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AGREEMENT NO. MA-058-13011004

BETWEEN

THE COUNTY OF ORANGE

FOR THE OFFICE OF THE PUBLIC DEFENDER

AND

GB GLOBAL LLC

DBA LEGALEDGE SOFTWARE

FOR

AMERICAN DEFENDER SOFTWARE MAINTENANCE AND SUPPORT

**TABLE OF CONTENTS**

**CONTRACT # MA-058-13011004**

**FOR**

**AMERICAN DEFENDER SOFTWARE MAINTENANCE AND SUPPORT**

**DESCRIPTION** **PAGE #**

Contract Cover Page …………………………………………………………………………………………………… 1

Table of Contents ……………………………………………………………………………………………………….. 2

Recitals and Articles …………………………………………………………………………………………………… 3

General Terms and Conditions (A-HH) …………………………………………………………………….. 3

Additional Terms and Conditions (1-27) ………………………………………………………………….. 11

Contract Signature Page ……………………………………………………………………………………………. 21

**ATTACHMENTS**

A: Scope of Work …………………………………………………………………………………………………….. 22

B: Payment Information …………………………………………………………………………………………… 24

**EXHIBITS:**

1.Child Support Enforcement Certification Requirements ……………………………………….. 25

**CONTRACT MA-058-13011004**

**FOR**

**AMERICAN DEFENDER SOFTWARE MAINTENANCE AND SUPPORT**

This Contract is made and entered into as of the date fully executed by and between GB Global LLC, dba LegalEdge Software, with a place of business at 1150 First Avenue, Suite 501, King of Prussia, Pennsylvania 19406 (hereinafter referred to as “Contractor”), and the County of Orange, Office of the Public Defender, a political subdivision of the State of California, (hereinafter referred to as “County”) which may be referred to individually as “Party” or collectively as “Parties”, is established to provide Maintenance to American Defender Case Management System.

**ATTACHMENTS**

This Contract is comprised of this document and the following Attachments, which are attached hereto and incorporated by this reference.

Attachment A – Scope of Work

Attachment B – Payment Information

Exhibit I – County of Orange Child Support Enforcement Form

**RECITALS**

**WHEREAS**, Licensor has licensed to Licensee the right to use certain modules (“Modules”) of LegalEdge Software. Licensee acquired 400 perpetual licenses from Licensor on March 1, 2008 for American Defender Proprietary Software. Software Maintenance and Support to be provided per Attachment A of even date herewith, between Licensor and Licensee (the “License Agreement”); and

**WHEREAS**, County desires to enter into a Contract with Contractor to obtain American Defender Software Maintenance and Support; and

**WHEREAS**, Contractor is willing to provide said services to County, as specified in Attachment A, in accordance with the Terms and Conditions of this Contract; and

 **NOW, THEREFORE**, the Parties mutually agree as follows:

**ARTICLES**

**GENERAL TERMS AND CONDITIONS**

1. **Governing** **Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.
2. **Entire** **Contract:** This Contract, its Attachments, and Exhibits which have been incorporated, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County’s Purchasing Agent or his designee, hereinafter “Purchasing Agent.”
3. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
4. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
5. **Delivery**: Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or description, or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments, nor deprive it of the right to return goods already accepted, at Contractor’s expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County.
6. **Acceptance/Payment:** Invoices are to be sent monthly in arrears in a format acceptable to County and in accordance to Attachment B.
7. **Warranty**: Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor’s part to indemnify, defend and hold County and its indemnities as identified in paragraph “HH” below, and as more fully described in paragraph “HH”, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
8. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, property right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph “HH” below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney’s fees, costs and expenses.
9. **Assignment or Sub-Contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or subcontracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
10. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of anti-discrimination law or regulation including but not limited to Section 1720 et seq. of the California Labor Code.
11. **Termination**: In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after 30 days’ written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.
12. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
13. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.
14. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor, shall qualify for workers’ compensation or other fringe benefits of any kind through County.
15. **Performance**: Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County’s satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
16. **Insurance:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor’s expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provision of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a 0 by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of $25,000 ($5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

**Qualified Insurer:**

The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier) or have a minimum rating  be A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States** **or ambest.com**.

