



CM 401 Sample Governance Contract Terms

This _____ Agreement ("**Agreement**") is made and entered into as of _____ (the "**Effective Date**"), by and between the Washington State Department _____, an agency of the state of Washington, with a principal place of business at 6835 Capitol Boulevard SE, Tumwater, Washington 98504 ("AGENCY"), and Vendor, a _____, with a place of business at _____ ("VENDOR").

WHEREAS, on _____, 20____, AGENCY issued a request for proposals ("**RFP**") to provide, _____ and to _____ (each of which above defined terms are further defined herein)

WHEREAS, on _____, VENDOR submitted to AGENCY its written response to the RFP, and VENDOR represented to AGENCY that VENDOR had the solutions, services, skills and personnel required to meet the requirements set forth in the RFP and in the Agreement.

WHEREAS, VENDOR acknowledges that during the RFP evaluation period, including the implementation planning study workshops and contract negotiations, it had sufficient time and opportunity to conduct comprehensive due diligence on the Project, including the ability to obtain a full understanding and clarification of the AGENCY Business and Technical Requirements.

WHEREAS, in reliance on the representations made by VENDOR in the RFP Response as clarified in subsequent discussions, Demonstrations, presentations to AGENCY and the commitments and assurances made by VENDOR herein, AGENCY selected VENDOR over other prospective technology providers to implement the BPMS Solution and ERA.

WHEREAS, AGENCY and VENDOR want to specify the terms and conditions under which VENDOR and AGENCY will form their technology partnership, implement the _____ and develop the _____, and engage in future projects as may be agreed to by the parties.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the foregoing and as follows:

ARTICLE 1 **SCOPE OF AGREEMENT, PARTNERING PRINCIPLES** **AND RELATIONSHIP MANAGEMENT**

1.1 *Scope of Agreement.* The Agreement shall apply to all Solutions and Services provided by VENDOR to AGENCY, whether such Solutions and Services are contemplated as of the Effective Date or thereafter, including the licensing of new or additional products, engaging in new or additional projects, purchasing new equipment and the like, which shall all be subject to all applicable Washington state laws and policies related to competitive procurement.

1.2 *Partnering Principles.* The principles identified below ("**Partnering Principles**") include principles that the parties have determined to be important to ensure the success of their



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relationship. The Partnering Principles function as a guideline regarding the parties' overall intentions for the Agreement and all Project Agreements and Contract Supplements executed pursuant to the Agreement. If any term or condition of the Agreement or any Project Agreement or Contract Supplement is ambiguous or unclear or if the parties did not anticipate a particular issue, the parties shall refer to and apply the Partnering Principles to resolve and/or address the ambiguous, unclear and/or unanticipated issue.

PARTNERING PRINCIPLE #1

DIRECT SENIOR EXECUTIVE OVERSIGHT

In a long-term strategic business relationship, direct senior executive oversight and involvement by the parties is needed to ensure all commitments and timeframes are met.

PARTNERING PRINCIPLE #2

STATE-OF-THE-ART PRODUCTS

AGENCY will be making a significant investment in the products and services to be provided by VENDOR, and AGENCY wants to ensure that VENDOR and any providers of Third Party Solutions and/or other subcontractors remain competitive solution providers. VENDOR commits that the products provided to AGENCY shall be technologically competitive as measured against **OTHER COMMERCIALY AVAILABLE PRODUCTS OF THE SAME TYPES.**

PARTNERING PRINCIPLE #3

COMPETITIVE PRICING AND PREDICTABILITY OF ON-GOING COSTS AND EXPENSES

Products and Services provided to AGENCY by VENDOR must be competitively priced. Costs and expenses must be predictable, clearly articulated, and understood by the parties prior to initiating a project or any change orders. Cost, personnel and other resource requirements must be clearly outlined for all parties.

PARTNERING PRINCIPLE #4

DECISION MAKING AUTHORITY

While ultimate decision-making authority for implementations and project-related items rest with AGENCY, VENDOR must manage its personnel, providers of Third Party Solutions and other subcontractors, and discharge its duties within the agreed parameters and requirements to ensure projects are successfully implemented.



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PARTNERING PRINCIPLE #5

TIME-TO-MARKET SOLUTIONS

In a long-term technology relationship, time-to-market for products is critical to AGENCY. VENDOR must ensure performance on a timely basis and deliver and implement fully tested and operational products.

PARTNERING PRINCIPLE #6

QUALITY PERSONNEL TO SUPPORT THE RELATIONSHIP

Qualified personnel will be devoted by the parties to the relationship. The parties will commit their senior executives and management, as well as administrative, technical and other support personnel, to achieve the objectives of the relationship.

PARTNERING PRINCIPLE #7

OPEN ARCHITECTURE ENVIRONMENT

Products provided to AGENCY by VENDOR will operate in an open architecture environment, and VENDOR will make available to AGENCY all interfaces and supporting documentation specifications to promote interoperability among AGENCY' other systems and devices.

