

REGISTRATION NUMBER
AGREEMENT NUMBER 19-11104

PURCHASING AUTHORITY NUMBER (if applicable)

1.	This Agreement is entered into between the Contracting Agency and the Contractor named below:	
	CONTRACTING AGENCY NAME California Department of Public Health	
	CONTRACTOR NAME Accenture LLP	
2.	The term of this Agreement is: May 3, 2020, or upon approval, whichever is later, through October 31, 2021	
3.	The maximum amount of this Agreement is: \$13,666,000.00 (Thirteen Million, Six Hundred Sixty-Six Thousand Dollars and Zero Cents)	
4.	The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Contact Tracing Solution Agreement for the Department of Public Health's California COVID-19 Contact Tracing Initiative:	
	EXHIBIT TITLE	PAGES
	General Provisions – Information Technology (GSPD-401IT), revised 09/05/2014.....	28
	Information Privacy and Security Requirements .....	13
	Appendix A: Statement of Work.....	42
	Two (2) six (6) month options to extend remain at the State's sole discretion.	

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

<b>CONTRACTOR</b>		Department of Technology (CDT), Statewide Technology Procurement (STP) Use Only
CONTRACTOR NAME (If other than an individual, state whether a corporation, partnership, etc.) Accenture LLP		
CONTRACTOR AUTHORIZED SIGNATURE  Mark Noriega (May 3, 2020)	DATE SIGNED May 3, 2020	
PRINTED NAME AND TITLE OF PERSON SIGNING Mark Noriega, Managing Director		
ADDRESS 1610 R Street, Suite 240, Sacramento, CA 95811		
<b>STATE OF CALIFORNIA</b>		
CONTRACTING AGENCY NAME California Department of Public Health		
CONTRACTING AGENCY AUTHORIZED SIGNATURE  Tim Bow (May 3, 2020)	DATE SIGNED May 3, 2020	
PRINTED NAME AND TITLE OF PERSON SIGNING Tim Bow, Procurement Officer – Emergency Operations		
CONTRACTING AGENCY ADDRESS 1616 Capitol Avenue, Sacramento, CA 95814		

☒ EXEMPT PER:  
Governor's Proclamation of a State of  
Emergency, effective March 4, 2020  
(GC Sections 8625—8629)

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## GENERAL PROVISIONS – INFORMATION TECHNOLOGY

1. **Definitions:** Unless otherwise specified in the Statement of Work, the following terms shall be given the meaning shown, unless context requires otherwise.
- a) **“Acceptance Tests”** means those tests performed during the Performance period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.
  - b) **“Application Program”** means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.
  - c) **“Attachment”** means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment manufacturer that is not connected by the Contractor.
  - d) **“Business entity”** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability company, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
  - e) **“Buyer”** means the State’s authorized contracting official.
  - f) **“Commercial Hardware”** means Hardware developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
  - g) **“Commercial Software”** means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
  - h) **“Contract”** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
  - i) **“Custom Software”** means Software that does not meet the definition of Commercial Software.
  - j) **“Contractor”** means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with “supplier,” “vendor” or other similar term.
  - k) **“Data Processing Subsystem”** means a complement of Contractor furnished individual Machines, including the necessary controlling elements (or the functional equivalent), operating Software and Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor supplied power and/or signal

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cables, e.g., direct access controller and drives, a cluster of terminals with their controller, etc.

- l) **“Data Processing System (System)”** means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors), Operating Software which are acquired to operate as an integrated group.
- m) **“Deliverables”** means Goods, Software, Information Technology, telecommunications technology, Hardware, and other items (e.g. reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.
- n) **“Designated CPU(s)”** means for each product, if applicable, the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific “Designated CPU(s)” are specified on the Contract, the term shall mean any and all CPUs located at the site specified therein.
- o) **“Documentation”** means manuals and other printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Work Product if such materials are required by the Statement of Work.
- p) **“Equipment”** is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software (if any).
- q) **“Equipment Failure”** is a malfunction in the Equipment, excluding all external factors which prevents the accomplishment of the Equipment’s intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment’s intended functions shall be deemed to be an Equipment Failure.
- r) **“Facility Readiness Date”** means the date specified in the Statement of Work by which the State must have the site prepared and available for Equipment delivery and installation.
- s) **“Goods”** means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).
- t) **“Hardware”** usually refers to computer Equipment and is contrasted with Software. See also Equipment.
- u) **“Installation Date”** means the date specified in the Statement of Work by which the Contractor must have the ordered Equipment ready (certified) for use by the State.
- v) **“Information Technology”** includes but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.

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- w) **“Machine”** means an individual unit of Data Processing System or Subsystem separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc.
- x) **“Machine Alteration”** means any change to a Contractor-supplied Machine which is not made by the Contractor, and which results in the Machine deviating from its physical, mechanical, electrical, or electronic (including microcode) design, whether or not additional devices or parts are employed in making such a change.
- y) **“Maintenance Diagnostic Routines”** means the diagnostic programs customarily used by the Contractor to test Equipment for proper functioning and reliability.
- z) **“Manufacturing Materials”** means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired or rights acquired, specifically to fulfill obligations set forth herein.
- aa) **“Mean Time Between Failure (MTBF)”** means the average expected or observed time between consecutive failures in a System or component.
- bb) **“Mean Time to Repair (MTTR)”** means the average expected or observed time required to repair a System or component and return it to normal operation.
- cc) **“Operating Software”** means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
- dd) **“Operational Use Time”** means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operation Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.
- ee) **“Period of Maintenance Coverage”** means the period of time, as selected by the State, during which maintenance services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day and/or increased coverage for weekends and holidays.
- ff) **“Preventive Maintenance”** means that maintenance, performed on a scheduled basis by the Contractor which is designed to keep the Equipment in proper operating condition.
- gg) **“Principal Period of Maintenance”** means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.
- hh) **“Programming Aids”** means contractor supplied programs and routines executable on the Contractor’s Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base

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management systems, and utility routines, (tape-to-disk routines, disk-to-print routines, etc.).

- ii) **“Program Product”** means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.
- jj) **“Remedial Maintenance”** means that maintenance performed by the Contractor which results from Equipment (including Operating Software) failure, and which is performed as required, i.e., on an unscheduled basis.
- kk) **“Software”** means an all-inclusive term which refers to any computer programs routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.
- ll) **“Software Failure”** means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.
- mm) **“State”** means the government of the State of California, its employees and authorized representatives, including without limitation any department agency, or other unit of the government of the State of California.
- nn) **“System”** means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together and performing in accordance with this Contract.
- oo) **“U.S. Intellectual Property Rights”** means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

### 2. CONTRACT FORMATION:

- a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2(commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor’s bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
- b) If this Contract results from a solicitation other than described in paragraph a), above, the Contractor’s quotation or proposal is deemed a firm offer and this Contract document is the State’s acceptance of that offer.
- c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.

### 3. COMPLETE INTEGRATION: This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.

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4. **SEVERABILITY:** The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
  - a) The State and the Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California. The Contractor agrees to indemnify the State against any loss, cost, damage or liability by reason of the Contractors violation of this provision.
  - b) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
  - c) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
  - d) If this Contract is in excess of \$554,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
  - e) To the extent that this Contract falls within the scope of Government Code Section 11135, the Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.
8. **CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, the Contractor avers that it will not enter into any

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arrangement with any third party which might abridge any rights of the State under this Contract.

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

**9. ASSIGNMENT:** This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. The State's consent shall not be unreasonably withheld or delayed. For the purpose of this paragraph, the State will not unreasonably prohibit the Contractor from freely assigning its right to payment, provided that the Contractor remains responsible for its obligations hereunder.

**10. WAIVER OF RIGHTS:** Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

**11. ORDER OF PRECEDENCE:** In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:

- a) These General Provisions – Information Technology (In the instances provided herein where the paragraph begins: "Unless otherwise specified in the Statement of Work" provisions specified in the Statement of Work replacing these paragraphs shall take precedence over the paragraph referenced in these General Provisions);
- b) Contract form, i.e., Purchase Order STD 65, Standard Agreement STD 213, etc., and any amendments thereto;
- c) Other Special Provisions;
- d) Statement of Work, including any specifications incorporated by reference herein;
- e) **Cost worksheets; and**
- f) All other attachments incorporated in the Contract by reference.

**12. PACKING AND SHIPMENT:**

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- a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
  - i. Show the number of the container and the total number of containers in the shipment and
  - ii. The number of the container in which the packing sheet has been enclosed.
- b) All shipments by the Contractor or its subcontractors must include packing sheets identifying: the State's Contract number, item number, quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.
- c) Shipments must be made as specified in this Contract, as it may be amended or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

**13. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.

- a) The Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.
- b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
- c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, the Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

**14. DELIVERY:** The Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If the Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess Deliverables, and may return them to Contractor at the Contractor's expense or utilize any other rights available to the State at law or in equity.



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**15. SUBSTITUTIONS:** Substitution of Deliverables may not be tendered without advance written consent of the Buyer. The Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.

**16. INSPECTION, ACCEPTANCE AND REJECTION:** Unless otherwise specified in the Statement of Work:

- a) When acquiring Commercial Hardware or Commercial Software, the State shall rely on Contractor's existing quality assurance system as a substitute for State inspection and testing. For all other acquisitions, Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and services under this Contract and will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. The Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. The Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of the Contractor's quality assurance System or other similar business practices related to performance of the Contract.
- b) All Deliverables may be subject to inspection and test by the State or its authorized representatives.
- c) The Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. The Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d) Subject to subsection 16 (a) above, all Deliverables may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
- e) The State shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the Deliverables do not substantially conform to their specifications. If the State does not provide such notice of rejection within fifteen (15) days of delivery for purchases of Commercial Hardware or Commercial Software or thirty (30) days of delivery for all other purchases, such Deliverables and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.
- f) Unless otherwise specified in the Statement of Work, title to Equipment shall remain with the Contractor and assigns, if any, until such time as successful acceptance testing has been achieved. Title to a special feature installed on a Machine and for which only a

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single installation charge was paid shall pass to the State at no additional charge, together with title to the Machine on which it was installed.

### 17. SAMPLES:

- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the Contract.
- b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at the Contractor's expense.

### 18. WARRANTY:

- a) Unless otherwise specified in the Statement of Work, the warranties in this subsection a) begin upon delivery of the goods or services in question and end one (1) year thereafter. The Contractor warrants that (i) Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Statement of Work directly or by reference, the Contractor will warrant that its Deliverables provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, the Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.
- b) The Contractor warrants that Deliverables furnished hereunder (i) will be free, at the time of delivery, of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, the Contractor will, upon the State's request, provide a new or clean install of the Software
- c) Unless otherwise specified in the Statement of Work:
  - i. The Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.
  - ii. The Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by the Contractor, (B) use of Software in combination with or on products other than as specified by the Contractor, or (C) misuse by the State.
  - iii. Where the Contractor resells Commercial Hardware or Commercial Software it purchased from a third party, Contractor, to the extent it is legally able to do so,

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will pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth above.

- d) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.
- e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and the Contractor's sole obligation will be limited to:
  - i. re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or service; or
  - ii. should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated of procuring Deliverables or services of equivalent capability, function, and performance. The payment obligation in subsection (e)(ii) above will not exceed the limits on the Contractor's liability set forth in the Section entitled "Limitation of Liability."
- f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, THE CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**19. SAFETY AND ACCIDENT PREVENTION:** In performing work under this Contract on State premises, the Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. The Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

**20. INSURANCE:** The Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance required under the Contract. The Contractor shall furnish insurance certificate(s) evidencing required insurance coverage acceptable to the State, including endorsements showing the State as an "additional insured" if required under the Contract. Any required endorsements requested by the State must be separately provided; merely referring to such coverage on the certificates(s) is insufficient for this purpose. When performing work on state owned or controlled property, Contractor shall provide a waiver of subrogation in favor of the State for its workers' compensation policy.

**21. TERMINATION FOR NON-APPROPRIATION OF FUNDS:**

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not

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appropriated, the Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any services supplied to the State under this Contract, and relieve the State of any further obligation therefore.

- b) The State agrees that if it appears likely that subsection a) above will be invoked, the State and Contractor shall agree to take all reasonable steps to prioritize work and Deliverables and minimize the incurrence of costs prior to the expiration of funding for this Contract.
- c) THE STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, COMMERCIAL HARDWARE AND SOFTWARE THAT HAS NOT BEEN PAID FOR SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. THE STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO THE CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

### **22. TERMINATION FOR THE CONVENIENCE OF THE STATE:**

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
  - i. Stop work as specified in the Notice of Termination.
  - ii. Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continuing portion of the Contract.
  - iii. Terminate all subcontracts to the extent they relate to the work terminated.
  - iv. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts;
- c) After termination, the Contractor shall submit a final termination settlement proposal to the State in the form and with the information prescribed by the State. The Contractor shall submit the proposal promptly, but no later than 90 days after the effective date of termination, unless a different time is provided in the Statement of Work or in the Notice of Termination.
- d) The Contractor and the State may agree upon the whole or any part of the amount to be paid as requested under subsection (c) above.
- e) Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience, the State will

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pay the Contractor the following amounts; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed:

- i. The Contract price for Deliverables or services accepted or retained by the State and not previously paid for, adjusted for any savings on freight and other charges; and
- ii. The total of:
  - A. The reasonable costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but excluding any cost attributable to Deliverables or services paid or to be paid;
  - B. The reasonable cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract; and
  - C. Reasonable storage, transportation, demobilization, unamortized overhead and capital costs, and other costs reasonably incurred by the Contractor in winding down and terminating its work.
- f) The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

### 23. TERMINATION FOR DEFAULT:

- a) The State may, subject to the clause titled “Force Majeure” and to sub-section d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
  - i. Deliver the Deliverables or perform the services within the time specified in the Contract or any amendment thereto;
  - ii. Make progress, so that the lack of progress endangers performance of this Contract; or
  - iii. Perform any of the other provisions of this Contract.
- b) The State’s right to terminate this Contract under sub-section a) above, may be exercised only if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State’s cure notice, which in no event will be less than fifteen (15) days, unless the Statement of Work calls for a different period.
- c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire, under terms and in the manner the Buyer considers appropriate, Deliverables or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Deliverables and services, including without limitation costs third party vendors charge for Manufacturing Materials (but subject to the clause entitled “Limitation of Liability”). However, the Contractor shall continue the work not terminated.