If the insurance carrier is not a non-admitted carrier in the state of California and does not have an A.M. Best rating of A-/VIII, the County CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

|  |  |
| --- | --- |
|  Coverage | Minimum Limits |
| Commercial General Liability | $1,000,000 per occurrence$2,000,000 aggregate |
| Automobile Liability including coveragefor owned, non-owned and hired vehicles | $1,000,000 per occurrence |
| Worker’s Compensation | Statutory |
| Employer’s Liability Insurance | $1,000,000 per occurrence |

**Required Coverage Forms**

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

 **Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

1. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.
2. A primary non-contributing endorsement evidencing that the contractor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

All insurance policies required by this contract shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this contract shall give the County of Orange 30 days notice in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

If Contractor's Professional Liability policy is a "claims made" policy, contractor shall agree to maintain professional liability coverage for two years following completion of contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed below:

 County of Orange

 Office of the Public Defender

 Attn: Purchasing Unit

 14 Civic Center Plaza

 Santa Ana, CA 92701

If the Contractor fails to provide the insurance certificates and endorsements within seven days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

1. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph “P” above, indemnify, defend, and hold COUNTY harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
2. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County’s specific written approval.
3. **Change of Ownership**: Contractor agrees that if there is a change or transfer in ownership of Contractor’s business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor’s duties and obligations contained in this Contract and complete them to the satisfaction of County.
4. **Force Majeure**: Contractor shall not be in breach of this Contract during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
5. **Confidentiality**: Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor’s staff, agents and employees.
6. **Compliance with Laws**: Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor’s expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph “P” above, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
7. **Freight (F.O.B. Destination)**: Contractor assumes full responsibility for all transportation scheduling, packaging, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
8. **Pricing**: The Contract price shall include full compensation for providing all required goods, in accordance with required specifications, or services as specified herein or when applicable, in the Scope of Work attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract. Under no circumstances shall County’s maximum obligation exceed $123,197.67 annually.
9. **Waiver of Jury Trial:** To the extent enforceable under California law, each party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and/or any other claim of injury or damage.
10. **Terms and Conditions**: Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
11. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
12. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
13. **Calendar Days:**  Any reference to the word “day” or “days” herein mean calendar day or calendar days, respectively, unless otherwise expressly provided.
14. **Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each party shall bear its own attorney’s fees, costs and expenses.
15. **Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the parties and this Contract.
16. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
17. **Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
18. **Indemnification Provisions:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County its elected and appointed officials, officers, employees, agents and those special districts and agencies which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

**ADDITIONAL TERMS AND CONDITIONS**

1. **Scope of Contract:** Contractor shall provide American Defender Maintenance and Support for the Office of the Public Defender, and perform all services as further set forth herein, including Attachment A, Scope of Work.
2. **Contract Term:** This Contract shall be effective March 1, ~~2013~~ 2014 and continue in effect through and including February 28, ~~2014~~ 2015, unless otherwise terminated by County. This Contract may be renewed for ~~two (2)~~ one (1) additional one-year period~~s~~ upon mutual concurrence of the Parties. The County does not have to give a reason if it decides not to renew.
3. **Fiscal Appropriations:** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not approved, the Contract will be terminated without penalty. Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from and/or appropriation of funding by, the state of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
4. **County Project Manager:** The County shall appoint a Project Manager to act as liaison between the County and the Contractor during the term of this Contract. The County’s Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County’s Project Manager shall have the right to require the removal and replacement of the Contractor’s Project Manager and key personnel. The County’s Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within 14 calendar days after written notice by the County’s Project Manager. The County’s Project Manager shall review and approve the appointment of the replacement for the Contractor’s Project Manager and key personnel. Said approval shall not be unreasonably withheld.

 County Project Manager: Jerry Sakelaris

 Phone: (714) 834-5843

 Email: jerry.sakelaris@pubdef.ocgov.com

1. **Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County’s Project Manager, which consent shall not be unreasonably withheld.

The Contractor’s Project Manager and key personnel shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Key personnel are those individuals who report directly to the Contractor’s Project Manager.

 Contractor Project Manager: Carole Filipone

 Phone: (610) 975-5888

 Email: cfilipone@legaledge.com

1. **Contractor Personnel:** Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility anticipated under this Contract. Contractor’s employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.
2. **Contingent Fees:** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees of the Contractor or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

For breach or violation of this warranty, the County shall have the right to terminate this Contract in accordance with the termination clause and at its sole discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee from the Contractor.

