



Cannabis Control Commission

COMMONWEALTH OF MASSACHUSETTS

STATEMENT OF WORK
BETWEEN
THE CANNABIS CONTROL COMMISSION
AND
JD SOFTWARE, INC.
FOR AN
ELECTRONIC LICENSING SYSTEM

1. INTRODUCTION

The following document serves as a Statement of Work (SOW) between the Cannabis Control Commission (Commission or CNB) and JD Software, Inc. (JD Software) and applies to work on an electronic licensing system, a.k.a. ARC system and the associated data management, reporting, training support and integration (collectively, the Service).

The entire agreement (Agreement) between the parties consists of the following documents in the following order of precedence:

- (1) Commonwealth Standard Terms and Conditions;
- (2) Commonwealth Standard Form Contract;
- (3) the Request for Responses, which includes the Seed-To-Sale and Licensing Procurement Memorandum; the Specifications for Seed-to-Sale and Licensing Tracking Systems, a.k.a. Business and Functional Requirements for the Licensing, Tracking, and Sale of Adult-Use Marijuana in Massachusetts as regulated by the Cannabis Control Commission (RFR); and the Licensing Tracking Systems Procurement Questions and Responses;
- (4) JD Software's responses to the RFR, including its response, presentation materials, and ARC System Security Overview and Presentation;

(5) Commonwealth's Web Accessibility Standards or alternative standards adopted by the Commission;

(6) Executive Office for Administration and Finance's Acceptable Use Policy or an alternative policy adopted by the Commission;

(7) Statewide Contract IT Specifications or reasonable alternative specifications adopted by the Commission; and

(8) this SOW and other documents negotiated between the parties as part of the procurement and negotiation process, which include:

- JD Software's Service Level Commitments (SLA);
- W9 Form;
- Contractor Authorized Signatory Listing Form;
- Certificate of Non-Collusion (<http://www.mass.gov/ig/publications/guides-advisories-other-publications/modelinvitation-for-bids-section-7.html>)
- Tax Compliance Certification (<http://www.mass.gov/ig/publications/guides-advisories-otherpublications/model-invitation-for-bids-section-7.html>)
- Invest in Massachusetts Form
- Certificate of Tax Compliance in Good Standing
- Proof of Bond or Certificate of Liability Insurance
- Electronic Funds Transfer Sign-up Form

2. 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.

"Deliverable" means any work product that JD Software delivers for the purposes of fulfilling its obligations to the Commission under the terms of the Agreement, including work product that JD Software must submit to the Commission for the Commission's approval in accordance with the acceptance procedures set forth within the SOW or the Task Order(s) entered into hereunder.

"Task" means a material activity engaged in by JD Software for the purpose of fulfilling its obligations to the Commission under the terms of the Agreement, which may or may not result in the creation of a Deliverable.

"Task Order" means an amendment to this SOW that specifies Tasks, Deliverables, or hourly rate services to be completed by JD Software under the terms of this Agreement.

"Milestone Payment" means a defined payment amount associated with the completion of a particular Deliverable or set of Deliverables.

Cloud offerings include the following:

"Authorized Users" means the specific individuals and entities that the Commission has designated to JD Software as authorized to access and use the Service.

“Hosting Servers” means one or more remote servers that are maintained and operated either by JD Software or a third provider selected by JD Software to host the Service and the application and database software for the Service, and the system and server software used to provide the Service.

“Software-as-a-Service” (SaaS) means the capability provided to Authorized Users to use the provider’s applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. Neither the Commission nor any Authorized User shall manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

“Business day” means a weekday other than a bank or public holiday in Boston, Massachusetts. Unless business day is specified, any period of time measured by days means calendar days.

3. OVERVIEW, EFFECTIVE DATE AND TERM

JD Software is to deliver a production-ready, web-based licensing system to manage the processes associated with the application, issuance and tracking of adult-use marijuana licenses in Massachusetts. This will include fully-configured, fully-tested, SaaS and the associated data management, reporting, training and support to the Commission and training and support to all user groups, and integration.