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- d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed by the Buyer, any:
  - i. completed Deliverables;
  - ii. partially completed Deliverables, and,
  - iii. subject to provisions of sub-section e) below, Manufacturing Materials related to the terminated portion of this Contract. Nothing in this sub-section d) will be construed to grant the State rights to Deliverables that it would not have received had this Contract been fully performed. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.
- e) The State shall pay Contract price for completed Deliverables delivered and accepted and items the State requires the Contractor to transfer under section (d) above. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and Buyer shall attempt to agree on the amount of payment for Manufacturing Materials and other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will constitute a dispute under the Disputes clause. The State may withhold from these amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- f) If, after termination, it is determined by a final decision that is determined by a final decision that Contractor's negligence or willful misconduct; or (iv) to costs the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) Both parties, State and Contractor, upon any termination for default, have a duty to mitigate the damages suffered by it.
- h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled "Limitation of Liability."

**24. FORCE MAJEURE:** Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform

**25. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:**

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- a) In the event any Deliverables furnished or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.
- b) In addition to any other rights and remedies the State may have, the State may require the Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.
- c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor (but subject to the clause entitled "Limitation of Liability").
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to the Contractor or to make a claim against the Contractor therefore.

### **26. LIMITATION OF LIABILITY:**

- a) Except as may be otherwise approved by the Department of General Services Deputy Director, Procurement Division or their designee, Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price. For purposes of this sub-section a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that the Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply (i) to any liability under the General Provisions entitled "Compliance with Statutes and Regulations" (ii) to liability under the General Provisions, entitled "Patent, Copyright, and Trade Secret Indemnity" or to any other liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for death, bodily injury to persons or damage to real or tangible personal property caused by the or attorney's fees that the State becomes entitled to recover as a prevailing party in-any action.
- c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.
- d) In no event will either the Contractor or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the

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possibility of such damages, except (i) to the extent that the Contractor's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that the Contractor's liability for such damages arises out of sub- section b) (i), b) (ii), or b) (iv) above.

### **27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:**

- a) The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
- b) The Contractor shall not be liable for damages arising out of or caused by an alteration or an Attachment not made or installed by the Contractor, or for damage to alterations or Attachments that may result from the normal operation and maintenance of the Deliverables provided by the Contractor during the Contract.

### **28. INDEMNIFICATION:** The Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of the Contractor or any of its affiliates, agents, subcontractors, employees, suppliers, or laborers furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

### **29. INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the Contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount.



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State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

- 30. REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. Seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of Deliverables or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
- 31. TAXES:** Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.
- 32. NEWLY MANUFACTURED GOODS:** All Goods furnished under this Contract shall be newly manufactured Goods or certified as new and warranted as new by the manufacturer; used or reconditioned Goods are prohibited, unless otherwise specified.
- 33. CONTRACT MODIFICATION:** No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.
- 34. CONFIDENTIALITY OF DATA:** All financial statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the state and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession without obligation of confidentiality, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.
- 35. NEWS RELEASES:** Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Contract shall not be made without prior written approval of the Department of General Services.
- 36. DOCUMENTATION:**
- a) The Contractor agrees to provide to the State, at no charge, all Documentation as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the Equipment or Software provided

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hereunder. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.

- b) If the Contractor is unable to perform maintenance or the State desires to perform its own maintenance on Equipment purchased under this Contract then upon written notice by the State the Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the State to maintain the Equipment based on the Contractor's methodology. The Contractor agrees that the State may reproduce such Documentation for its own use in maintaining the Equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the State may have hired to maintain the Equipment to use the above noted Documentation. The State agrees to include the Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by the Contractor.

### 37. RIGHTS IN WORK PRODUCT:

- a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including the Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be the Contractor's exclusive property. The provisions of this sub-section a) may be revised in a Statement of Work.
- b) Software and other materials developed or otherwise obtained by or for the Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If the Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Section 37 will be construed to interfere with the Contractor's or its affiliates' ownership of Pre-Existing Materials.
- c) The State will have Government Purpose Rights to the Work Product as Deliverable or delivered to the State hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any State government purpose. Such recipients of the Work Product may include, without limitation, State Contractors, California local governments, the U.S. federal government, and the State and local governments of other states. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.

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- d) The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by the Contractor or jointly by the Contractor and the State may be used by either party without obligation of notice or accounting.
- e) This Contract shall not preclude the Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

**38. SOFTWARE LICENSE:** Unless otherwise specified in the Statement of Work, the Contractor hereby grants to the State and the State accepts from the Contractor, subject to the terms and conditions of this Contract, a perpetual, irrevocable, royalty-free, non-exclusive, license to use the Software Products in this Contract (hereinafter referred to as “Software Products”).

- a) The State may use the Software Products in the conduct of its own business, and any division thereof.
- b) The license granted above authorizes the State to use the Software Products in machine-readable form on the Computer System located at the site(s) specified in the Statement of Work. Said Computer System and its associated units (collectively referred to as CPU) are as designated in the Statement of Work. If the designated CPU is inoperative due to malfunction, the license herein granted shall be temporarily extended to authorize the State to use the Software Products, in machine-readable form, on any other State CPU until the designated CPU is returned to operation.
- c) By prior written notice, the State may redesignate the CPU in which the Software Products are to be used provided that the redesignated CPU is substantially similar in size and scale at no additional cost. The redesignation shall not be limited to the original site and will be effective upon the date specified in the notice of redesignation.
- d) Acceptance of Commercial Software (including third party Software) and Custom Software will be governed by the terms and conditions of this Contract.

**39. PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA:**

- a) The State agrees that all material appropriately marked or identified in writing as proprietary, and furnished hereunder are provided for the State’s exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of the Contractor. The State agrees to take all reasonable steps to insure that such proprietary data are not disclosed to others, without prior written consent of the Contractor, subject to the California Public Records Act.
- b) The State will insure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed.
- c) The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to licensed software and other proprietary data to satisfy its obligations in this Contract with respect to use, copying, modification, protection and security of proprietary software and other proprietary data.

**40. RIGHT TO COPY OR MODIFY:**

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- a) Any Software Product provided by the Contractor in machine-readable form may be copied, in whole or in part, in printed or machine-readable form for use by the State with the designated CPU, to perform one-time benchmark tests, for archival or emergency restart purposes, to replace a worn copy, to understand the contents of such machine-readable material, or to modify the Software Product as provided below; provided, however, that no more than the number of printed copies and machine-readable copies as specified in the Statement of Work will be in existence under this Contract at any time without prior written consent of the Contractor. Such consent shall not be unreasonably withheld by the Contractor. The original, and any copies of the Software Product, in whole or in part, which are made hereunder shall be the property of the Contractor.
- b) The State may modify any non-personal computer Software Product, in machine-readable form, for its own use and merge it into other program material. Any portion of the Software Product included in any merged program material shall be used only on the designated CPUs and shall be subject to the terms and conditions of the Contract.

**41. FUTURE RELEASES:** Unless otherwise specifically provided in this Contract, or the Statement of Work, if improved versions, e.g., patches, bug fixes, updates or releases, of any Software Product are developed by the contractor, and are made available to other licensees, they will be made available to the State at no additional cost only if such are made available to other licensees at no additional cost. If the Contractor offers new versions or upgrades to the Software Product, they shall be made available to the State at the State's option at a price no greater than the Contract price plus a price increase proportionate to the increase from the list price of the original version to that of the new version, if any. If the Software Product has no list price, such price increase will be proportionate to the increase in average price from the original to the new version, if any, as estimated by the Contractor in good faith.

**42. ENCRYPTION/CPU ID AUTHORIZATION CODES:**

- a) When Encryption/CPU Identification (ID) authorization codes are required to operate the Software Products, the Contractor will provide all codes to the State with delivery of the Software.
- b) In case of inoperative CPU, the Contractor will provide a temporary encryption/CPU ID authorization code to the State for use on a temporarily authorized CPU until the designated CPU is returned to operation.
- c) When changes in designated CPUs occur, the State will notify the Contractor via telephone and/or facsimile/e-mail of such change. Upon receipt of such notice, the Contractor will issue via telephone and/or facsimile/e-mail to the State within 24 hours, a temporary encryption ID authorization code for use on the newly designated CPU until such time as permanent code is assigned.

**43. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY:**

- a) Contractor will indemnify, defend, and save harmless the State, its officers, agents, and employees, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S.

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Intellectual Property Right by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this Section ). The provisions of the preceding sentence apply only to third party computer Hardware or Software sold as a distinct unit and accepted by the State.

Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this Section will be conditional upon the following:

- i. The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
  - ii. The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (a) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (b) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise which approval will not unreasonably be withheld or delayed; and (c) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Should the Deliverables, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall permit the Contractor, at its option and expense, either to procure for the State the right to continue using the Deliverables, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Deliverables by the State shall be prevented by injunction the Contractor agrees to take back such Deliverables and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other Deliverables acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables and refund any sums the State has paid the Contractor less any reasonable amount for use or damage.

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- c) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
  - i. The combination or utilization of Deliverables furnished hereunder with Equipment, Software or devices not made or furnished by the Contractor or,
  - ii. The operation of the Equipment furnished by the Contractor under the control of any Operating Software; or
  - iii. The modification initiated by the State, or a third party at the State's direction, of any Deliverable furnished hereunder, or
  - iv. The combination or utilization of Software furnished hereunder with non-contractor supplied Software.
- d) The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

### **44. DISPUTES:**

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Contractor shall submit to the contracting Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. The contracting Department Director or designee shall have 30 days after receipt of Contractor's written demand invoking this Section "Disputes" to render a written decision. If a written decision is not rendered within 30 days after receipt of the Contractor's demand, it shall be deemed a decision adverse to the Contractor's contention. If the Contractor is not satisfied with the decision of the contracting Department Director or designee, the Contractor may appeal the decision, in writing, within 15 days of its issuance (or the expiration of the 30 day period in the event no decision is rendered by the contracting department), to the Department of General Services, Deputy Director, Procurement Division, who shall have 45 days to render a final decision. If the Contractor does not appeal the decision of the contracting Department Director or designee, the decision shall be conclusive and binding regarding the dispute and the Contractor shall be barred from commencing an action in court, or with the Victims Compensation Government Claims Board, for failure to exhaust Contractor's administrative remedies.
- b) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the State's

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instructions regarding this Contract. Contractor's failure to diligently proceed in accordance with the State's instructions regarding this Contract shall be considered a material breach of this Contract.

- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Deputy Director, Procurement Division if an appeal was made. If the Deputy Director, Procurement Division fails to render a final decision within 45 days after receipt of the Contractor's appeal for a final decision, it shall be deemed a final decision adverse to the Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- d) For disputes involving purchases made by the Department of General Services, Procurement Division, the Contractor shall submit to the Department Director or designee a written demand for a final decision, which shall be fully supported in the manner described in subsection a above. The Department Director or designee shall have 30 days to render a final decision. If a final decision is not rendered within 30 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contention. The final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- e) The dates of decision and appeal in this section may be modified by mutual consent, as applicable, excepting the time to commence an action in a court of competent jurisdiction.

### 45. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period up to 45 days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 45 days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
  - i. Cancel the Stop Work Order; or
  - ii. Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall

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make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:

- i. The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
  - ii. The Contractor asserts its right to an equitable adjustment within 60 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Contractor for loss of by California law ("Conflict Laws"). In the event of any profits because of a Stop Work Order issued under this clause.

**46. EXAMINATION AND AUDIT:** The Contractor agrees that the State or its designated representative shall have the right to review and copy any records and supporting documentation directly pertaining to performance of this Contract. The Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. The Contractor agrees to allow the auditor(s) access to such records during normal business hours and in such a manner so as to not interfere unreasonably with normal business activities and to allow interviews of any employees or others who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract. The State shall provide reasonable advance written notice of such audit(s) to the Contractor.

### **47. FOLLOW-ON CONTRACTS:**

- a) a) If the Contractor or its affiliates provides Technical Consulting and Direction (as defined below), the Contractor and its affiliates:
  - i. will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction; and
  - ii. will not act as consultant to any person or entity that does receive a Contract described in sub-section (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.
- b) "Technical Consulting and Direction" means services for which the Contractor received compensation from the State and includes:
  - i. development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;



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- ii. development or design of test requirements;
  - iii. evaluation of test data; (iv) direction of or evaluation of another Contractor;
  - iv. provision of formal recommendations regarding the acquisition of Information Technology products or services; or
  - v. provisions of formal recommendations regarding any of the above. For purposes of this Section, “affiliates” are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.
- c) To the extent permissible by law, the Director of the Department of General Services, or designee, may waive the restrictions set forth in this Section by written notice to the Contractor if the Director determines their application would not be in the State’s best interest. Except as prohibited by law, the restrictions of this Section will not apply:
  - i. to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
  - ii. where the State has entered into a master agreement for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor’s own products.
- d) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law (“Conflict Laws”). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

**48. PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with PCC Section 10353.

**49. COVENANT AGAINST GRATUITIES:** The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

**50. NONDISCRIMINATION CLAUSE:**

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- a) a) During the performance of this Contract, the Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. The Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. The Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- b) b) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

**51. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** The Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.

**52. ASSIGNMENT OF ANTITRUST ACTIONS:** Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State 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. 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, material or other items, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
- b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

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- c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
  - i. the assignee has not been injured thereby, or
  - ii. the assignee declines to file a court action for the cause of action.