1. **Conflict of Interest – Contractor’s Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and relatives; sub-tier Contractors; and third parties associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.
2. **Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
3. **Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County.
4. **Data – Title to:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
5. **Breach:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of the Contract shall be material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
	1. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
	2. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
	3. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
6. **Waivers:** The failure of the County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.
7. **Disputes:**

A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor’s Project Manager and the County‘s Project Manager, such matter shall be brought to the attention of the County Purchasing Agent by way of the following process:

1. The Contractor shall submit to the County Agency/Department assigned buyer a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.

2. The 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 a senior official 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 the Contractor believes the County is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor’s failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor’s demand, it shall be deemed a final decision adverse to the Contractor’s contentions. The County’s final decision shall be conclusive and binding regarding the dispute unless the Contractor commences action in a court of competent jurisdiction to contest such decision within 90 days following the date of the County’s final decision or one year following the accrual of the cause of action, whichever is later.

1. **Orderly Termination:** Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party shall assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
2. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties’ Project Managers’ routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

**County**: Office of the Public Defender

Name: Lynn Grover

Address: 14 Civic Center Plaza

 Santa Ana, CA 92701

Email: lynn.grover@pubdef.ocgov.com

Phone: (714) 834-4728

Fax: (714) 834-6650

**Contractor:** GB Global LLC, dba LegalEdge Software

Name: Carole Filipone

Address: 1150 First Avenue, Suite 501

 King of Prussia, PA 19406

Email: cfilipone@legaledge.com

Phone: (610) 975-5888

Fax: (610) 975-5884

1. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. The Contractor agrees to supply services as requested, as needed by the County, at prices listed in the Contract.
2. **Audits/Inspections:** Contractor agrees to permit the County’s Auditor-Controller or the Auditor-Controller’s authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor’s records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor’s records pertaining to this agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County’s Project Manager.

1. **Contractor’s Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this Contract. The County will not provide free parking for any service in the County.
2. **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 County 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 County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
3. **Lobbying:** On best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, Contractor to any person for influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
4. **News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this agreement without first obtaining review and written approval of said news releases from the County through the County’s Project Manager.
5. **County of Orange Child Support Enforcement Requirements (Exhibit I – Blank County of Orange Child Support Enforcement Certification Requirements Form):**

In order to comply with the child support enforcement requirements of the County of Orange, within 30 days of award of Contract, the Contractor agrees to furnish to the Contract Administrator, the Purchasing Agent, or the agency/department deputy purchasing agent:

 A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address;

 B. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity;

 C. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and

 D. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure of the contractor to timely submit the data and/or certifications required or to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

1. **Tax – Maintenance and Warranties:** Section 1655 of the Sales and Use Tax Regulations of the Business Taxes Law Guide under “Optional Warranties Rule” states that sales tax shall not be charged on optional warranties and, therefore, the Contractor is considered the end user and liable for the sales tax on such warranties. Prices charged for service are not subject to sales tax and neither can sales tax be assessed the County for any part or consumable supply installed that is included in the full service maintenance.
2. **Equal Employment Opportunity:** The contractor shall comply with U.S. Executive Order 11426 entitled, “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

1. **Americans with Disabilities Act (ADA):** Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.
2. **Confidentiality:**

 1. **Protection of Confidential Information:**

 Contractor shall:

 (a) strictly maintain the confidentiality of the Client Confidential Information;

 (b) take steps to prevent the use, disclosure, dissemination, or copying of the Client Confidential Information other than as necessary for Contractor to perform its obligations under this Contract, including developing, implementing, maintaining, and enforcing appropriate policies and procedures to safeguard the Client Confidential Information;

 (c) use the same care to prevent disclosure of the Client Confidential Information to third parties as it employs to avoid disclosure, publication, or dissemination of its own confidential information of a similar nature, but in no event less than a reasonable standard of care;

 (d) use the Client Confidential Information solely as necessary and appropriate for the purpose of performing its obligations under this Contract;

 (e) not acquire any express or implied right or license to any Intellectual Property Right or other right, or assert any lien against, the Client Confidential Information;

 (f) upon the request of the County, promptly return, or provide a copy of, as the County directs, Client Confidential Information (provided that Contractor may retain such Confidential Information as it requires in order to perform the Services for so long as it is required to perform such Services); and

 (g) use commercially reasonable efforts to inform its employees, agents, and subcontractors who perform duties with respect to this Contract about the restrictions with regard to Client Confidential Information set forth in this Section.