This Agreement’s term (Term) begins on the date on that it is executed by both parties (Effective Date), and terminates on June 30, 2023 (Termination Date).

4. POINTS OF CONTACT

4.1 Points of Contact

JD Software and the Commission will each assign points of contact with respect to this SOW. It is anticipated that the contact person(s) will not change during the Term of this Agreement.

In the event that a change is necessary, the party requesting the change will provide two-week written notice. For a change resulting from an emergency, prompt notice is required.

JD Software’s contact person is:

Lhassan Oubala
Chief Executive Officer (CEO)
JD Software
27 Congress Street, Suite 505
Salem, MA 01970
Phone: (978) 219-4521
Email: loubala@jdsoft.com

The Commission's contacts are as follows:

TBD
Chief Technology Officer or his or her designee
Cannabis Control Commission
101 Federal Street, 13th Floor
Boston, MA 02110
Phone: (617) 701-8400
Email: TBD

TBD
Licensing Project Manager
Cannabis Control Commission
101 Federal Street, 13th Floor
Boston, MA 02110
Phone: (617) 701-8400
Email: TBD

4.2. Key Personnel

JD Software agrees to provide the following personnel for the following amounts of time for the duration of this project:

**TABLE 1
KEY PERSONNEL**

Staff Members	Role	Status
Lhassan Oubala	Project Manager, Scrum Master and Project Owner	Full Time Employee
Hyunsuk Kang	Software Architect	Full Time Employee
Scott Margolis	Security and Privacy Compliance Manager	Contractor
Matthew Poussard	Senior Software Engineer	Full Time Employee

Diego Salcovsky	Software Engineer	Full Time Employee
TBD	Software Engineer	Full Time Employee
Mouhcine Makroume	DevOps Engineer	Full Time Employee

JD Software shall assign the foregoing personnel to this engagement as required to complete the tasks assigned to them. In the event that a change is necessary, JD Software Project Manager will provide prompt written notice to the Commission Project Manager of the proposed change, but no later than two-weeks' prior written notice. A replacement resource will be identified with equal competency and a transition plan will be drafted and executed to avoid any disruption to the project tasks, deliverables, timelines, and costs.

5. SUBSCRIPTION TERMS

5.1 JD Software grants to the Commission a license or right to

- (i) access and use the Service,
- (ii) for SaaS, use underlying software as embodied or used in the Service, and
- (iii) view, copy, download (if applicable), and use documentation.

5.2. Authorized User Access.

5.2.1 The Commission and JD Software shall agree on: (i) a procedure by which Authorized Users identified by the Commission will be issued login identifiers and afforded online access to the Service; (ii) security requirements for Authorized User passwords; and (iii) a procedure by which access is terminated for Authorized Users who are no longer authorized by the Commission.

5.2.2 Authorized Users will have access to use the Service and upload and download data to and from the Service.

5.2.3 The Commission shall promptly notify JD Software of any unauthorized use of the Service, login identifiers or passwords.

5.2.4 No terms, including a standard click-through license or website terms of use or privacy policy, shall apply to access by Authorized Users unless the Commission has expressly agreed to such terms by including them in a signed agreement.

5.3 Tasks and Deliverables.

This Section describes the Deliverables that JD Software will provide to the Commission and the Tasks that JD Software will complete during configuration or phases one through four of the contract. A Task or Deliverable will be considered “complete” when all the acceptance criteria set forth in this SOW have been met and the Commission has provided written notice of acceptance or the prescribed review period for each Deliverable or Task has expired without written response from the Commission in accordance with Section 6 (Acceptance or Rejection Process). The Task/Deliverable phase numbers are referred to in subsequent sections throughout this SOW.

All written or digital documents and materials shall be delivered in machine-readable format, capable of being completely and accurately processed and read by the Commission and reproduced by computer software on a laser printer. All itemized and/or annotated lists shall be delivered in computer spreadsheets, capable of being imported to Microsoft Excel 2016 or alternative desktop software used by agency.

