be rated by A. M. Best Company as “A -” or better that is approved to do business in the State of California. For the avoidance of doubt, none of the coverage under this **Exhibit F (Insurance Requirements)** will serve to limit Contractor’s indemnification obligations or other liability under this Master Agreement.
   2. **Required Coverage**. The coverage required to be procured and maintained by Contractor under this **Exhibit F (Insurance Requirements)** includes the following, together with any additional coverage that may be required under a Service Order:
      1. **Basic Coverage**.

**Workers Compensation and Employer’s Liability**. The policy is required only if Contractor has employees. It must include workers’ compensation to meet the minimum requirements of the California Labor Code, and it must provide coverage for employer’s liability bodily injury at minimum limits of one million dollars ($1,000,000) per accident or disease;

**Commercial General Liability.**  The policy must be written on an occurrence form with limits of not less than one million dollars ($1,000,000) per occurrence, and a one million dollar ($1,000,000) annual aggregate. Each policy must include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed in a contract.; and

**Commercial Automobile Liability.** If an automobile is used in providing the Services, automobile liability insurance with limits of not less than one million dollars ($1,000,000) per accident is required. Such insurance must cover liability arising out of the operation of a motor vehicle, including owned, hired, and non-owned motor vehicles, assigned to, or used in connection with, providing the Services.

**Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of primary, excess or umbrella insurance.

**Aggregate Limits of Liability.** The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case, the annual aggregate limits of liability must be at least two (2) times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Master Agreement.

**Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods: (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.

* + 1. Professional Liability (Professional Indemnity) including Technology Errors and Omissions, Privacy and Cyber-Risk (Network Security) Liability. The policy must cover liabilities for financial loss resulting or arising from acts, errors or omissions in rendering Services in connection with the Master Agreement including acts, errors or omissions in rendering computer or information technology Services, copyright or trademark infringement, data damage/destruction/corruption, failure to protect privacy, unauthorized access, unauthorized use, virus transmission and denial of service from network security failures and respond to claims on a worldwide basis with a minimum limit of five million dollars ($5,000,000) each claim and annual aggregate.
  1. **“Claims Made” Coverage.** If any required insurance is written on a “claims made” form, Contractor shall maintain the coverage continuously throughout the Term, and without lapse, for three (3) years thereafter. The retroactive date or “prior acts inclusion date” of any “claims made” policy must be no later than the date that the Services commence under this Master Agreement.
  2. **Additional Requirements**. Contractor shall add the Judicial Branch Entities and Judicial Branch Personnel as additional insureds under the Commercial General Liability, Commercial Automobile Liability, and if applicable, the umbrella policy coverage described above for any claims, liability, and losses actually or allegedly arising out of or in connection with the Services. Contractor shall cause each applicable insurer to agree that Contractor’s insurance is primary and that any insurance maintained by JCC or the Indemnified Parties is non-contributing.
  3. **Certificates**. Prior to commencing Services, and thereafter upon the renewal or issuance of each insurance policy for Contractor’s insurance coverage, Contractor shall furnish one (1) or more certificates, satisfactory to JCC, evidencing that the coverage required by this **Exhibit F (Insurance Requirements)** is in full force and effect in compliance with the provisions of this **Exhibit F (Insurance Requirements)**. Each such certificate shall state the names of the insurance carriers, relevant policy numbers, dates of expiration, and limits of coverage. Contractor shall endeavor to provide JCC with at least thirty (30) days’ prior written notice if any of the required coverages are cancelled or materially changed from the coverage set forth in the current certificate of insurance provided to JCC. Any replacement certificates of insurance are subject to the approval of JCC, and without prejudice to JCC, Contractor shall not provide the Services before JCC approves the certificates. Contractor shall cause such certificates to be sent to the JCC address for contract administration set forth on the cover page to the Master Agreement, or such other address as may be specified by JCC from time to time.
  4. **Subcontractor Coverage**. If Contractor subcontracts any Services in accordance with this Master Agreement, Contractor shall cause each applicable Subcontractor to procure and maintain appropriate insurance coverage. Contractor is ultimately responsible for its Subcontractors and for ensuring that appropriate insurance is maintained by its Subcontractors.
  5. **Waiver of Subrogation**. Contractor agrees to waive any right of subrogation against JCC or the Indemnified Parties for any death or injury to Contractor’s Personnel arising out of or in connection with Contractor’s performance of the Services. Further, Contractor shall ensure that the Workers’ Compensation/Employers’ Liability insurers providing the coverage required under this **Exhibit F (Insurance Requirements)** agree to waive any right of subrogation against JCC or the Indemnified Parties for any claims arising out of or in connection with Contractor’s performance of the Services.
  6. **Deductibles and Self-Insured Retentions.** Contractor is responsible for and may not recover from JCC, including Judicial Branch Personnel, any deductible or self-insured retention that is connected to the insurance required under this **Exhibit F (Insurance Requirements).**
  7. **Required Policy Provisions.** Each policy must provides, as follows:
     1. **Insurance Primary; Waiver of Recovery.**  With respect to Commercial General Liability and Automobile Liability insurance, the policies must be endorsed to be primary and noncontributory with any insurance or self-insurance programs maintained by Judicial Branch Entities and Judicial Branch Personnel. Contractor waives any right of recovery it may have, and will require that any insurer providing commercial general liability, workers compensation, and automobile liability to also waive any right of recovery it may have against Judicial Branch Entities and Judicial Branch Personnel for liability arising out of the Services; and
     2. **Separation of Insureds.** The insurance applies separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer’s liability.
  8. **Consequences of Lapse.** If the required insurance lapses during the Term, JCC is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