**53. DRUG-FREE WORKPLACE CERTIFICATION:** The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b) b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
  - i. the dangers of drug abuse in the workplace;
  - ii. the person's or organization's policy of maintaining a drug-free workplace;
  - iii. any available counseling, rehabilitation and employee assistance programs; and,
  - iv. penalties that may be imposed upon employees for drug abuse violations.
- c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
  - i. will receive a copy of the company's drug-free policy statement; and,
  - ii. will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

**54. FOUR-DIGIT DATE COMPLIANCE:** Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services 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. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

**55. SWEATFREE CODE OF CONDUCT:**

- a) Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the Contract have been 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. The Contractor further declares under penalty of perjury that they adhere to the Sweatfree

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Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

- b) The Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine the Contractor's compliance with the requirements under paragraph (a).

**56. RECYCLED CONTENT REQUIREMENTS:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material (as defined in the Public Contract Code (PCC) Section 12200-12209), in products, materials, goods, or supplies offered or sold to the State that fall under any of the statutory categories regardless of whether the product meets the requirements of Section 12209. The certification shall be provided by the contractor, even if the product or good contains no postconsumer recycled material, and even if the postconsumer content is unknown. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205 (b)(2)). A state agency contracting officer may waive the certification requirements if the percentage of postconsumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet web site. Contractors are to use, to the maximum extent economically feasible in the performance of the contract work, recycled content products (PCC 12203(d)).

**57. CHILD SUPPORT COMPLIANCE ACT:** For any Contract in excess of \$100,000, the Contractor acknowledges in accordance with PCC Section 7110, that:

- a) a) The Contractor recognizes the importance of child and family support obligations and shall fully comply 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
- b) b) The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**58. AMERICANS WITH DISABILITIES ACT:** The Contractor assures the State that the Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

**59. ELECTRONIC WASTE RECYCLING ACT OF 2003:** The Contractor certifies that it complies with the applicable requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code. The Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

**60. USE TAX COLLECTION:** In accordance with PCC Section 10295.1, the Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code.

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Contractor further certifies that it will immediately advise the State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.

- 61. EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1, and is eligible to contract with the State.
- 62. DOMESTIC PARTNERS:** For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that the contractor is in compliance with Public Contract Code Section 10295.3.
- 63. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**
- a) a) If for this Contract the Contractor made a commitment to achieve small business participation, then the Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
  - b) b) If for this Contract the Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)
- 64. LOSS LEADER:** It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 12104.5(b).).

## **INFORMATION PRIVACY AND SECURITY REQUIREMENTS (FOR NON-HIPAA/HITECH ACT CONTRACTS)**

This Information Privacy and Security Requirements Exhibit (For Non-HIPAA/HITECH Act Contracts) (hereinafter referred to as “this Exhibit”) sets forth the information privacy and security requirements Contractor is obligated to follow with respect to all personal and confidential information (as defined herein) disclosed to Contractor, or collected, created, maintained, stored, transmitted or used by Contractor for or on behalf of the California Department of Public Health (hereinafter “CDPH”), pursuant to Contractor’s agreement with CDPH. (Such personal and confidential information is referred to herein collectively as “CDPH PCI”.) CDPH and Contractor desire to protect the privacy and provide for the security of CDPH PCI pursuant to this Exhibit and in compliance with state and federal laws applicable to the CDPH PCI.

**Contractor’s obligations under this Exhibit apply only with respect to the configuration and operation of the CRM system being delivered as described in Appendix A: Statement of Work.**

1. Order of Precedence: With respect to information privacy and security requirements for all CDPH PCI, the terms and conditions of this Exhibit shall take precedence over any conflicting terms or conditions set forth in any other part of the agreement between Contractor and CDPH, including Exhibit A (Scope of Work), all other exhibits and any other attachments, and shall prevail over any such conflicting terms or conditions.
2. Effect on lower tier transactions: The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, and the information privacy and security requirements Contractor is obligated to follow with respect to CDPH PCI disclosed to Contractor, or collected, created, maintained, stored, transmitted or used by Contractor for or on behalf of CDPH, pursuant to Contractor’s agreement with CDPH. When applicable the Contractor shall incorporate the relevant provisions of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.
3. Definitions: For purposes of the agreement between Contractor and CDPH, including this Exhibit, the following definitions shall apply:
  - A. Breach:

“Breach” means:

    - 1) the unauthorized acquisition, access, use, or disclosure of CDPH PCI in a manner which compromises the security, confidentiality or integrity of the information; or

- 2) the same as the definition of "breach of the security of the system" set forth in California Civil Code section 1798.29(f).
- B. Confidential Information: "Confidential information" means information that:
- 1) does not meet the definition of "public records" set forth in California Government Code section 6252(e), or is exempt from disclosure under any of the provisions of Section 6250, et seq. of the California Government Code or any other applicable state or federal laws; or
  - 2) is contained in documents, files, folders, books or records that are clearly labeled, marked or designated with the word "confidential" by CDPH.
- C. Disclosure: "Disclosure" means the release, transfer, provision of, access to, or divulging in any manner of information outside the entity holding the information.
- D. PCI: "PCI" means "personal information" and "confidential information" (as these terms are defined herein:
- E. Personal Information: "Personal information" means information, in any medium (paper, electronic, oral) that:
- 1) directly or indirectly collectively identifies or uniquely describes an individual; or
  - 2) could be used in combination with other information to indirectly identify or uniquely describe an individual, or link an individual to the other information; or
  - 3) meets the definition of "personal information" set forth in California Civil Code section 1798.3, subdivision (a) or
  - 4) is one of the data elements set forth in California Civil Code section 1798.29, subdivision (g)(1) or (g)(2); or
  - 5) meets the definition of "medical information" set forth in either California Civil Code section 1798.29, subdivision (h)(2) or California Civil Code section 56.05, subdivision (j); or
  - 6) meets the definition of "health insurance information" set forth in California Civil Code section 1798.29, subdivision (h)(3); or
  - 7) is protected from disclosure under applicable state or federal law.
- F. Security Incident: "Security Incident" means:
- 1) an attempted breach; or

- 2) the attempted or successful unauthorized access or disclosure, modification or destruction of CDPH PCI, in violation of any state or federal law or in a manner not permitted under the agreement between Contractor and CDPH, including this Exhibit; or
  - 3) the attempted or successful modification or destruction of, or interference with, Contractor's system operations in an information technology system, that negatively impacts the confidentiality, availability or integrity of CDPH PCI; or
  - 4) any event that is reasonably believed to have compromised the confidentiality, integrity, or availability of an information asset, system, process, data storage, or transmission. Furthermore, an information security incident may also include an event that constitutes a violation or imminent threat of violation of information security policies or procedures, including acceptable use policies.
- G. Use: "Use" means the sharing, employment, application, utilization, examination, or analysis of information.
4. Disclosure Restrictions: The Contractor and its employees, agents, and subcontractors shall protect from unauthorized disclosure any CDPH PCI. The Contractor shall not disclose, except as otherwise specifically permitted by the agreement between Contractor and CDPH (including this Exhibit), any CDPH PCI to anyone other than CDPH personnel or programs without prior written authorization from the CDPH Program Contract Manager, except if disclosure is required by State or Federal law.
  5. Use Restrictions: The Contractor and its employees, agents, and subcontractors shall not use any CDPH PCI for any purpose other than performing the Contractor's obligations under its agreement with CDPH.
  6. Safeguards: The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the privacy, confidentiality, security, integrity, and availability of CDPH PCI, including electronic or computerized CDPH PCI. At each location where CDPH PCI exists under Contractor's control, the Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities in performing its agreement with CDPH, including this Exhibit, and which incorporates the requirements of Section VII, Security, below. Contractor shall provide CDPH with Contractor's current and updated policies within five (5) business days of a request by CDPH for the policies.
  7. Security: The Contractor shall take any and all steps reasonably necessary to ensure the continuous security of all computerized data systems containing CDPH PCI. These steps shall include, at a minimum, complying with all of the



data system security precautions listed in the Contractor Data Security Standards set forth in Attachment 1 to this Exhibit.

8. Security Officer: At each place where CDPH PCI is located, the Contractor shall designate a Security Officer to oversee its compliance with this Exhibit and to communicate with CDPH on matters concerning this Exhibit.
9. Training: The Contractor shall provide training on its obligations under this Exhibit, at its own expense, to all of its employees who assist in the performance of Contractor's obligations under Contractor's agreement with CDPH, including this Exhibit, or otherwise use or disclose CDPH PCI.
  - A. The Contractor shall require each employee who receives training to certify, either in hard copy or electronic form, the date on which the training was completed.
  - B. The Contractor shall retain each employee's certifications for CDPH inspection for a period of three years following contract termination or completion.
  - C. Contractor shall provide CDPH with its employee's certifications within five (5) business days of a request by CDPH for the employee's certifications.
10. Employee Discipline: Contractor shall impose discipline that it deems appropriate (in its sole discretion) on such employees and other Contractor workforce members under Contractor's direct control who intentionally or negligently violate any provisions of this Exhibit.
11. Breach and Security Incident Responsibilities:
  - A. Notification to CDPH of Breach or Security Incident: The Contractor shall notify CDPH immediately by telephone call plus email or fax upon the discovery of a breach (as defined in this Exhibit), and within twenty-four (24) hours by email or fax of the discovery of any security incident (as defined in this Exhibit), unless a law enforcement agency determines that the notification will impede a criminal investigation, in which case the notification required by this section shall be made to CDPH immediately after the law enforcement agency determines that such notification will not compromise the investigation. Notification shall be provided to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(F), below. If the breach or security incident is discovered after business hours or on a weekend or holiday and involves CDPH PCI in electronic or computerized form, notification to CDPH shall be provided by calling the CDPH Information Security Office at the telephone numbers listed in Section XI(F), below. For purposes of this Section, breaches and security incidents shall be treated as discovered by Contractor as of the first day on which such breach or security incident is

known to the Contractor, or, by exercising reasonable diligence would have been known to the Contractor. Contractor shall be deemed to have knowledge of a breach if such breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the breach, who is a employee or agent of the Contractor.

Contractor shall take:

- 1) prompt corrective action to mitigate any risks or damages involved with the breach or security incident and to protect the operating environment; and
- 2) any action pertaining to a breach required by applicable federal and state laws, including, specifically, California Civil Code section 1798.29.

B. Investigation of Breach and Security Incidents: The Contractor shall immediately investigate such breach or security incident. As soon as the information is known and subject to the legitimate needs of law enforcement, Contractor shall inform the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer of:

- 1) what data elements were involved and the extent of the data disclosure or access involved in the breach, including, specifically, the number of individuals whose personal information was breached; and
- 2) a description of the unauthorized persons known or reasonably believed to have improperly used the CDPH PCI and/or a description of the unauthorized persons known or reasonably believed to have improperly accessed or acquired the CDPH PCI, or to whom it is known or reasonably believed to have had the CDPH PCI improperly disclosed to them; and
- 3) a description of where the CDPH PCI is believed to have been improperly used or disclosed; and
- 4) a description of the probable and proximate causes of the breach or security incident; and
- 5) whether Civil Code section 1798.29 or any other federal or state laws requiring individual notifications of breaches have been triggered.

C. Written Report: The Contractor shall provide a written report of the investigation to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer as soon as practicable after the discovery of the breach or security incident. The report shall include, but not be limited to, the information specified above, as well as a complete, detailed corrective action plan, including

information on measures that were taken to halt and/or contain the breach or security incident, and measures to be taken to prevent the recurrence or further disclosure of data regarding such breach or security incident.

- D. Notification to Individuals: If notification to individuals whose information was breached is required under state or federal law, and regardless of whether Contractor is considered only a custodian and/or non-owner of the CDPH PCI, Contractor shall, at its sole expense, and at the sole election of CDPH, either:
- 1) make notification to the individuals affected by the breach (including substitute notification), pursuant to the content and timeliness provisions of such applicable state or federal breach notice laws. Contractor shall inform the CDPH Privacy Officer of the time, manner and content of any such notifications, prior to the transmission of such notifications to the individuals; or
  - 2) cooperate with and assist CDPH in its notification (including substitute notification) to the individuals affected by the breach.
- E. Submission of Sample Notification to Attorney General: If notification to more than 500 individuals is required pursuant to California Civil Code section 1798.29, and regardless of whether Contractor is considered only a custodian and/or non-owner of the CDPH PCI, Contractor shall, at its sole expense, and at the sole election of CDPH, either:
- 1) electronically submit a single sample copy of the security breach notification, excluding any personally identifiable information, to the Attorney General pursuant to the format, content and timeliness provisions of Section 1798.29, subdivision (e). Contractor shall inform the CDPH Privacy Officer of the time, manner and content of any such submissions, prior to the transmission of such submissions to the Attorney General; or
  - 2) cooperate with and assist CDPH in its submission of a sample copy of the notification to the Attorney General.

- F. CDPH Contact Information: To direct communications to the above referenced CDPH staff, the Contractor shall initiate contact as indicated herein. CDPH reserves the right to make changes to the contact information below by verbal or written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the agreement to which it is incorporated.

<b>CDPH Program Contract Manager</b>	<b>CDPH Privacy Officer</b>	<b>CDPH Chief Information Security Officer</b>
See the Scope of Work exhibit for Program Contract Manager	Privacy Officer Privacy Office Office of Legal Services California Dept. of Public Health 1415 L Street, 5 <sup>th</sup> Floor Sacramento, CA 95814  Email: <a href="mailto:privacy@cdph.ca.gov">privacy@cdph.ca.gov</a> Telephone: (877) 421-9634	Chief Information Security Officer Information Security Office California Dept. of Public Health P.O. Box 997377 MS6302 Sacramento, CA 95899-7413  Email: <a href="mailto:cdphiso@cdph.ca.gov">cdphiso@cdph.ca.gov</a> Telephone: (855) 500-0016

12. Documentation of Disclosures for Requests for Accounting: Contractor shall document and make available to CDPH or (at the direction of CDPH) to an Individual such disclosures of CDPH PCI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of personal information as required by Civil Code section 1798.25, or any applicable state or federal law.
13. Requests for CDPH PCI by Third Parties: The Contractor and its employees, agents, or subcontractors shall promptly transmit to the CDPH Program Contract Manager all requests for disclosure of any CDPH PCI requested by third parties to the agreement between Contractor and CDPH (except from an Individual for an accounting of disclosures of the individual's personal information pursuant to applicable state or federal law), unless prohibited from doing so by applicable state or federal law.
14. Audits, Inspection and Enforcement: CDPH may inspect the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit. Contractor shall promptly remedy any violation of any provision of this Exhibit and shall certify the same to the CDPH Program Contract Manager in writing.
15. Return or Destruction of CDPH PCI on Expiration or Termination: Upon expiration or termination of the agreement between Contractor and CDPH

for any reason, Contractor shall securely return or destroy the CDPH PCI. If return or destruction is not feasible, Contractor shall provide a written explanation to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(F), above.