All meetings shall be conducted online unless the Commission requests an in-person meeting by at least three (3) full business days’ prior written notice. Any in-person meeting shall be held in 101 Federal Street, 13th Floor, Boston, MA 02110 or any future home of the Commission unless agreed to otherwise by the Project Managers. Meetings must be scheduled at least three (3) full business days in advance, with reasonable accommodation of attendees’ schedules. All meeting results will be described in a follow-up report generated by JD Software Project Manager and approved by the Commission Project Manager.

For the Fixed Price Tasks and Deliverables of this Agreement, JD software shall perform Tasks or deliver Deliverables in conformance with the Description and Metrics of Acceptance on or before Milestone Schedule date set forth in Table 2.

**TABLE 2
Deliverables and Tasks**

#	Task	JDS	Deliverable	Milestone Schedule Date
Phase 1: Project Initiation, Planning (Inception + Elaboration). Work with CNB to define the data collection, data processing, security and reporting requirements and configure the ARC system:				
1	Configure license types/application forms / workflows for Pre-License	1	Successfully demonstrate all steps in application process and approval process for <u>Pre-Licensing of RMD and Economic Empowerment Applicants</u> including approve steps, delegate approval of steps, view documents and add notes. Testing conducted on multiple devices (computer, tablet, phone)	2/26/18
1	Configure license types/application forms / workflows for Generic License	1	Successfully demonstrate all steps in application process and approval process for <u>generic license type</u> including approve steps, delegate approval of steps, view documents and add notes. Testing conducted on multiple devices (computer, tablet, phone)	2/27/18

1	Configure license types/application forms / workflows For Known License Types (as of 2/20)	1	Successfully demonstrate all steps in application process and approval process <u>for all known license types</u> including approve steps, delegate approval of steps, view documents and add notes. Testing conducted on multiple devices (computer, tablet, phone)	3/13/18
1	Configure license types/application forms / workflows for Any New License Types (as of 3/12)	1	Successfully demonstrate all steps in application process and approval process <u>for all license types</u> including approve steps, delegate approval of steps, view documents and add notes. Testing conducted on multiple devices (computer, tablet, phone)	3/14/18
2	Configure system security (roles/grants)	1	Successfully demonstrate system access based on role and other aspects of security/permissions. Demonstrate "what if" reporting.	2/26/18
3	Configure email	1	Successfully demonstrate end-to-end (actually send email from system)	4/9/18
4	Develop templates/PDF templates	1	Successfully demonstrate PDF production in sprint.	4/16/18
5	Configure inspection checklists	1	Successfully demonstrate in sprint. Pass testing whereby inspector can use checklists and other forms. Testing conducted on multiple devices.	4/30/18
6	Configure incident report templates	1	Successfully demonstrate in sprint. Pass testing whereby user can produce an incident report for each type of incident. Testing conducted on multiple devices.	4/30/18
7	Configure complaint templates	1	Successfully demonstrate in sprint. Pass testing whereby user can file a complaint and receive confirmation.	4/30/18
Phase 2: Construction				
8	Set up System Test hosting environment	2	Demonstrate availability of each server.	3/9/18
9	Refine System Configurations based on Feedback from CNB	2/3/4	Pass preliminary User Acceptance Test for April 1 functionality	3/16/18
10	Implement any necessary changes to meet MVP requirements	2/3/4	Use new requirements to re-evaluate features and functionality. Pass test based on revised expectations based on the final regulations.	3/23/18
11	Conduct functional testing and resolve any defects	2/3/4	Pass Preliminary User Acceptance Test	3/23/18
12	Set up Quality Assurance hosting environment	5	Demonstrate availability of each server in AWS. Testing of infrastructure will also have security element.	3/23/18
13	Milestone: FINALIZE DESIGN	New	N/A	3/23/18
Phase 3: QA and Testing				