 Notwithstanding anything to the contrary contained elsewhere in this Section, Contractor may disclose Client Confidential Information to its employees, agents, and subcontractors who have: (1) a bona fide need to know such Client Confidential Information in order to perform their assigned duties in fulfillment of obligations under this Contract; and (2) a legal duty to protect the Client Confidential Information that is substantially equivalent to the obligations of confidentiality imposed upon Contractor hereunder. Contractor assumes full responsibility for the acts or omissions of its subcontractors and employees with respect to Client Confidential Information.

 1.2 **Required Disclosure**

 Contractor agrees to maintain the confidentiality of all Client Confidential Information, pursuant to all applicable statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor’s subcontractors, staff, agents and employees.

 1.3 **Notification**

 Contractor shall notify the County as soon as possible in the event of any disclosure or loss of Client Confidential information other than as permitted by this Contract.

 1.4 **Injunctive Relief**

Contractor acknowledges that any breach of any provision of this Section by Contractor, or by its personnel, agents, or subcontractors, may cause immediate and irreparable injury to the County that cannot be adequately compensated for in damages, and that, in the event of such breach and in addition to all other remedies available at law or in equity, the County shall be entitled to seek injunctive relief from any court of competent jurisdiction, without bond or other security.

 1.5 **Return of Confidential Information**

Unless expressly authorized by this Contract to retain the County Confidential Information, and upon either termination or expiration of the term of this Contract or the request of the County, copies thereof, including, to the extent containing Client Confidential Information, materials prepared in whole or in part based on such Client Confidential Information, and all copies thereof. Following such return or destruction, an officer of Contractor shall certify to the County that is no longer has in its possession or under its control any of such Client Confidential Information in any form whatsoever, or any copy thereof. To the extent and for so long as such return or destruction is infeasible (e.g., with regard to Client Confidential Information retained in the memories of Contractor’s employees), the protections of this Section shall continue to apply to such Client Confidential information.

 1.6 **Confidentiality Agreements**

Contractor shall require each of its agents and subcontractors providing services hereunder to execute an agreement, in form and substance acceptable to the County (a “Confidentiality Agreement”), under which such agents or subcontractors agree to appropriately protect the Client Confidential Information and to fulfill any other confidentiality obligations necessary to the performance of Contractor’s obligations hereunder. Contractor covenants that each of its employees performing services shall be subject to the terms of an employment agreement that requires him or her to protect Contractor’s clients’ confidential information, including the Client Confidential Information, and that offers no less degree of protection than that which is required hereunder.

 1.7 **Contractor Confidential Information**

 County shall take reasonable steps to protect the Contractor’s Confidential Information to ensure that such Confidential Information is not disclosed, distributed or used in violation of the provisions of this Contract. If disclosure is required under any court order or law including, but not limited to, the California Public Records Act, County shall provide reasonable notice to Contractor in order for Contractor to obtain a protective order. County reserves the right to redact any Client Confidential Information.

* **Signature page to follow -**

**\*Signature Page\***

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below:

**GB Global LLC dba LegalEdge Software\***

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name Title

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Signature Date

**\*If a corporation, this document must be signed by two corporate officers. The first signature must be either the Chairman of the Board, President, or any Vice President. The second signature must be the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.**

County of Orange**,** a political subdivision of the State of California

Purchasing Agent/Designee Authorized Signature:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

Approved as to Form,

Office of the County Counsel

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Deputy

 **ATTACHMENT A**

 Scope of Work

**LegalEdge Software**

**SOFTWARE MAINTENANCE AND SUPPORT**

1. **Maintenance and Support Services**. During the one year period beginning on March 1, 2013 and during any renewal periods thereafter, Licensor will provide the following services: (a) Maintenance Services (services performed to maintain American Defender Software) to Licensee. As part of Maintenance, Licensor will maintain the Software (American Defender) in an operable condition according to the specifications contained in the Manual (documentation on the operation of the software). Also under Maintenance, Licensor will make available to Licensee during each such renewal period during the term of this Agreement, at least one (1) update ("Update") to the Software (American Defender) that incorporates any new features or enhancements to the licensed Software (American Defender); (b) Support Services ("Support") to Licensee. Under Support, Licensor will provide: (1) Support on current build; (2) telephone / email assistance in the operation of the Software to the contact persons of Licensee designated on Schedule I hereto during regular business hours 7:00 a.m. PST to 6:00 p.m. PST, Monday through Friday, excluding legal holidays; (3) Licensor will respond to Licensee’s telephone / email request for assistance within four (4) hours; and (4) on‑site assistance in the operation of the Software if reasonably convenient or necessary in the opinion of the Licensor.