- A. Retention Required by Law: If required by state or federal law, Contractor may retain, after expiration or termination, CDPH PCI for the time specified as necessary to comply with the law.
  - B. Obligations Continue Until Return or Destruction: Contractor's obligations under this Exhibit shall continue until Contractor returns or destroys the CDPH PCI or returns the CDPH PCI to CDPH; provided however, that on expiration or termination of the agreement between Contractor and CDPH, Contractor shall not further use or disclose the CDPH PCI except as required by state or federal law.
  - C. Notification of Election to Destroy CDPH PCI: If Contractor elects to destroy the CDPH PCI, Contractor shall certify in writing, to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(F), above, that the CDPH PCI has been securely destroyed. The notice shall include the date and type of destruction method used.
16. Amendment: The parties acknowledge that federal and state laws regarding information security and privacy rapidly evolves and that amendment of this Exhibit may be required to provide for procedures to ensure compliance with such laws. The parties specifically agree to take such action as is necessary to implement new standards and requirements imposed by regulations and other applicable laws relating to the security or privacy of CDPH PCI. The parties agree to promptly enter into negotiations concerning an amendment to this Exhibit consistent with new standards and requirements imposed by applicable laws and regulations.
17. Assistance in Litigation or Administrative Proceedings: Contractor shall make itself and any subcontractors, workforce employees or agents assisting Contractor in the performance of its obligations under the agreement between Contractor and CDPH, available to CDPH at no cost to CDPH to testify as witnesses, in the event of litigation or administrative proceedings being commenced against CDPH, its director, officers or employees based upon claimed violation of laws relating to security and privacy, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, workforce employee or agent is a named adverse party.
18. No Third-Party Beneficiaries: Nothing express or implied in the terms and conditions of this Exhibit is intended to confer, nor shall anything herein confer, upon any person other than CDPH or Contractor and their respective

successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

19. Interpretation: The terms and conditions in this Exhibit shall be interpreted as broadly as necessary to implement and comply with regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of this Exhibit shall be resolved in favor of a meaning that complies and is consistent with federal and state laws and regulations.
20. Survival: If Contractor does not return or destroy the CDPH PCI upon the completion or termination of the Agreement, the respective rights and obligations of Contractor under Sections VI, VII and XI of this Exhibit shall survive the completion or termination of the agreement between Contractor and CDPH.

## **INFORMATION PRIVACY AND SECURITY REQUIREMENTS (FOR NON-HIPAA/HITECH ACT CONTRACTS)**

### **Attachment A: Contractor Data Security Standards**

#### **1. GENERAL SECURITY CONTROLS**

- A. **CONFIDENTIALITY STATEMENT.** All persons that will be working with CDPH PCI must sign a confidentiality statement. The statement must include at a minimum, General Use, Security and Privacy safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to CDPH PCI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for CDPH inspection for a period of three (3) years following contract termination.
- B. **BACKGROUND CHECK.** Before a member of the Contractor's workforce may access CDPH PCI, Contractor must conduct a thorough background check of that worker and evaluate the results to assure that there is no indication that the worker may present a risk for theft of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.
- C. **WORKSTATION/LAPTOP ENCRYPTION.** All workstations and laptops that process and/or store CDPH PCI must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. The encryption solution must be full disk unless approved by the CDPH Information Security Office.
- D. **SERVER SECURITY.** Servers containing unencrypted CDPH PCI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- E. **MINIMUM NECESSARY.** Only the minimum necessary amount of CDPH PCI required to perform necessary business functions may be copied, downloaded, or exported.
- F. **REMOVABLE MEDIA DEVICES.** All electronic files that contain CDPH PCI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smart devices tapes etc.). PCI must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher
- G. **ANTIVIRUS SOFTWARE.** All workstations, laptops and other systems that process and/or store CDPH PCI must install and actively use a

comprehensive anti-virus software solution with automatic updates scheduled at least daily.

- H. PATCH MANAGEMENT. All workstations, laptops and other systems that process and/or store CDPH PCI must have operating system and application security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- I. USER IDS AND PASSWORD CONTROLS. All users must be issued a unique user name for accessing CDPH PCI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Must be at least eight characters. Must be a non-dictionary word. Must not be stored in readable format on the computer. Must be changed every 60 days. Must be changed if revealed or compromised. Must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
  - Lower case letters (a-z)
  - Arabic numerals (0-9)
  - Non-alphanumeric characters (punctuation symbols)
- J. DATA SANITIZATION. All CDPH PCI must be sanitized using NIST Special Publication 800-88 standard methods for data sanitization when the CDPH PCI is no longer needed.

## **2. SYSTEM SECURITY CONTROLS**

- A. SYSTEM TIMEOUT. The system must provide an automatic timeout, requiring reauthentication of the user session after no more than 20 minutes of inactivity.
- B. WARNING BANNERS. All systems containing CDPH PCI must display a warning banner each time a user attempts access, stating that data is confidential, systems are logged, and system use is for business purposes only. User must be directed to log off the system if they do not agree with these requirements.
- C. SYSTEM LOGGING. The system must maintain an automated audit trail which can identify the user or system process which initiates a request for CDPH PCI, or which alters CDPH PCI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users This logging



must be included for all user privilege levels including, but not limited to, systems administrators. If CDPH PCI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.

- D. ACCESS CONTROLS. The system must use role based access controls for all user authentications, enforcing the principle of least privilege.
- E. TRANSMISSION ENCRYPTION. All data transmissions of CDPH PCI outside the contractor's secure internal network must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. Encryption can be end to end at the network level, or the data files containing CDPH PCI can be encrypted. This requirement pertains to any type of CDPH PCI in motion such as website access, file transfer, and E-Mail.
- F. INTRUSION DETECTION. All systems involved in accessing, holding, transporting, and protecting CDPH PCI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

### **3. AUDIT CONTROLS**

- A. SYSTEM SECURITY REVIEW. All systems processing and/or storing CDPH PCI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews shall include vulnerability scanning tools.
- B. LOG REVIEWS. All systems processing and/or storing CDPH PCI must have a routine procedure in place to review system logs for unauthorized access.
- C. CHANGE CONTROL. All systems processing and/or storing CDPH PCI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

### **4. BUSINESS CONTINUITY / DISASTER RECOVERY CONTROLS**

- A. DISASTER RECOVERY. Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic CDPH PCI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this agreement for more than 24 hours.
- B. DATA BACKUP PLAN. Contractor must have established documented procedures to securely backup CDPH PCI to maintain retrievable

exact copies of CDPH PCI. The backups shall be encrypted. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and the amount of time to restore CDPH PCI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of CDPH data.

## **5. PAPER DOCUMENT CONTROLS**

- A. **SUPERVISION OF DATA.** CDPH PCI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. CDPH PCI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. **ESCORTING VISITORS.** Visitors to areas where CDPH PCI is contained shall be escorted and CDPH PHI shall be kept out of sight while visitors are in the area.
- C. **CONFIDENTIAL DESTRUCTION.** CDPH PCI must be disposed of through confidential means, using NIST Special Publication 800-88 standard methods for data sanitization when the CDPH PSCI is no longer needed.
- D. **REMOVAL OF DATA.** CDPH PCI must not be removed from the premises of the Contractor except with express written permission of CDPH.
- E. **FAXING.** Faxes containing CDPH PCI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending.
- F. **MAILING.** CDPH PCI shall only be mailed using secure methods. Large volume mailings of CDPH PHI shall be by a secure, bonded courier with signature required on receipt. Disks and other transportable media sent through the mail must be encrypted with a CDPH approved solution, such as a solution using a vendor product specified on the CALIFORNIA STRATEGIC SOURCING INITIATIVE.

## APPENDIX A: STATEMENT OF WORK

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## **APPENDIX A: STATEMENT OF WORK**

### **PART 1: AGREEMENT COMPILATION**

1. General Provisions – Information Technology (09/05/2014)
2. Information Privacy and Security Requirements
3. Standard Agreement (TECH 213)
4. Appendix A: Statement of Work
  - Exhibit 1-A: Cost Worksheet
  - Exhibit 1-B: Budget Detail and Payment Provisions
  - Exhibit 2: Additional Legal Terms for FEMA Reimbursement
  - Exhibit 3: Work Order Authorization (WOA)
  - Exhibit 4: Work Order Acceptance Document (WAD)
  - Attachment 1: Remote Work Protocols
  - Attachment 2: COVID-19 Contract Labor Standards
  - Attachment 3: Contractor's Team Structure

## **APPENDIX A: STATEMENT OF WORK**

### **PART 2: SCOPE OF SERVICES**

#### **1. BACKGROUND, PURPOSE, AND OBJECTIVES**

##### **A. BACKGROUND AND PURPOSE**

The global Coronavirus Disease 2019 (COVID-19) pandemic has reached the State of California and now presents a serious threat to the health and safety of its residents. As such, urgent interventions must be taken to mitigate COVID-19's impact on the State's health care system.

This Statement of Work (SOW) outlines the tasks required by Accenture LLP (herein referred to as the "Contractor") to provide the California Department of Public Health (herein referred to as "CDPH" or the "State") with immediate design, delivery, and operation of a multi-modal test/trace/support labor force program to help stop the transmission of COVID-19. This effort will collectively be called the California COVID-19 Contact Tracing Initiative.

Emulating successful international COVID-19 containment efforts, the goal of this Initiative is to expedite the finding and testing of all COVID-19 exposed contacts in communities across the State.

##### **B. OBJECTIVES**

The Contact Tracing team is responsible for identification of persons who may have come into contact with an infected person ("contacts"); contacting, scheduling, and referral to testing for infection; follow-up and referral to isolation to prevent community transmission; tracing downstream contacts in turn; and offering compassionate support throughout.

The State anticipates immediate deployment of 1,000+ Contact Trace team members and supervisors at the earliest practical possibility, with the flexibility and capacity to rapidly grow to 10,000. The exact schedule and volumes are unknown, but the State anticipates a 60-day ramp up, 120 days of run-rate operations, and a follow-on scaled-down period of monitoring.

The Contractor shall act as "program planners" or a "qualified person" operating under the direction of State to enable countermeasures to be deployed. The Contractor's work shall include the administration of the program and investigation, as needed, to execute necessary countermeasures to combat the threat to the public health. The Contractor shall perform this work pursuant to a public health emergency.

Over the course of this engagement and as a guide for this Agreement, the Contractor shall be committed to abiding by the following principles:

- Focus on the outcome
- Reflect trust and historical relationship between the parties via transparency

- Acknowledge the uncertainty; the future cannot be fully defined
- Provide flexibility to rapidly scale, contract, and/or redeploy
- Work as one integrated team in a multi-organization environment
- Meet the needs of the State, and Contractor relative to security and privacy
- Minimize contract administration

## 2. ACKNOWLEDGEMENT OF STATE OF EMERGENCY

In recognition of the Governor of California's declaration of a State of Emergency on March 4, 2020 and the serious threat to the health of California residents as a result of the impacts of the global COVID-19 epidemic, the parties agree to the following terms:

- A. The parties acknowledge that the material assumptions, requirements or information set forth in the Contract may be incomplete or incorrect. To that extent the parties will utilize the Work Order Authorization process, discussed in Section 14, to collaborate in good faith to further refine the Statement of Work to clarify or add the information necessary for the successful performance of the Agreement.
- B. The State acknowledges the good faith efforts that Contractor has exercised in entering into the State's standard-form agreement on an expeditious basis under the extraordinary circumstances. Accordingly, if requested by either party, the parties will use good faith efforts to make reasonable amendments pursuant to this section to reflect any necessary changes in order to protect the interest of either party, including each party's intellectual property.

## 3. DEFINITIONS

The terms used in this SOW, unless defined in this SOW or in an amendment made hereto, shall have the meaning ascribed to them in the other documents that constitute the Agreement between the parties.

**"Contractor Delivery Methodology for Agile Development"** means a continually refined approach used globally by Contractor systems implementation teams that utilizes common tools and techniques that are agile, inclusive, interactive, and iterative.

**"CA Agent"** means a person who is provisioned access to the Salesforce Contact Tracing system.

**"CalREDIE"** means CDPH's Reportable Disease Information Exchange, an information technology disease surveillance and management system that captures and stores epidemiological data, and enables CDPH to communicate directly with clinicians and local public health boards and hospitals to share disease reports, lab results, and clinical data for rapid surveillance and response to illnesses, diseases, and viruses.

**“Project”** refers to the Initiative that is the topic of this SOW, which describes the scope, tasks, activities, work products, and deliverables that are part of the State's effort to reduce the rate of infection of COVID-19 in the State.

**“Services”** means the services to be provided by the Contractor to the State under this Agreement.

**“State Data”** means data provided by the State to the Contractor, which may physically reside at a State or Contractor location.

**“Task”** means a material activity engaged in by the Contractor for the purpose of fulfilling its obligations to the State under the terms of the Agreement, which may or may not result in the creation of a Work Product or Deliverable.

**“Work Product”** means any written work that the Contractor delivers for the purposes of fulfilling its obligations to the State under the terms of the Agreement.