1. EXHIBIT G  
   Contractor EXPENSE AND TRAVEL REIMBURSEMENT GUIDELINES

All travel-related expenses must be approved in advance by the JCC. The JCC policy and limits on reimbursable travel-related expenses are listed below.

**Lodging** – Receipts are required and each day of lodging claimed must be listed separately. Maximum rates are listed below.

1. In-state - Actual costs are reimbursable up to a maximum per day rate of $250 for San Francisco county; $140 for Alameda, San Mateo, and Santa Clara counties; $120 for Los Angeles, Orange and Ventura counties; and $110 for all other counties, plus tax and energy surcharge.

2. Out-of-state – Actual costs are reimbursable with appropriate prior approval.

**Meals** – Actual costs are reimbursable up to the limits stated below for continuous travel of more than 24 hours.

1. Breakfast – Up to $8.

2. Lunch – Up to $12.

3. Dinner – Up to $20.

For continuous travel of less than 24 hours, actual expenses up to the above limits may are reimbursable if:

1. Travel begins one hour before normal work hours – Breakfast may be claimed.

2. Travel ends one hour after normal work hours – Dinner may be claimed.

3. Lunch may not be claimed on trips of less than 24 hours.

**Incidental Expenses** – Up to $6 per day. Incidentals are not reimbursable for one-day trips; they may only be claimed after 24 hours.

**Transportation** – The actual cost of tickets for air, rail, bus, rental car, or other forms of public transportation is reimbursable. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler’s itinerary may be submitted in lieu of a receipt.

1. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of $3.50 or more.

2. Mileage – Personal vehicle mileage is reimbursable at the current federal mileage reimbursement rate established by the IRS that corresponds to the date(s) of travel.

**EXHIBIT H  
UNRUH CIVIL RIGHTS ACT AND**

**CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT CERTIFICATION**

Pursuant to Public Contract Code (PCC) section 2010, the following certifications must be provided when (i) submitting a bid or proposal to JCC for a solicitation of goods or services of $100,000 or more, or (ii) entering into or renewing a contract with the JCC for the purchase of goods or services of $100,000 or more.

**CERTIFICATIONS:**

1. Contractor is in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);

2. Contractor is in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of the Title 2 of the Government Code);

3. Contractor does not have any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, that is used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code); **and**

4. Any policy adopted by a person or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

The certifications made in this document are made under penalty of perjury under the laws of the State of California. I, the official named below, certify that I am duly authorized to legally bind the Contractor to the certifications made in this document.

|  |  |  |
| --- | --- | --- |
| *Contractor Name (Printed)* | | *Federal ID Number* |
| *By (Authorized Signature)* | | |
| *Printed Name and Title of Person Signing* | | |
| *Date Executed* | *Executed in the County of \_\_\_\_\_\_\_\_\_ in the State of \_\_\_\_\_\_\_\_\_\_\_\_* | |

1. EXHIBIT I

PRICING EXHIBIT

[**NTD:** Contractor will provide responses to the CAFM 2.0 RFP Cost Workbook in response to the RFP. The parties will mutually agree to applicable language and revisions to the CAFM 2.0 RFP Cost Workbook, and the results of such agreement will be used to create this Pricing Exhibit for inclusion in the final Master Agreement.]

1. EXHIBIT J

CHANGE MANAGEMENT

[**NTD:** Contractor will provide its change management process (“CMP”) in response to the RFP. The parties will mutually agree to applicable language and revisions of the CMP for inclusion in this Exhibit J in the final Master Agreement.]

1. EXHIBIT K

BUSINESS AND TECHNICAL REQUIREMENTS

[**NTD:** Contractor will provide responses to the Business and Technical Requirements exhibit from in the RFP. The parties will mutually agree to applicable language and revisions to the Business and Technical Requirements exhibit, and the results of such agreement will be used to create this Exhibit K for inclusion in the final Master Agreement.]