2. **Licensee's Cooperation.** If Licensee requests Support hereunder, Licensee shall cooperate with Licensor in all aspects of such Support in order to facilitate Licensor providing telephone, on line and/or on site assistance to Licensee, including without limitation providing Licensor with information by telephone, documentation (if necessary), access to Licensee's computer system, and implementation (when feasible).

Licensee acknowledges that the Software are trade secrets and confidential information of Licensor. Neither the Software nor any physical media containing the Software may be used, copied, disclosed, broadcast, sold, relicensed, distributed or otherwise published by Licensee except as expressly permitted by this Contract. Licensee shall use reasonable efforts to maintain the confidential nature of the Software Products.

1. **Modification**. Except as provided for in the License Agreement, Licensee shall not modify the Software. Licensor shall not be responsible for offering Support or Training for Licensee‑modified portions of the Software or for portions of the Software affected by Licensee‑modified portions of the Software.

1. **Superseded Updates.** Ninety days after Licensee installs a new release into production, Licensor shall no longer be responsible for offering Support or Training for the superseded version of the Software.

**SCHEDULE I**

1. Licensee: The Public Defender’s Office

 County of Orange, CA

2. Installation Site: 14 Civic Center Plaza

 Santa Ana, CA

3. Licensed Modules: The American Defender, Web Version

4. Support Telephone Number: (610) 975-5888 Ext. 500

5. Contact Persons of Licensee: Jerry Sakelaris

1. Contact Person's Telephone #: (714) 834-5843

ATTACHMENT B

PAYMENT INFORMATION

Payment: Invoices are payable in arrears upon receipt of an invoice in a format acceptable to County, verified and approved by the County Project Manager and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with Contractor. Invoices are to be submitted to the following address:

 Office of the Public Defender

 Attn: Jerry Sakelaris

 14 Civic Center Plaza

 Santa Ana, CA 92701

Payment schedule: Payment to be made monthly in arrears based on the following:

|  |  |
| --- | --- |
| April 1, ~~2013~~ 2014 | $10,266.48 |
| May 1, ~~2013~~ 2014 | $10,266.48 |
| June 1, ~~2013~~ 2014 | $10,266.48 |
| July 1, ~~2013~~ 2014 | $10,266.47 |
| August 1, ~~2013~~ 2014 | $10,266.47 |
| September 1, ~~2013~~ 2014 | $10,266.47 |
| October 1, ~~2013~~ 2014 | $10,266.47 |
| November 1, ~~2013~~ 2014 | $10,266.47 |
| December 1, ~~2013~~ 2014 | $10,266.47 |
| January 1, ~~2014~~ 2015 | $10,266.47 |
| February 1, ~~2014~~ 2015 | $10,266.47 |
| February 28, ~~2014~~ 2015 | $10,266.47 |

In no event shall County payments to Contractor under this Contract for services performed for the period of March 1, ~~2013~~ 2014 through and including February 28, ~~2014~~ 2015 exceed $123,197.67.

Contractor shall reimburse County for any monies paid to Contractor for services not provided or when services do not meet Contract requirements. Payments made by County shall not preclude the right of County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the services.

Contractor will provide an invoice on Contractor’s letterhead for services rendered. Each invoice will have a number and will include the following information:

1. Contractor’s name and address
2. Contractor’s remittance address, if different from 1, above
3. Name of County agency/department
4. Delivery/Service address
5. Contract number MA-058-13011004
6. Service description, quantity, and prices
7. Sales, tax, if applicable
8. Total

EXHIBIT I

**County of Orange Child Support Enforcement**

**Certification Requirements**

(blank form)

* 1. In the case of an individual Contractor, his/her name, date of birth, Social Security number, and residence address:

Name:

 D.O.B:

 Social Security No:

 Residence Address:

* 1. In the case of a Contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of ten (10) percent or more in the contracting entity:

Name:

 D.O.B:

 Social Security No:

 Residence Address:

Name:

 D.O.B:

 Social Security No:

 Residence Address:

Name:

 D.O.B:

 Social Security No:

 Residence Address:

(Additional sheets may be used if necessary)

* 1. A certification that the Contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
	2. A certification that the Contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

*"I certify that is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract with the County of Orange. I understand that failure to comply shall constitute a material breach of the Contract and that failure to cure such breach within ten (10) calendar days of notice from the County shall constitute grounds for termination of the Contract.*

|  |  |  |
| --- | --- | --- |
| Authorized Signature | Print Name | Title |