#### **4. TERM OF THE AGREEMENT**

The term of this Agreement shall be May 3, 2020, or upon final approval by the California Department of Technology Statewide Technology Procurement (CDT-STP) whichever is later (also known as the “Effective Date”), through October 31, 2020, or six (6) months from the Effective Date. At the State's option, the State may invoke either one (1), or both, of two (2) optional six (6) month term extensions.

The initial term of this Agreement can be categorized in three (3) phases:

- Phase 1 (May 3 - May 31): “Iteratively Develop” the capability, launch operations
- Phase 2 (June 1 – July 5): “Iteratively Enhance”/maintain the technology, run/improve the operations
- Phase 3 (July 6 – October 31): “Operate”

#### **5. AMENDMENT(S)**

This Agreement may be amended prior to the end of the Term, consistent with the terms and conditions of the Agreement, and by mutual consent of both parties, subject to approval by CDT-STP under Public Contract Code (PCC) section 6611. No Amendment or variation of the terms of this Agreement is valid unless made in writing, signed by both parties, and approved by CDT-STP as required. No oral understanding not incorporated, in writing, into the resulting Agreement is binding on any of the parties.

For any amendment entered into under this Agreement where the Contractor shall provide Services on a capacity basis, the parties shall apply the Resource Capacity terms as described in Section 11 of this SOW.

#### **6. AGREEMENT CONTACTS**

The Contractor and the State will each assign a single point of contact (SPOC) with respect to this SOW. It is anticipated that the contact person will not change during



the Term of this Agreement. In the event that a change is necessary, the party requesting the change will provide prompt written notice to the other. In the event a change occurs because of a non-emergency, two-week written notice is required. For a change resulting from an emergency, the notifying party shall provide written notice to the receiving party within 24 hours following the change.

**TABLE 1: AGREEMENT CONTACTS**

STATE SPOC	CONTRACTOR SPOC
[REDACTED]	[REDACTED]
STATE PROJECT MANAGER	CONTRACTOR PROJECT MANAGER
[REDACTED]	[REDACTED]

## **7. WORKING ARRANGEMENTS**

Contractor personnel will work remotely.

## **8. SYSTEM SECURITY**

As part of its work efforts under this SOW, the Contractor shall be required to use State Data and information technology (IT) resources.

### **A. STATE DATA**

In relation to the State Data in the Contractor's control, including State Personal Data, the Contractor shall implement commercially reasonable safeguards on the Contractor-owned and -managed systems as identified in "Information Privacy and Security Requirements."

The State Data may contain Protected Health Information (PHI) and Personally Identifiable Information (PII) (collectively "Personal Data").

The parties acknowledge that implementation of a remote work model will necessarily impact the Services and will follow the operational principles set out in Attachment 1: Remote Work Protocols, attached to this Agreement, and the following:

- The Contractor's personnel covered by the remote work solution shall be advised of the Remote Work Protocols; and
- The Contractor shall provide training to any Contractor personnel working remotely that covers the Remote Work Protocols.

### **B. SOFTWARE INTEGRITY CONTROLS**

The Contractor and the State recognize the serious threat of fraud, misuse, and destruction or theft of data or funding. These threats could be introduced when unauthorized or inappropriate modifications are made to a production system. The Contractor shall implement the following controls for the purpose of

maintaining software integrity and traceability throughout the software creation life cycle, including during development, testing, and production:

- 1) The Contractor shall configure at least three software environments including a development environment, a testing environment and a production environment.
- 2) The Contractor shall implement a change control procedure such that activities in the development environment remain separate and distinct from the production environment. In particular the change control procedure shall incorporate at least the following:
  - a) Segregate duties between development and testing of software changes and migration of changes to the production environment;
  - b) Implement security controls to restrict individuals who have development or testing responsibilities from migrating changes to the production environment.
  - c) Include a process to log and review all source control activities.
- 3) The Contractor shall implement a source control tool to confirm that all changes made to the production system are authorized, tested, and approved before migration to the production environment.
- 4) The parties acknowledge that the Contractor shall use its personnel associated with its Global Delivery Network to perform Services ("GDN Services") under this SOW, including personnel located outside of the United States. Such GDN Services will be performed only by the Contractor's personnel assigned and approved to work on the Project. The State and the Contractor will together determine how to provide personnel performing GDN Services with access to State email, SharePoint, test environments, and other resources as may be reasonably necessary to enable performance of the GDN Services.

## **9. PROJECT MANAGEMENT**

The Contractor and the State must notify the other party's Project Manager of any change in the name, address, phone number, fax number, or email address of their respective Project Manager.

### **A. STATE PROJECT MANAGER**

The State's Project Manager will:

- 1) Work closely with the Contractor Project Manager to support successful completion of the Project.
- 2) Provide input and guidance to the Contractor Project Manager in developing the Project Management Plan.
- 3) Review weekly status reports and schedule weekly meetings with the Contractor, as necessary.

- 4) Acquire State project team members as needed.
- 5) Coordinate the State's review of the activities, Tasks, and Work Product.

## **B. CONTRACTOR PROJECT MANAGER**

The Contractor's Project Manager shall:

- 1) Be responsible for administering this Agreement and the managing of the day-to-day operations under this Agreement.
- 2) Serve as an interface between the State Project Manager and all Contractor personnel participating in this engagement.
- 3) Develop and maintain the Project Management Plan, in consultation with the State Project Manager.
- 4) Facilitate regular communication with the State Project Manager, including weekly status reports/updates, and review the project performance against the project plan. Facilitate weekly project status meetings for the duration of the engagement.
- 5) Update the project plan on a weekly basis and distribute at weekly meetings for the duration of the engagement.
- 6) Sign acceptance forms to acknowledge their receipt from State.
- 7) Be responsible for the management and deployment of Contractor personnel.

## **10. CONTRACTOR TASKS, ACTIVITIES, AND WORK PRODUCT**

This Section describes the Tasks, Activities, and Work Product that the Contractor shall provide to the State during the first two (2) Phases of the Project, encompassing May 3 – July 5, 2020.

The Contractor shall be accountable for five (5) key domains:

- A. Program management, which will be memorialized through weekly status reports
- B. A functioning CRM solution, which will evolve and be enhanced via the Solution Prioritization Council process
- C. A "turnkey" contact center management and operations service to support Contact Tracers
- D. A reporting tool and ongoing reporting and analytics capability ("reporting and analytics") based on the needs and specifications of business users and stakeholders
- E. A Marketing and Communications capability, to drive awareness of the tracer program.

To fulfill current and future needs relative to these domains, this SOW outlines the envisioned Tasks, Activities, and Work Product, as set forth in Table 2 below. The

Contractor shall use an agile approach to prioritize Tasks, Activities, and Work Product based on the State's needs and requirements.

The Contractor appreciates that other needs will arise, and the Contractor is committed to support the success of the overall Contact Tracing program.

For the CRM solution implementation, the Contractor will utilize its Contractor Delivery Methodology for Agile Development, with timelines and periodic releases as depicted below in a draft release schedule for the first month. Thereafter Contractor will continue to use the Methodology and Agile Development approach to implement and evolve functionality improvements, additional interfaces, and other enhancements as directed and prioritized by the Solution Prioritization Council.

**TABLE 2: CONTRACTOR TASKS, ACTIVITIES, AND WORK PRODUCT**

<b>TASK #</b>	<b>TASK NAME</b>	<b>ACTIVITIES/WORK PRODUCT DESCRIPTION</b>
<b>1.0</b>	<b>Project Management</b>	
1.1	Governance Model	Support governance mechanisms, including meeting cadence, issue / risk escalation processes, and decision-making responsibilities
1.2	Command Center meetings	Participate in regular meetings with key project leadership to review status, issues, risks, and provide direction on overall strategy
1.3	Release Schedule and Cadence	Definition and management of key milestones for targeted releases
1.4	Project Status Reports	Weekly status reports covering project progress per main area, key issues, risks, and team discussion points
1.5	Deployment Timeline	Summary view of deployment plan in timeline format, including key milestones and go live dates
<b>2.0</b>	<b>CRM and Contact Center Solution</b>	Enable a turn-key CRM and Contact-Center solution required to enable the Contact Tracing activities.
2.1	Strawman	Deployment of the solution that is in production in the Commonwealth of Massachusetts in a sandbox environment with test data
2.2	Client Review	Demo of the functionality and a fit gap discussion vis-à-vis the needs of the State of California in order to deploy the existing solution with a minimum of changes and in the shortest possible time
2.3	User Stories	Management, logging and prioritization of requirements and stories to facilitate design for a given sprint driven by guidance of Solution Prioritization Council
2.4	Functional Scope and Design, For Each Sprint (Sprint 1, 2, 3, Etc.)	Completion of the design and build, with releases prioritized with the Solution Prioritization Council

<b>TASK #</b>	<b>TASK NAME</b>	<b>ACTIVITIES/WORK PRODUCT DESCRIPTION</b>
2.5	Build and Test	Completion of the system test of case management system with releases prioritized with the Solution Prioritization Council
2.6	Deployment	Deployment of the system with releases prioritized with the Solution Prioritization Council
2.7	Training Strategy	Document outlining training needs, audiences, training methods, as well as considerations regarding content depository training development tools
2.8	Training Materials	Materials to be used during training execution, may include content overviews, summary information for end-users, course satisfaction surveys
2.9	Training Delivery	Jointly execute training courses per agreed upon training plan, for required audiences, playing lead for agreed courses
2.10	Integration Design and Execution	Solution to include the following integrations: <ul style="list-style-type: none"> <li>• CalREDIE</li> </ul>
2.11	Production Support	Microsoft Word document specifying defined model for support team to manage system issues and request post wave.
<b>3.0</b>	<b>Security / Privacy</b>	
3.1	Implement Secure Remote Access System	Secure remote Identity access solution that is specific to the COVID 19 CRM Contact Tracing platform to enable secure user access
3.2	Enable Platform Data Protection and Compliance	Configure platform data protection configuration and compliance leveraging Salesforce Shield while encrypting field level data as well as platform.
3.3	Release Security Testing	Vulnerability reports for each application release
3.4	Enable User Profile Roles	User profile roles and access to prevent printing, data extraction, and/or data export
3.5	Data Retention	Platform log retention enablement on a rolling 30-day basis
<b>4.0</b>	<b>Licensing</b>	
<b>4.1</b>	<b>State Licensed</b>	
4.1.1	Amazon Web Services	Platform provider for telephony solution to conduct inbound and outbound calls, IVR, and omni-channel capabilities
4.1.2	Salesforce	<ul style="list-style-type: none"> <li>• Salesforce Health Cloud UE</li> <li>• Salesforce Customer Community Cloud UE</li> <li>• Salesforce OmniChannel</li> <li>• Salesforce Digital Engagement UE</li> <li>• Salesforce Digital Engagement – Additional Triggered &amp; Bulk Messages</li> <li>• Salesforce Shield</li> <li>• Government Cloud Premier+ Success Plan UE</li> </ul>

TASK #	TASK NAME	ACTIVITIES/WORK PRODUCT DESCRIPTION
4.1.3	Capado	DevOps Platform
4.1.4	WalkMe	WalkMe SaaS solution to enable in-app guidance for real time training
<b>4.2</b>	<b>Contractor Licensed</b>	
4.2.1	NICE	NICE solution for workforce management
<b>5.0</b>	<b>Operations</b>	
5.1	Create Contact Center Processes	Personas and process flows to illustrate required contact center processes.
5.2	Develop Standard Operating Procedures	Procedures for core contact center processes to secure a standard service
5.3	Conduct Onboarding	Onboarding materials and onboard contact center agents
5.4	Develop Training Materials	Training materials for contact center agent, may include web-based, instructor led, or self-study materials
5.5	Conduct Training	Execute training courses as required by agreed upon training plan for in-scope audiences
5.6	Develop Capacity Planning Approach and Execution	Capacity model and approach for determining contact center capacity and identifying risk / issues, and mitigation plans as necessary
5.6	Develop Workforce Planning and Scheduling	Approach for managing resource capacity and planning for mid and long-term needs.
5.7	Create Quality Assurance Plan	Mechanisms to monitor overall quality and compliance of contact center interactions. This may include providing regular assessments after training, and monitoring interactions to detect pain points and areas for improvement, ongoing assessments, performance reviews.
5.8	Technical Support Approach and Execution	Determine and implement user support for technical and access issues.
5.9	Risk Management and Defect Tracking Approach and Execution	Register and track system performance or other defects and remediate.
5.10	Operational Analysis	Review call handling performance metrics to establish ways to increase the number and quality of the call experience.
5.11	Process Improvement	Ongoing process monitoring to identify areas of improvement for contact center operations
5.12	Call Center Omni-Channel Functionality Recommendations	Recommendations for the incorporation of omnichannel functionality, e.g. IVR, chatbot, AWS Connect, etc.
5.13	Supplementing Contact Corps as Necessary	Provide additional staffing support upon request.