PARTNERING PRINCIPLE #8

COOPERATION WITH AGENCY' OTHER TECHNOLOGY PARTNERS

Given the various technology platforms supporting AGENCY, joint planning, open communication, and cooperation and collaboration between AGENCY and all of its technology partners will be required. As such, VENDOR, its providers of Third Party Solutions and other subcontractors, as necessary, will participate in these cooperative activities.

PARTNERING PRINCIPLE #9

ALIGNMENT OF ACCOUNTABILITY AND RESPONSIBILITY

Accountability and responsibility of roles will be aligned to ensure that each party is responsible for the aspects of a project or relationship that they control.

1.3 Relationship Management. The parties commit to proactive sponsorship of the relationship created under the Agreement, and to further the interests of the relationship, agree to the following:

1.3.1 General. Each party shall allocate appropriate, quality personnel to fulfill the objectives of the relationship including, as appropriate and applicable, personnel to fulfill the development, implementation and support obligations set forth herein and in a



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Project Agreement and/or Contract Supplement. If either party believes that the other has not allocated sufficient personnel, the matter will be brought to the attention of the Executive Sponsors for resolution.

1.3.2 Executive Sponsors. Each party shall designate a senior executive-level individual(s) (for AGENCY, the "**AGENCY Executive Sponsor(s)**," and for VENDOR, the "**VENDOR Executive Sponsor**," and each an "**Executive Sponsor(s)**") who will have overall responsibility for the relationship between the parties with respect to the relationship. The VENDOR Executive Sponsor shall have full authority to act on behalf of VENDOR with respect to all matters related to the Agreement. Each party may designate a new Executive Sponsor at any time by providing written notice thereof to the other party. If AGENCY determines that individual appointed by VENDOR is not fulfilling the goals of the relationship, AGENCY shall communicate that determination to VENDOR, and VENDOR shall replace such individual with an individual that both parties agree is suitable to fulfill the VENDOR Executive Sponsor role. The VENDOR Executive Sponsor's participation as sponsor of the relationship shall not be chargeable to AGENCY.

1.3.3 Executive Briefings. The relationship with VENDOR will involve a significant investment and substantial commitment from AGENCY in the form of monies, personnel, time and effort. During the pendency of the ____ Project, the Executive Sponsors and other appropriate representatives from each party shall meet at least quarterly, or more frequently if needed, to discuss the overall relationship of the parties, the status of the ____ Project, the status of and any risks, issues and any problems or difficulties relating to the ____ Project and/or Services, whether timeframes are being met, and what actions VENDOR can take to mitigate such risks, issues, problems or difficulties.

1.3.4 VENDOR Account Executive. VENDOR shall designate an individual (the "**VENDOR Account Executive**") to serve as VENDOR's regular point of contact to administer the Agreement and projects, oversee the delivery of Solutions, Equipment (if any) and Services to AGENCY and the overall performance of VENDOR's responsibilities under the Agreement and any Project Agreements and Contract Supplements. The VENDOR Account Executive shall attend all executive briefings. If AGENCY perceives that the VENDOR Account Executive is not effectively discharging her or his duties, at AGENCY' request, VENDOR shall replace such individual. VENDOR shall not charge AGENCY for any Services, meeting time, etc., provided by the VENDOR Account Executive.

1.3.5 VENDOR Project Management. VENDOR shall appoint one or more VENDOR project manager(s) ("**VENDOR Project Manager(s)**"), and where more than one VENDOR Project Manager is assigned, then a project director to oversee the multiple VENDOR Project Managers ("**VENDOR Project Director**").

1.3.6 VENDOR Contract Manager. VENDOR shall designate an individual (the "**VENDOR Contract Manager**") to be responsible primarily for ensuring VENDOR's contractual compliance with the Agreement, and for proactively communicating and coordinating with VENDOR's Project Director, Project Manager(s) and other VENDOR personnel as needed, to ensure such compliance. In furtherance thereof, the VENDOR Contract Manager shall, among other things:



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(a) Be fully knowledgeable about all the commitments made by VENDOR in the Agreement, Project Agreements and Contract Supplements, especially where such commitments may differ from VENDOR's general business practices and policies;

(b) Advise VENDOR personnel and VENDOR's subcontractors on the commitments made by VENDOR to ensure the VENDOR personnel have a full and complete understanding of the level and scope of the commitments made under the Agreement, Project Agreements and Contract Supplements;

(c) Along with the VENDOR Account Executive, serve as a point of contact to administer the Agreement;

(d) Ensure that all policies and procedures relating to VENDOR's administration of the Agreement are applied consistently by VENDOR; and

(e) Such other duties or responsibilities relating to the administration of the Agreement as may be reasonably requested from time-to-time by either party.

1.3.7 VENDOR Information Security Officer; Compliance with Security Policies and Procedures, and Security Certifications.

