

EXHIBIT B: CHANGES TO MONTEREY COUNTY STANDARD AGREEMENT

1. Section 3.02 is hereby deleted from the Agreement.
 - a. The following sentence is added to the end of Section 6.04 of the Agreement: “Notwithstanding the foregoing, upon determining, in its sole discretion, that the tasks listed in Exhibit A have been completed satisfactorily, County will complete documents presented by Contractor certifying completion of the tasks listed in EXHIBIT A. County will return these certifications to Microsoft to allow for release of payment by Microsoft to CONTRACTOR,
2. The last two sentences of Section 7.02 are hereby deleted from the Agreement.
 - a. The following sentence is added to the end of Section 7.03 of the Agreement: “Upon determining, in its sole discretion, that the tasks listed in Exhibit A have been completed satisfactorily, County shall complete documents certifying completion of tasks completed by Contractor and return to Microsoft to allow Microsoft to pay CONTRACTOR for all work performed prior to such a termination of the Agreement.”
 - b. Section 8.01 of the Agreement is hereby deleted from the Agreement and the following is inserted in the Agreement in its place:

8.01 General Indemnity. CONTRACTOR agrees to defend, indemnify and hold County, its officers, employees, and agents (collectively, the “**County Indemnitees**”) harmless from and against all claims, actions, suits or proceedings (collectively, “**Claims**”), and shall pay all resulting losses, liabilities, damages, settlement amounts costs or expenses (including attorney’s fees) (collectively, “**Losses**”), incurred by any County Indemnitee arising out of or relating to any actual or alleged:

- (a) breach by CONTRACTOR or any of its employees, contractors or agents of any of the representations, warranties, obligations or covenants found in this Agreement;
- (b) personal injury, death, or damage to real or tangible property arising from any act or omission of CONTRACTOR or any of its employees, contractors or agents; and

(c) claims for any taxes, wages, or benefits brought by any of CONTRACTOR'S employees.

County agrees to defend, indemnify and hold CONTRACTOR and its directors, officers, employees, and agents (collectively, the "**CONTRACTOR Indemnitees**") harmless from and against all Claims, and shall pay all resulting Losses incurred by any CONTRACTOR Indemnitee arising out of or relating to any actual or alleged personal injury, death, or damage to real or tangible property arising from any act or omission of County and its employees, agents and other independent contractors.

The indemnifying party shall assume and have the right to conduct: (a) the defense of any Claim for which an indemnitee seeks indemnification pursuant to this Section 8.01; and (b) all negotiations for settlement or compromise unless otherwise mutually agreed to in writing between the parties hereto, provided that the indemnifying party shall not have the right to: (i) execute any agreement, document or pleading that names an indemnitee as a party; (ii) make statements regarding any indemnitee without such indemnitee's prior written consent, which consent will not be unreasonably withheld or delayed; or (iii) settle any claim that in any way assesses blame against any indemnitee or that provides a remedy other than the payment of money by the indemnifying party without such indemnitee's prior written consent.

3. The following Section 8.02 is hereby added to the Agreement:

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES WHATSOEVER OR LOSS OF DATA, WITHOUT REGARD TO CAUSE OR THEORY OF LIABILITY, REGARDLESS OF WHETHER SUCH DAMAGES ARISE OUT OF THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CONTRACTOR'S TOTAL LIABILITY UNDER THIS AGREEMENT FOR DAMAGES, WHETHER ARISING IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, BY STATUTE OR OTHERWISE) OR INDEMNIFICATION UNDER THIS

AGREEMENT SHALL NOT EXCEED THE GREATER OF TEN THOUSAND DOLLARS OR FEES PAID TO CONTRACTOR UNDER THIS AGREEMENT IMMEDIATELY PRECEDING THE ACT OR OMISSION GIVING RISE TO LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, THE FOREGOING LIMITS OF LIABILITY SHALL NOT BE APPLICABLE TO LOSSES ARISING OUT OF OR RELATED TO BREACH OF CONFIDENTIALITY OR WILLFUL OR INTENTIONAL MISCONDUCT OR PERSONAL INJURY, DEATH, OR DAMAGE TO REAL OR TANGIBLE PROPERTY. NO ACTION, SUIT OR OTHER PROCEEDING, REGARDLESS OF FORM, ARISING OUT OF OR RELATED TO THE TRANSACTIONS COVERED BY THIS AGREEMENT MAY BE BROUGHT BY EITHER PARTY AGAINST THE OTHER PARTY MORE THAN SIX (6) MONTHS AFTER THE CAUSE OF ACTION AROSE.

4. The following Sections 15.18 and 15.19 are hereby added to the Agreement:

15.18 Non-solicitation:

Each party agrees that, during the term of this Agreement, and for a period of twelve (12) consecutive months after termination or expiration of this Agreement, each party will not knowingly (i) induce or attempt to induce or otherwise counsel, advise, solicit or encourage any employee to leave the employ of the other party or accept employment with such party or any other person or entity, or (ii) induce or attempt to induce or otherwise counsel, advise, solicit or encourage any person who at the time of such inducement, counseling, advice, solicitation or encouragement had left the employ of the other party within the previous six (6) months to accept employment with any person or entity besides the other party.

15.19 Only Express Warranties:

THE WARRANTIES IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THOSE WARRANTIES OR

CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Except as set forth in this Amendment, the terms of the Agreement are hereby ratified and confirmed.