TASK #	TASK NAME	ACTIVITIES/WORK PRODUCT DESCRIPTION
5.14	Helpdesk Support	Provide help desk support for email & password support from 8 AM – 8 PM (M-SU)
<b>6.0</b>	<b>Reporting and Analytics</b>	
6.1	Operational Reporting	Present standardized reports on key contact tracing activities, including day to day metrics for contact center performance and case resolution
6.2	Contact Center Demand Reporting	Present contact center demand and response reports
6.3	Contact Center Workforce Capacity Forecasting	Identify and forecast contact center workforce needs
6.4	C-19 Tracing Insights Platform	Present advanced reporting leveraging productivity, geographical, demographic, and other data to support implementation insights and efficiency considerations
<b>7.0</b>	<b>Marketing &amp; Communications</b>	
7.1	Draft Communications Strategy	Provide state with communications goals, initial communications strategy, core messaging platform & priorities, channel matrix and gen pop audience target consideration 48-72 hour rapid release upon launch  Refine second version for 2-3 high priority audience segments. Will consider paid, owned and earned channels within the strategy
7.2	Develop Digital Paid Media Strategy and Plan	Rapid Release and full priority segment multi-channel digital media plan, projected flighting (6-7 week media plan, 1 week to develop the media plan), budget and measurement recommendations
7.3	Creative Development	Initial campaign after program launch: social posts, influencer 15 scripts, flyer, webpage copy and search copy for first release (48-72 hour release upon launch)  Follow up (post-initial program launch) with additional creative for 2-3 high priority audience segments. Such as: 10+ search (modifications of the first wave of search copy), 10+ social ads (e.g., Facebook, Instagram), 4-5 digital radio scripts, 2-3 flyers/brochures, news ticker scripts and 311 FAQ script
7.4	Set Up Social Listening Technology	Stand up social listening platform technology and build initial queries for the state of California specific needs
7.5	Ongoing Social Listening and Reporting	Provide ongoing trends, sentiment and key insights from 2-3x weekly social listening reports, to be used for State run communications and optimization of marketing
7.6	Execute Digital Paid Media Plan	Traffic, QA, Launch paid media assets across digital channels. Inclusive of 1xs weekly reporting to drive optimizations



TASK #	TASK NAME	ACTIVITIES/WORK PRODUCT DESCRIPTION
7.7	Optimization of Strategy and Creative Development	Based on media, analytics, call center data and social listening, team will refine strategy and creative outputs for gen pop + 2-3 high priority segments for remainder of marketing engagement (weekly effort)
7.8	Marketing Continuation	Assessment of effectiveness and potential extension for marketing communications (strategy, creative, media and social listening). Working collaboratively with clients to make this decision in week 6

The Tasks, activities, and Work Product listed above reflect expected work for the first two (2) phases:

May 3 – June 1: Iterative Development  
June 1 – July 5: Iterative Enhancements

Prior to July 6, the Contractor and the State will agree on a revised Task and activities list and timeline in accordance with needs for Phase 3 (Operate), July 6 – October 31.

## 11. RESOURCE CAPACITY

The Contractor agrees to provide resources (FTEs – FTE = 40 hours a week) for each workstream to work on the mutually prioritized Tasks, Activities, and Work Product described in Table 3.

**TABLE 3: RESOURCE CAPACITY**

WORKSTREAM	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	MONTHS 7 - 18
PROGRAM MANAGEMENT	8	8	8	8	8	8	8
CRM IMPLEMENTATION	27	27	24	19	12	12	12
CALL CENTER OPERATIONS*	60	60	60	60	60	60	60
METRICS AND EVALUATION	8	8	3	3	3	3	3
MARKETING AND COMMUNICATIONS	12	8	0	0	0	0	0
TOTAL	115	111	95	90	83	83	83

\*Based on up to 1,000 CA agents

For the CRM Implementation section above, the Contractor shall submit to the State Project Manager biweekly reports of actual workstream foundational team FTE equivalents working on assigned tasks.



The State and the Contractor acknowledge the need for program agility and flexible resource capacity commensurate with the evolving COVID-19 situation. For the CRM Implementation section above, if the Contractor believes that additional resources are required beyond the FTEs listed above, The Contractor shall notify the State and the State and the Contractor will mutually agree on a WOA for increased capacity. If the State and the Contractor agree that fewer resources are required in a forthcoming bi-weekly period below the FTEs listed above, the Contractor shall adjust the workstream team size and provide the State with a credit, provide a proportional reduction in the rate for the workstream, or jointly agree to redeploy resources to an alternate workstream.

## **12.STATE AND CONTRACTOR REPSONSIBILITES**

The State understands the Contractor's performance is dependent on the State's timely and complete performance of those tasks and responsibilities specified in this SOW ("State Responsibilities"). In addition, the State understands the Contractor agreed to perform the Services based on the assumptions listed below (the "Assumptions"). In addition to any other responsibilities or duties described in this SOW, set forth below are the State Responsibilities and Assumptions for the Project.

### **A. STATE RESPONSIBILITIES**

- 1) The State shall provide in a timely manner in accordance with schedule mutually agreed between the parties all information (including requirements), documentation, input, decisions and signoffs (including of designs, specifications and software releases) reasonably required by Contractor to perform its Services.
- 2) The State will manage the interface between Contractor and the day to day operations of the State's organization including key stakeholders.
- 3) The Project requires Contractor and other organizations to work as one integrated team to drive to a common objective; however, State will have primary responsibility for inputs of State contractors and other involved organizations and for confirming that they provide Contractor with necessary access to their plans, status, and project reports.
- 4) The State will work in good faith to ensure approvals, management input, management review, responses to issues, change requests and escalated matters are provided by the appropriate State representatives in a timely manner.
- 5) The State will work in good faith to ensure that the State contractors and State personnel including those at other state organizations provide support, inputs, and resources as and when required, all in a timely manner so as not to impact the Project progress.
- 6) The State will work in good faith to ensure that State contractors cooperate with and take necessary instruction from Contractor.

- 7) The State will provide accurate and complete information as to the State's business which may be relevant or necessary for Contractor to perform the Project related Services.
- 8) The State will cooperate with State contractors to facilitate the success of the Project.
- 9) The State will provide and manage any State personnel (for example, financial, design authority and business subject matter experts, key business and technical resources) as reasonably required for the effective and efficient delivery of the Project. Significant access to such resources is critical to the success of the Project and is required to enable Contractor to complete its Services.
- 10) The State will provide any State personnel for attendance at any reasonable governance forums as required by Contractor and State contractors.
- 11) The State will provide access for Contractor to State's Project users, as mutually agreed by the parties, to allow requirements grooming and prioritization, specification development, the undertaking of acceptance procedures, and implementation for the effective and efficient delivery of the Project.
- 12) The State will consider in good faith, the selection, modification or termination recommendations provided by Contractor regarding any State contractor with respect to the performance and cost benefit of State contractor services to State.
- 13) The State shall ensure existing CalREDIE legacy services, or suitable substitutes, shall be available in the development instance, and shall provide the relevant data sets in a timely and high-quality manner.
- 14) Unless otherwise set forth in this Agreement as a Contractor responsibility, the State will work in good faith to procure licenses for the third-party products including any software products necessary for Contractor to provide the Services.
- 15) State will provide all contact scripts.
- 16) The State will be responsible for its operation and use of the Services and for determining whether to use or refrain from using any recommendation that may be made by Contractor. The State will be solely responsible for determining whether any Services provided by Contractor (i) meet State requirements; (ii) comply with all laws and regulations applicable to the State; and (iii) comply with the State's applicable internal guidelines and any other agreements it has with third parties.

## **B. CONTRACTOR RESPONSIBILITIES**

- 1) The Contractor shall provide services as specified in this SOW and in WOAs unless otherwise approved in advance by the State.
- 2) The Contractor shall adhere to all the requirements and responsibilities, in accordance with the terms and conditions of the Agreement.

- 3) The Contractor shall ensure that the Contractor's personnel, including any Subcontractor personnel, comply with the responsibilities and requirements of the Agreement.
- 4) The Contractor shall meet, as necessary, with the State Project Manager during the Term of this Agreement.
- 5) The Contractor shall participate in periodic briefings of the State's executive management, as requested by the State Project Manager.
- 6) The Contractor shall not utilize electronic mail communications for the transmission of information designated as confidential, personal, or sensitive by State unless an encryption standard, approved by State, is applied between author and recipient.
- 7) The Contractor shall notify State immediately regarding any investigatory, disciplinary, licensure, criminal, or similar type of proceedings against the Contractor in any jurisdiction that are reasonably expected to have a material adverse impact on the Contractor's ability to provide the Services.

### **13. ASSUMPTIONS AND CONSTRAINTS**

#### **A. AGREEMENT ASSUMPTIONS**

- 1) The Contractor is working under the authority of the State and the State will be responsible for the State's compliance with all applicable laws and regulations, specifically, how and when it collects and maintains any personal data or PHI (including compliance with applicable privacy/security laws and regulations – State and Federal). The foregoing assumption shall not exempt the Contractor from its compliance with any applicable State and Federal statutes or regulations as set forth in the General Provisions – Information Technology, Section 7.
- 2) With respect to the collection and reporting of data, the parties will work together to define the specific scope of any analytics/reporting services. The Contractor's scope shall exclude the collection of any data via mobile phones or other devices in the initial release. The State may add the need for mobile phone use to the backlog and prioritize the work during grooming.
- 3) The parties will work together in good faith to determine if general data can be obtained, through legally permissible means and in compliance with applicable privacy law and policies, to help identify open or closed health facilities, stores and/or businesses.
- 4) The Contractor's Services will be delivered using the Contractor Delivery Methodology for Agile Development.
- 5) The State will access the Contractor's Delivery Tools (e.g. ACP/AIP) during the Term of this Agreement, as described more fully below.

- 6) The State and the State's subcontractors working on the Project will be sufficiently skilled to participate in and support the approach deployed by the Contractor. Any training or additional effort required to address any differences in approach or deficiencies in this regard will be remedied through training and resource sharing from the Contractor.
- 7) If, after the Project has started, it is determined that the information provided by the State is inaccurate or incomplete in any material manner, the parties will negotiate an adjustment in the project scope and fees, as applicable, per the change process set forth in Section 14, Work Order Authorization.
- 8) The State will be responsible for satisfying all IT hardware requirements and infrastructure requirements. This includes, but is not limited to:
  - a) Access to the State's business systems including email, SharePoint, Microsoft Teams;
  - b) Access to the State's technology systems, including development, test and pre-production platforms, including the permissions to perform software deployments;
  - c) Development, test, pre-production and production environments on which the system components will be developed and tested; and
  - d) The Tools required to manage all the environments and solution components.
- 9) If data in the State's legacy systems (e.g. CalREDIE) is found to be corrupt and causes otherwise valid test cases to fail, the State will be responsible for the cleansing of the data or acceptance that the Project will proceed in any event. The Contractor shall highlight to the State, in a timely manner, any key data issues identified during testing.
- 10) The State will manage all business-as-usual work.
- 11) Business-as-usual updates to the platforms being developed by the Project will not adversely impact or lead to rework on the Project. Where there is a potential impact, The Contractor shall use its reasonable efforts to limit the impact but where there is an adverse impact, this will be chargeable.
- 12) The State's operational support teams will not unreasonably delay or refuse to accept the Project on the basis of factors that are outside the Contractor's control, for example where design decisions impact the supportability of the platform.
- 13) During the Term, the Contractor shall have exclusive access to the code base and only defect resolution changes made by the Contractor's support team shall be deployed into the production environment.
- 14) The State has obtained all consents necessary from third parties reasonably required for the Contractor to perform its obligations hereunder, and the

State will be responsible for the contractual relationship with and performance of such third parties as required.

- 15) The State will be responsible for ensuring that consent is obtained from individuals to share any data with the Contractor and for its use in connection with this Project.
- 16) The Contractor accepts no responsibility for the accuracy of any data provided in connection with this Project nor will it verify the accuracy of such data. The Contractor shall aggregate and map data but will not change the data in this file in any way, provided that the Contractor shall aggregate and/or anonymize the data if specifically provided for in this SOW.
- 17) The State will not require the Contractor to use any third-party data set.
- 18) Any Personal Data will be maintained on the State's systems. Some Personal Data may be accessed by the Contractor to create mutually agreed upon reports.
- 19) The Contractor's scope of services excludes the following:
  - a) Predictive elements; if the State requests such a scope, the parties will work together in good faith to address such request through the Work Order Authorization (WOA) process.
  - b) Any legal, regulatory, audit, medical, insurance or tax advice. The State will be responsible for obtaining such advice from its own legal counsel or other licensed professionals.

## **B. GENERAL AND TECHNICAL ASSUMPTIONS**

- 1) The base application will be a transfer from the Massachusetts contact tracing system.
- 2) A conference room pilot will be conducted on the base application to determine what modifications, if any, need to be made before first deployment.
- 3) Modifications not necessary for initial deployment will be logged by the Accenture team for grooming and prioritization for future release prioritization by the State.
- 4) Initially the solution will be made to work using point-to-point or manual workarounds (e.g. Data Loader) to bring external data (e.g. CalREDIE) into Salesforce. Real-time integrations needs will be handled in future method.
- 5) Amazon Connect and CTI will be enabled for telephony.
- 6) For the first week's release to production, the agent call scripts will be loaded via an accelerator such that they scroll in a Lightning component in the console. In successive releases, these scripts will take the form of screen flows

with conditional branching as needed, and attendant automatic creation of Salesforce objects.

- 7) Cost does not include licensing.
- 8) Copado will be used for DevOps.
- 9) Amazon Web Services Commercial Cloud will be used for AWS Connect Contact Center services.
- 10) The State is responsible for procuring all the hardware and software licenses as per project timelines.
- 11) The State will commit the necessary personnel to participate in the Project workshops and Project team meetings.
- 12) The State will schedule all required meetings with key stakeholders, as mutually agreed between the parties, as closely to the agreed upon target dates as possible to adhere to the Project schedule. Delays to the meeting schedules from the targeted dates may affect the overall Project completion timeline and cost.
- 13) The State will review the phase task, activities, and Work Product and issue a single consolidated list of all comments in an expedited timeframe from the submission or completion. Accenture will address all comments promptly and resubmit the final version of the document to the State, who shall review and approve timely from its final issuance.
- 14) The parties will work in collaboration to put an effective project governance in place, with clear roles and responsibilities and agreed to turnaround for key decisions, risks and issues escalations to not compromise the Project schedule.
- 15) The State is responsible for extracting data from source systems, data cleansing, data mapping, data transformation, de-duplication and data validation. The State is responsible for providing data extracts from the legacy source systems in the format requested by Accenture to support data migration activities. Accenture is responsible for the data loading exercise which will be performed using Salesforce Data loader. Reconciliation checks will be performed by the State.
- 16) Existing patient and contact data that the State has already collected will be collected from the various sources by the State and supplied in a format requested by Accenture to support such migration activity. Any work-in-progress cases will be created in the new solution at the beginning of the case workflow.
- 17) The State is responsible for User Acceptance Testing (UAT) activities and execution and Accenture will provide bug-fixing support for that.
- 18) WalkMe is proposed for adoption and enablement post training.