(a) ***Compliance with Security Policies and Procedures.*** VENDOR shall comply with: (i) security requirements and obligations required by applicable Law; (ii) AGENCY Security Policies and Procedures; (iii) the then-current ISO (International Organization for Standardization) and IEC (International Electrotechnical Commission) ISO/IEC 27000 series of Information Security Management Systems standards; and (iv) VENDOR's security standards, policies, guidelines and procedures, provided that AGENCY Security Policies and Procedures shall take precedence over any inconsistencies or conflicts with VENDOR's security standards, policies, guidelines and procedures (***subsections (i) through (iv)*** are collectively referred to as the "***Security Policies and Procedures***"). If there is a change in the Security Policies and Procedures from and after the Effective Date that VENDOR determines increases its costs to provide Services, or Support and Maintenance Services, VENDOR may submit a Change Request detailing VENDOR's reasonable increased costs to comply with such change. AGENCY will evaluate the Change Request and either sign a Change Order paying the amounts set forth therein, whereupon VENDOR shall comply with the change in the Security Policies and Procedures, or waive VENDOR's obligation to comply with such change. The VENDOR Information Security Officer's participation shall not be chargeable to AGENCY.

(b) ***VENDOR Information Security Officer Responsibilities.*** VENDOR shall designate a corporate officer ("***Information Security Officer***") who shall, at no cost or expense to AGENCY:



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- (i) Be responsible to ensure VENDOR's initial and on-going compliance with the Security Policies and Procedures;
- (ii) Upon AGENCY' request, an officer of VENDOR shall provide a written certification to AGENCY, confirming VENDOR's compliance with the Security Policies and Procedures; and
- (iii) Upon AGENCY' request, including following any certification related to VENDOR's compliance with the Security Policies and Procedures, meet with State of Washington's Security Program Representatives to discuss VENDOR's certification, the Security Policies and Procedures or other related matters.

The VENDOR Information Security Officer's participation shall not be chargeable to AGENCY.

(c) **Security Certifications.** VENDOR represents and warrants to AGENCY that VENDOR incorporates ISO (International Organization for Standardization) and IEC (International Electrotechnical Commission) ISO/IEC 27000, series of Information Security Management Systems standards ("**ISO Security Standards**") in the development of its information security management and delivery of Services. If and when VENDOR becomes certified under the ISO Security Standards or other security services standard, VENDOR shall maintain such certification on an on-going basis and VENDOR shall provide AGENCY with a copy of such certifications upon request. VENDOR shall provide AGENCY with full and complete copies of any ISO Security Standards audits and reviews, and other security audits, reports and reviews, whether conducted internally by VENDOR or through a Third Party, within five (5) days of a request by AGENCY and within twenty (20) days of VENDOR's receipt of such audits, reports and reviews. If there are deficiencies cited and/or recommendations made, the VENDOR Information Security Officer, the VENDOR Executive Sponsor and other appropriate personnel from VENDOR shall meet to review the deficiencies and recommendations and develop a plan of action to address such items. The implementation of any measures to address deficiencies and/or recommendations shall not be chargeable to AGENCY.

ARTICLE 14 DISPUTE RESOLUTION

14.1 Administrative-Level Performance Review. If a dispute relating to the Agreement arises between the parties, the VENDOR Account Executive and the AGENCY Project Director may, but shall not be obligated to, meet and attempt to resolve the dispute. If the parties are unable to resolve the dispute within ten (10) days after the initial request for a meeting, or if the parties do not agree to invoke this level of dispute resolution, then the parties may seek to resolve the dispute through an executive-level performance review as provided in **Section 14.2**.



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14.2 Executive-Level Performance Review. For disputes that are not resolved at the level specified in **Section 14.1**, the Executive Sponsors may, but shall not be obligated to, meet and attempt to resolve the dispute. If such representatives are unable to resolve the dispute within five (5) business days after the parties have commenced negotiations, or ten (10) days have passed since the initial request for negotiations at this level, or if the parties do not agree to invoke this level if dispute resolution, then the parties may seek to resolve the dispute through mediation as hereinafter provided or, if the parties do not agree to submit the dispute to mediation, to seek any and all rights and remedies that may be available to them as provided in the Agreement.

14.3 Voluntary, Non-Binding Mediation. If the prior levels of dispute resolution are not invoked or are unsuccessful, the parties may, but shall not be obligated to, mutually agree in writing to submit the dispute to non-binding mediation. Mediation must occur within thirty (30) days after the parties agree to submit the dispute to mediation. The parties mutually shall select an independent mediator experienced in information systems of the type in dispute, and each shall designate one or more representatives to meet with the mediator in good faith in an effort to resolve the dispute. The specific format for the mediation shall be left to the discretion of the mediator and the designated party representatives and may include the preparation of agreed-upon statements of fact or written statements of position furnished to the other party.

14.4 Redress in Court; Injunctive Relief. Informal dispute resolution under this Article shall not be a pre-condition to any action by a party to enforce its rights under the Agreement. In addition to other remedies available at law or in equity, either party may seek injunctive relief from a court of competent jurisdiction.

14.5 Continued Performance; No Tolling of Cure Periods. Except where clearly prevented by the area in dispute, the parties shall continue performing their obligations under the Agreement while the dispute is being resolved as provided in this Article, unless and until the dispute is resolved or until the Agreement and/or the applicable Project Agreement or Contract Supplement, as applicable, is terminated. The time frame for a party to cure any breach of the terms of the Agreement shall not be tolled by the pendency of any dispute resolution procedures.