- 19) The State will be executing all related HR onboarding activities and questions (pay, benefits, employment contracting).
- 20) The State will provide all necessary information for Accenture to contact agents and supervisors (e.g., name, email, IDs) for communications and training.
- 21) The State will provide business resources that can be escalated to if readiness & adoption metrics are not met.
- 22) The State will provide business resources that can be escalated to for approval of materials.
- 23) Social Listening platform technology to be decided collectively with the client, if they do not have an existing platform (Sprinklr, Brandwatch, Crimson Hexagon, etc...). Approximately one week required to set up, if required.
- 24) Assumes paid digital media dollars as a passthrough cost. Paid media is a range, to be determined during media planning first 2 weeks of engagement and discussed with clients based on their audience target goals.
- 25) Paid digital media would be planned, executed and managed by Accenture inclusive of reporting.
- 26) Week 6/7 of engagement would determine ongoing needs for content, listening and media to adjust Phase 2 scope accordingly.
- 27) Assumes English Language ads. Translation/version costs would be additional based on priority languages identified by clients.
- 28) State and Local Health Jurisdictions shall retain ownership and access to their data in the CRM.
- 29) The CRM platform has offline capability, it will need to be prioritized and configured for release.
- 30) The following additional terms apply to Marketing and Communications Tasks, Activities, and Work Product for this Agreement:
  - a) The Marketing and Communications Services will not require any access or use of any Personal Data.
  - b) All content created is the State's. If the Contractor creates or assists in the creation of any content, the State will have final approval of and responsibility for the content, including all responsibility for legal or regulatory compliance of the content.
  - c) The Contractor's Services and Work Product exclude providing guidance on the content of agency communications and/or announcements on matters of interest to the public. The communications will not be targeted at any individuals, and no personal data will be used in the targeting, strategy or content of the communications.

- d) The State will have final approval as to which sections of the public to target, and the frequency, timing, method, and content/tone of the communication.

#### **14. WORK ORDER AUTHORIZATION**

Both parties agree that this engagement shall remain as fluid and agile as possible, as the COVID-19 environment is constantly changing. As such, the Work Order Authorization (WOA) process will be used throughout the Term of this Agreement to further refine and/or revise the scope of services as necessary to ensure a successful engagement.

The Contractor, with the State's assistance, shall complete a WOA for approval by the State as the first step for any changes to Tasks, Activities, and/or Work Product within this Agreement. The parties will mutually agree ahead of time on change specifications and acceptance criteria, which the Contractor shall document in writing in a WOA. The WOA addresses all components required by this Agreement and further defines, in writing, any changes mutually agreed upon during meetings and planning sessions.

The Contractor shall provide tasks to the State Project Manager by the due date specified in the approved WOA, unless the State has granted written permission, by way of an amended WOA, to deviate from the schedule. WOAs shall be comprehensive in the level of detail and quality, be professional in presentation, and consistent in style and quality. If a document is a composite work of many people within the Contractor's organization, the document is edited for style and consistency.

- A. Contractor shall prepare a WOA using Exhibit 4: Work Order Authorization (WOA) document.
- B. Is it understood and agreed upon by both parties that all of the terms and conditions of this Agreement shall remain in full force, regardless of the inclusion of any subsequent WOA. Subsequent WOAs shall in no way constitute a separate Agreement, nor in any way amend or supersede any of the provisions of this Agreement.
- C. Each WOA shall consist of a detailed statement of the purpose, objective, and/or goals to be undertaken by the Contractor, including, but not limited to the:
  - 1) Identification of all significant material to be developed by the Contractor and delivered to State;
  - 2) Identification of all significant materials to be delivered by State to the Contractor;
  - 3) Estimated time schedule of the provision of services by the Contractor;
  - 4) Costs for the provision of services to be completed by the Contractor;



- 5) Acceptance criteria for the work to be performed; and
  - 6) Estimated number of work hours required to accomplish the purpose, objective and/or goals; and
  - 7) Contractor's billing rates as identified in Exhibit 1-A: Cost Worksheet per work hour, and the Contractor's estimated total cost for each job classification required to perform services identified in the WOA.
- D. All WOAs must be in writing and signed by the Contractor and State. The Contractor shall not begin work on a WOA until the authorized State staff has approved the WOA.
- E. The State has the right to require the Contractor to stop or suspend work on any WOA.
- F. If in the performance of the work, the Contractor determines that a WOA to be performed under this Agreement cannot be accomplished within estimated work hours, the Contractor shall immediately notify the State, in writing, of the Contractor's estimate of additional work hours and cost which are required to complete the WOA in full. Upon receipt of the notification, the State will:
- 1) Authorize the Contractor to expend the estimated additional work hours or service in excess of the original estimate necessary to accomplish the work; or
  - 2) Terminate the WOA; or
  - 3) Alter the scope of the WOA in order to define tasks that can be accomplished within the remaining estimated work hours and cost.
  - 4) Notify the Contractor in writing of its decision within three (3) calendar days after receipt of the notification.
- G. Completion of each WOA is subject to State approval, as described in Section 15, Work Order Authorization Acceptance or Rejection, below.

## **15. WORK ORDER AUTHORIZATION ACCEPTANCE OR REJECTION**

All concluded work shall be submitted for review and acceptance or rejection to the State Project Manager on a Work Order Authorization Acceptance Document (WAD) (see Exhibit 5: Work Order Authorization Acceptance Document). The Contractor shall provide the State Project Manager, or his/her designee, with a WAD upon successful completion of the work identified in an approved WOA. If the acceptance criteria of the approved WOA has been met, the Contractor and State Project Manager, or his/her designee, signs the WAD. Signed acceptance through the use of the WAD process is required before processing an invoice for payment.

## **16. ISSUE AND ESCALATION PROCESS**

### **A. ISSUE**

The parties acknowledge and agree that certain technical and/or project-related problems or issues may arise and that such matters shall be brought to the State's attention. Problems or issues shall normally be reported in regular status reports or in-person meetings. However, there may be instances where the severity of the problem justifies escalated reporting. To this extent, the Contractor and State determines the level of severity and notify the appropriate parties.

### **B. ESCALATION PROCESS**

Should the Contractor's Project Manager and the State Project Manager not agree on a resolution to any particular issue, the Contractor and the State agree to raise the issue to the State Project Executive Steering Committee. The State Project Executive Steering Committee decides on a resolution within two (2) State business days of being made aware of the issue. The State may extend this timeline at its sole discretion.

The State Project Executive Steering Committee uses whatever resources it deems necessary to seek a rapid and just resolution to an issue at the State Project Executive Steering Committee level. If a resolution cannot be reached at the State Project Executive Steering Committee level within the time frame prescribed above, either party may assert its other rights and remedies as provided by this Agreement.

## **17. REVISIONS TO GENERAL PROVISIONS – INFORMATION TECHNOLOGY (GSPD-401IT)**

### **A. WARRANTY**

For purposes of this Agreement the following language shall replace and supersede the warranty period set forth in the IT General Provisions Section 18(a) - the warranties shall begin upon delivery of the goods and services in question and extend for the term of the contract or for 6 months, whichever is longer.

### **B. LIMITATION OF LIABILITY**

For purposes of this Agreement, and pursuant to the authority granted to the California Department of Technology, Deputy Director, Statewide Procurement Division, in the event of an unauthorized use or disclosure of Personal Data caused by the Contractor's breach of (i) the Contractor's obligations under Section 8(A) of this SOW or (ii) any statutes, rules, regulations or orders governing Personal Data, Contractor's liability will be limited to an amount equal to sixty million dollars (\$60,000,000) and any conflicting provisions of Section 26(b)(i) and 26(d)(ii) with respect to Contractor's liability for Personal Data shall not apply.

### **C. INDEMNIFICATION**

For purposes of clarification, Contractor's obligation to indemnify the State pursuant to IT General Provisions Section 28, shall not apply to any personal injury or death claims from members of the public arising from the contact tracing Services.

EXHIBIT 1-A: COST WORKSHEET

				Initial Contract Term							First 6 Month Extension Option						Second 6 Month Extension Option							
Workstream	Description	Pricing Factors	Type	One-Time	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	Month 13	Month 14	Month 15	Month 16	Month 17	Month 18	TOTAL	
Program Management																								
Program Management	Command Center Enablement General	See Resource Capacity per month in Appendix A - Statement of Work Section 11 Table 3 - Program Management.	Professional Services		\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$2,700,000
TOTAL:				\$0	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$2,700,000
Call Center Operations*																								
Contact Center Management*	Management of teams and associated services. Role breakouts are included in the Command Center Breakout Table	Per FTE* (For first 1000 agents - see scaling factors on Command Center Break Out Table)	Professional Services		\$1,100,000	\$1,100,000	\$1,100,000	\$1,100,000	\$1,100,000	\$1,100,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$18,000,000
Nice	Workforce management software standup		Professional Services	\$235,000																				\$235,000
TOTAL:				\$235,000	\$1,100,000	\$1,100,000	\$1,100,000	\$1,100,000	\$1,100,000	\$1,100,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$18,235,000
CRM Implementation																								
CRM/Omni Channel Enablement (Salesforce)	Transfer, design, development, implementation and support of contact tracing solution on Salesforce and AWS Connect	See Resource Capacity per month in Appendix A - Statement of Work Section 11 Table 3 - CRM Implementation.	Professional Services		\$975,000	\$975,000	\$800,000	\$600,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$7,550,000
Copado	Dev Ops Platform Software	Setup and configuration	Professional Services	\$25,000																				\$25,000
WalkMe	Digital Adoption Software	Setup and configuration	Professional Services	\$20,000							\$20,000						\$20,000							\$60,000
TOTAL:				\$45,000	\$975,000	\$975,000	\$800,000	\$600,000	\$300,000	\$300,000	\$320,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$320,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$7,635,000
Marketing & Communications																								
Marketing & Communications	Communications planning, creative development, and creative campaign optimization	See Resource Capacity per month in Appendix A - Statement of Work Section 11 Table 3 - Marketing and Communications.	Professional Services		\$220,000	\$182,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$402,000
	Digital and audio paid media plan.		Professional Services		\$86,000	\$78,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$164,000
Paid Media	Paid media pass thru costs (initial digital paid media budget)		Other (pass thru paid media costs NOT FEES - OOP/ODCs)		\$175,000	\$175,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$350,000
Social Listening	Social listening platform setup and run		Professional Services		\$60,000	\$60,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$120,000
TOTAL:				\$0	\$541,000	\$495,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,036,000
Reporting and Analytics																								
Reporting & Analytics	The Reporting and Analytics solution includes operational reporting integrated to Salesforce related to supporting call center activity, dashboards providing contact tracers and resource coordinators with geographically relevant and accessible resources.	See Resource Capacity per month in Appendix A - Statement of Work Section 11 Table 3 - Metrics and Evaluation.	Professional Services	\$0	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$1,800,000
AIP	AIP Operations Analytics		Managed Service	\$42,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$43,000	\$816,000
TOTAL:				\$42,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$143,000	\$2,616,000
GRAND TOTAL:				\$322,000	\$2,909,000	\$2,863,000	\$2,193,000	\$1,993,000	\$1,693,000	\$1,693,000	\$1,563,000	\$1,543,000	\$1,543,000	\$1,543,000	\$1,543,000	\$1,543,000	\$1,543,000	\$1,563,000	\$1,543,000	\$1,543,000	\$1,543,000	\$1,543,000	\$1,543,000	\$32,222,000
				Initial Contract Term Total:							First 6 Month Extension Option Total:						First 6 Month Extension Option Total:							
				\$13,666,000							\$9,278,000						\$9,278,000							

\*The Call Center Operations billings is based on up to 1,000 CA agents. For every additional 1,000 CA agents in a given month, these billings will increase by \$240,000. See Command Center Break Out Table

The monthly capacity will be based on a State provided forecast 30 days prior to the month CA agents will be provisioned. The billed amount will be prorated to the number of agents in between bands. As an example, if the number of CA agents is 2,400, the amount billed will be \$1,340,000 plus 40% of the difference between \$1,580,000 and \$1,340,000 (\$96,000) for a total amount of \$1,436,000.

**Scaling Price For Agent Growth**

Total CA Agents	up to 1,000	2,000	3,000	4,000	5,000	6,000	7,000	8,000	9,000	10,000
Contact Center FTEs	60	75	90	105	120	135	150	165	180	195
Monthly Price (Months 1 - 6)	\$ 1,100,000	\$ 1,340,000	\$ 1,580,000	\$ 1,820,000	\$ 2,060,000	\$ 2,300,000	\$ 2,540,000	\$ 2,780,000	\$ 3,020,000	\$ 3,260,000
Monthly Price (Months 7 - 18)	\$ 950,000	\$ 1,190,000	\$ 1,430,000	\$ 1,670,000	\$ 1,910,000	\$ 2,150,000	\$ 2,390,000	\$ 2,630,000	\$ 2,870,000	\$ 3,110,000

	CA Agents									
Roles	1,000	2,000	3,000	4,000	5,000	6,000	7,000	8,000	9,000	10,000
o Operations Director	1	1	1	1	1	1	1	1	1	1
o Service Delivery Leads	20	35	50	65	80	95	110	125	140	155
o Demand Management	8	8	8	8	8	8	8	8	8	8
o Quality Assurance	4	4	4	4	4	4	4	4	4	4
o Compliance	4	4	4	4	4	4	4	4	4	4
o Mobilization	4	4	4	4	4	4	4	4	4	4
o Training	4	4	4	4	4	4	4	4	4	4
o Process Improvement	4	4	4	4	4	4	4	4	4	4
o Clinical	4	4	4	4	4	4	4	4	4	4
o Resource Coordinator	7	7	7	7	7	7	7	7	7	7

\*The Call Center Operations billings is based on up to 1,000 CA agents. For every additional 1,000 CA agents in a given month, these billings will increase by \$240,000

The monthly capacity will be based on a State provided forecast 30 days prior to the month CA agents will be provisioned. The billed amount will be prorated to the number of agents in between bands. As an example, if the number of CA agents is 2,400, the amount billed will be \$1,340,000 plus 40% of the difference between \$1,580,000 and \$1,340,000 (\$96,000) for a total amount of \$1,436,000.

## **EXHIBIT 1-B: BUDGET DETAIL AND PAYMENT PROVISIONS**

### **1. PAYMENT TERMS AND INVOICING**

#### **A. PAYMENT TERMS**

All payments under this Agreement shall be made in accordance with the State's payment policies. The Contractor shall provide monthly invoices to the State for services rendered under Workstream Capacity. Work Order Authorizations (WOA) may be used for services outside of Workstream Capacity (standard monthly services), including unanticipated Tasks, Activities, and/or Work Product and changes in scope due to the Proclamation of a State Emergency. See Exhibit 1-A: Cost Worksheet for monthly payment details.

#### **B. MONTHLY/TIME AND MATERIALS INVOICES**

- 1) Upon successful completion and acceptance of services performed and satisfactorily rendered, the Contractor shall submit an invoice for payment. Payment will be based on the Workstream Capacity expenses identified in Exhibit 1-A: Cost Worksheet.
- 2) Invoices shall be submitted no more frequently than monthly in arrears for Workstream Capacity services satisfactorily rendered, and only upon receipt of an approved invoice.
- 3) For services approved by the State, and upon receipt of an undisputed invoice, the State agrees to compensate the Contractor in accordance with Exhibit 1-A: Cost Worksheet. Incomplete or disputed invoices shall be returned to the Contractor, unpaid, for correction.
- 4) Monthly invoices shall be itemized and shall include the following Information:
  - The Contractor name, address and phone number
  - Contract number
  - Invoice number
  - Itemized expenses per Exhibit 1-A: Cost Worksheet
  - Dates of service(s) performed
  - If applicable, personnel name, classification, rate per hour and hours worked
  - Total amount of invoice
- 5) Directions for submission of invoices will be provided to the Contractor after Contract award.

#### **C. WORK ORDER AUTHORIZATION INVOICES**

- 1) Upon successful completion and acceptance of services performed and satisfactorily rendered under an approved Work Order Authorization (WOA), the Contractor shall submit an invoice for payment. Payment will be based on the dollar amount identified in the approved WOA.
- 2) For services approved by the State, and upon receipt of an undisputed invoice, the State agrees to compensate the Contractor in accordance with

the respective approved WOA. Incomplete or disputed invoices shall be returned to the Contractor, unpaid, for correction.

- 3) For invoices associated with an approved WOA, a Work Order Authorization Acceptance Document (WAD) must be attached to respective invoice(s). The WAD shall be signed by the State Contract Manager confirming that the services have been accepted to the State's satisfaction.
- 4) Invoices for work performed under a WOA shall be itemized and shall include the following Information:
  - The Contractor name, address and phone number
  - Contract number
  - Invoice number
  - Dates of service performed
  - If applicable, personnel name, classification, rate per hour and hours worked
  - WOA#
  - WAD# (WAD must be attached)
  - If invoice is for an unanticipated task, the approved WOA and WAD must be attached
  - Total amount of invoice

## **2. TRAVEL AND PER DIEM**

The Contractor is responsible for all charges incurred traveling to and from the implementation, maintenance, support, and training sites. Travel/per diem reimbursement is not included in this Contract.

## **3. PROMPT PAYMENT CLAUSE**

The Prompt Payment Act requires State agencies to pay properly submitted, undisputed invoices within forty-five (45) calendar days of initial receipt. However, CDPH shall pay properly submitted, undisputed invoices under this Agreement within thirty (30) days of initial receipt.

## **4. CONTRACT COST LIMITATION**

Total amount of this Contract shall not exceed the amount specified on the Standard Agreement (TECH 213), the combined WOAs, and any Amendments thereafter.

## **5. BUDGET CONTINGENCY CLAUSE**

- A. It is mutually agreed that if the Budget Act of subsequent years covered under this Contract does not appropriate sufficient funds for State, this Contract shall be of no further force and effect. In this event, the State will have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Contract and Contractor shall not be obligated to perform any provisions of this Contract.

- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of State, the State will have the option to either cancel this Contract with no liability occurring to the State other than as contained herein, specifically as described in SaaS General Provisions, Section 16(d), Termination for Convenience of the State.
- C. In addition, this Contract is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or State Legislature that may affect the provisions, terms or funding of this Contract in any manner.



## **EXHIBIT 2: ADDITIONAL LEGAL TERMS REQUIRED FOR FEMA REIMBURSEMENT**

### **1. EARLY TERMINATION**

**Contract may be terminated pursuant to Termination for Convenience and Termination for Cause set forth in GSPD401IT in Sections 22 and 23 thereof.**

### **2. REMEDIES**

In the event of a breach by the Contractor of any term or provision of this Agreement, the state shall have the right to pursue all remedies set forth in the GSPD401IT, including but not limited to Rights and Remedies of the State for Default set forth in GSPD401IT Section 25.

### **3. CHANGES AND MODIFICATIONS**

Any cost of a change, modification, change order, or constructive change to the Agreement must be allowable and allocable within the scope of this Agreement, and reasonable for the completion of project scope. Changes can be made by either Party to alter the method, price, or schedule of the work without breaching the agreement if both parties approve in writing.

### **4. CLEAN AIR ACT**

- A. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.
- B. The Contractor agrees to report each violation to the state and understands and agrees that the state will, in turn, report each violation as required to assure notification to the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
- C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### **5. FEDERAL WATER POLLUTION CONTROL ACT**

- A. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.

- B. The Contractor agrees to report each violation to the state and understands and agrees that the state will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
- C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

## **6. DEBARMENT AND SUSPENSION CLAUSE**

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by the state. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the state, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## **7. BYRD ANTI- LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier

shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the state.

#### APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the

Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

CONTRACTOR

By \_\_\_\_\_  
Date \_\_\_\_\_

## 8. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
- 1) Competitively within a timeframe providing for compliance with the contract performance schedule;
  - 2) Meeting contract performance requirements; or
  - 3) At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines website <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>
- C. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

## 9. ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

- A. The Contractor agrees to provide the state, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

- C. The Contractor agrees to provide the FEMA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- D. In compliance with the Disaster Recovery Act of 2018, the state and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

#### **10. DEPARTMENT OF HOMELAND SECURITY SEAL, LOGO, FLAGS**

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

#### **11. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS**

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

#### **12. NO OBLIGATION BY FEDERAL GOVERNMENT**

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

#### **13. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

The Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.

### EXHIBIT 3: WORK ORDER AUTHORIZATION (WOA)

CONTRACTOR NAME: \_\_\_\_\_

CDPH CONTRACT NUMBER: \_\_\_\_\_ WOA NUMBER: \_\_\_\_\_

WOA START DATE: \_\_\_\_\_ WOA END DATE: \_\_\_\_\_

WOA TITLE: \_\_\_\_\_

ESTIMATED LABOR HOURS: \_\_\_\_\_ HOURLY RATE: \_\_\_\_\_

TOTAL COST OF APPROVED WOA: \_\_\_\_\_

<b>DESCRIPTION OF TASKS:</b>
<b>PURPOSE, GOAL, OR OBJECTIVE:</b>
<b>CONTRACTORS RESPONSIBILITIES:</b>
<b>STATE RESPONSIBILITIES:</b>
<b>COMPLETION/ACCEPTANCE CRITERIA:</b>

Upon approval, this WOA is mutually agreed to and hereby incorporated into the Contract.

**AUTHORIZED AND APPROVED:**

\_\_\_\_\_  
Contractor Project Manager (print name)

\_\_\_\_\_  
CDPH Contract Manager (print name)

\_\_\_\_\_  
Contractor Project Manager / DATE

\_\_\_\_\_  
CDPH Contract Manager / DATE

**EXHIBIT 4: WORK ORDER AUTHORIZATION ACCEPTANCE DOCUMENT (WAD)**

CONTRACTOR NAME: \_\_\_\_\_

CDPH CONTRACT NUMBER: \_\_\_\_\_ WOA NUMBER: \_\_\_\_\_

WOA COMPLETION DATE: \_\_\_\_\_

TOTAL COST OF APPROVED WOA: \_\_\_\_\_

**DESCRIPTION OF TASKS:**

*Should summarize Tasks as appropriate*

**State Acceptance/Rejection Statement:**

*For deficiencies that are not material, indicate conditions of acceptance, as applicable*

Upon approval, this WOA is mutually agreed to and hereby incorporated into the Contract.

**AUTHORIZED AND APPROVED:**

\_\_\_\_\_  
Contractor Project Manager (print name)

\_\_\_\_\_  
CDPH Contract Manager (print name)

\_\_\_\_\_  
Contractor Project Manager / DATE

\_\_\_\_\_  
CDPH Contract Manager / DATE

**Note: All invoices must be accompanied by a CDPH-approved Work Order Authorization (WOA) and its respective Work Order Authorization Acceptance Document (WAD). If an invoice is submitted without the approved WOA and WAD, CDPH's Contract Manager shall take no action until said documents are received.**

## **ATTACHMENT 1: REMOTE WORK PROTOCOLS**

This Attachment sets out the remote work protocols to be followed by the Parties.

### **1. WORKSTATIONS**

Accenture will implement controls for all workstations/laptops on Accenture provided devices that are used in connection with service delivery/receipt incorporating the following:

- Encrypted hard drive;
- Software agent that manages overall compliance of workstation and reports a minimum on a monthly basis to a central server;
- Patching process to confirm workstations are current on all required patches;
- Ability to prevent non-approved software from being installed (e.g., peer-to-peer software);
- Antivirus with a minimum weekly scan;
- Firewalls installed;
- Data Loss Prevention tool (subject to any legal requirements, e.g. Works Council); and
- Web filtering.

As the State has approved the use of personal devices in order to provide Services, the parties acknowledge and agree that the workstation protocols identified above do not apply with regard to those personal devices.

### **2. ACCESS CONTROL**

- Two factor authentication is enabled on Client and Accenture VPN;
- Client will promptly provision authentication credentials, including any additional requirements to support Client's two factor authentication;
- Client and Accenture will promptly deactivate authentication credentials where such credentials have not been used for a period of time (such period of non-use not to exceed six months);
- Client and Accenture will deactivate authentication credentials upon notification that access is no longer needed (e.g. employee termination, project reassignment, etc.) within two business days; and
- Client and Accenture to manage the access controls using the least privilege access protocols where applicable.

### **3. CONNECTIVITY**

- Where Accenture personnel connect to Accenture networks and infrastructure, Accenture is responsible for applying Accenture standard



technical and organizational security controls to such Accenture-provided workstation/laptop and the Accenture environment.

- Where Accenture personnel are using Accenture or Client provided desktop and/or laptops and accessing the Client network, environments and systems, via VDI, Client is responsible for applying Client's standard technical and organizational security controls in respect of such network, environments and systems to the Client's network and environments.
- Accenture cannot confirm that the wireless network used by such Accenture personnel is protected with agreed upon security standards.

#### **4. CLIENT STANDARDS**

To the extent reasonably possible, Accenture personnel working remotely will continue to abide by the applicable Client policies and standards in performing the Services. Such policies govern and control within the Client's systems and environments.

## ATTACHMENT 2: COVID-19 CONTRACT LABOR STANDARDS

### OBLIGATIONS OF THE CONTRACTOR

1. ADA compliance. The Contractor warrants that it is in compliance with the Americans with Disabilities Act (ADA) and all regulations issued there under and that it will comply in all respects with the provisions of the Act and regulations there under. The Contractor shall advise the State of any exemptions, exceptions to or waivers from this statutory requirement; the Contractor shall notify the State of the Contractor's ADA-related accessibility and other accommodating ADA-related arrangements. the State shall notify the Contractor in advance of any special accommodations needed, when such needs are known by the State. The Contractor agrees to hold harmless the state, the State, volunteers and employees from any and all claims arising from ADA violations within the scope and responsibility of the Contractor and its activities.
2. High-Road Labor Standards. The Contractor warrants that it and any subcontractors it may use to fulfill this contract will satisfy the following high-road labor standards:
  - A. Fair wages. All employees performing work to fulfill this agreement shall be paid no less than the minimum [Trainee Wage](#) set by the Employment Training Panel for the county in which the work is performed, or the applicable federal, state, or local minimum wage, whichever is greater. Healthcare benefits valued at up to \$2.50 per hour can be used to meet this wage requirement.
  - B. Fringe benefits. Fringe benefit contributions shall be made on behalf of each employee performing work to fulfill this agreement in an amount no less than the fringe benefit contributions required by the most recent Service Contract Act area-wide wage determination issued by the United States Secretary of Labor for the locality in which the work is performed.
  - C. No misclassification. Individuals performing work to fulfill this agreement shall not be misclassified as independent contractors.
  - D. Paid sick leave. The Contractor and any subcontractors performing work to fulfill this agreement shall comply with all applicable federal, state, and local laws pertaining to paid sick leave, including any anti-retaliation provisions contained in such laws.
  - E. Workplace safety and health. The Contractor and any subcontractors performing work to fulfill this agreement shall comply with all applicable safety and health requirements, including those identified in Cal/OSHA's [Interim Guidelines for General Industry on 2019 Novel Coronavirus Disease \(COVID-19\)](#), including requirements applicable to worksites where COVID-

19 exposure is a known hazard. The Contractor and any subcontractors shall comply with Labor Code sections 6310 and 6311 pertaining to protection of employees who file complaints or refuse to work in the face of hazardous conditions.

- F. Priority for unemployed workers. When hiring any new employees to perform work to fulfill this agreement, the Contractor and any subcontractor shall give preference to any applicant who is currently unemployed and who is qualified for the position over applicants who are qualified but not currently unemployed.

### ATTACHMENT 3: CONTRACTOR'S TEAM STRUCTURE

## TEAM STRUCTURE (DRAFT)