14	Perform UAT testing for CNB internal Interface	5	Pass Full User Acceptance Test	3/23/18
15	Perform UAT Testing for external Interface Users	New	Pass Full User Acceptance Test	3/23/18
16	Perform UAT Testing for Inspection Users	New	Pass Full User Acceptance Test	5/7/18
17	Perform Performance Testing	5	Pass test such that response time is within acceptable limits (as defined in requirements)	4/5/18
18	Perform Vulnerability testing	5	Pass Security Audit (may be conducted by third party)	3/23/18
19	Perform ADA testing	5	Pass accessibility test and/or have plan to mitigate any deficiencies	4/30/18
20	Resolve defects detected during QA	5	Address any items flagged in UAT. Any deficiency flagged as MVP must be addressed before 4/1, others may be phased up until 6/1	3/26/18
22	Set up Production hosting environment	6	Demonstrate availability of each server in AWS. Testing of infrastructure will also have security element.	3/23/18
23	Phone Support Ready	New	Staff prepared to answer calls and emails. Some canned responses ready for email, some scripts ready for phone	3/23/18
24	Test Payment Processing	New	Successfully demonstrate online transaction process for payment processing (Dependency on CNB contract with Payment Vendor – API and integration documentation required at least 15 calendar days of lead-time for JD Software)	4/30/18
Phase 4: User Training				
25	User Training Sessions (CNB)	6	Conduct onsite training sessions such that CNB users can perform tasks necessary to review and approve an application. Documentation is a key element of training.	3/30/18
Phase 5: Production Deployment				
26	Go Live	7	Ready to accept applications online	4/1/18
27	Produce Training Materials based on Final Design	New	Production-quality videos posted online with subtitles. Spanish translation transcript available to download. Other language translations available by 6/1	4/1/18
28	Produce Priority Reports	New	Successfully demonstrate Priority canned and ad hoc reports in sprint using mock data. Pass testing for accuracy, ease of use, and quality of reports	4/5/18
29	Produce Non-Priority Reports	New	Successfully demonstrate Non-Priority canned and ad hoc reports in sprint using mock data. Pass testing for accuracy, ease of use, and quality of reports	5/15/18
30	Produce Data Exports	New	Successfully demonstrate full and partial (filtered) data export in sprint using mock data. Pass testing whereby user can export file from the system on demand or as scheduled.	4/5/18

31	Connectivity to Seed-to-Sale	New	Complete API with Seed-to-Sale	6/1/18
32	Building an extraction interface to be used for providing data to the Massachusetts Department of Revenue	NEW		6/1/18

**TABLE 3
Commission Tasks**

#	Task	JDS	Deliverable	Done By
C1	Pre-License Flowcharts	N/A	Flowcharts for Pre-licensing of RMD and Economic Empowerment Application and Approval	2/16/18
C2	Generic License Flowchart	N/A	Flowchart for Generic License Type (steps common to all licenses)	2/20/18
C3	Draft List of License Types	N/A	Provide preliminary list of license types	2/20/18
C4	All Flowcharts for Known License Types	N/A	Flowcharts for approximately 10 license types	3/7/18
C5	Final List of License Types	N/A	Provide final list of license type for Day 1 Licensing	3/12/18
C6	Additional Flowcharts (if necessary)	N/A	Provide additional flowcharts if license types are added	3/20/18
C7	Application Content (Text with Steps) for Pre-License Application	N/A	Provide draft language for Steps in Pre-License Application process (starting from examples provided by JD Software)	2/27/18
C8	Application Content (Text with Steps) for Generic License Application	N/A	Provide draft language for Steps in Pre-License Application process (starting from examples provided by JD Software)	3/7/18
C9	Email Templates	N/A	Draft Email templates for system sent emails (Application Created, Application Approved, Application Reopened, Application Denied)	3/7/18
C10	PDF Templates	N/A	PDF template(s) for license certificate(s)	3/7/18
C11	Application Content (Text with Steps) for All License Types	N/A	Provide draft language for Steps in Pre-License Application process (starting from examples provided by JD Software)	3/21/18
C12	Paper Application	N/A	Create Paper Application (fundamentally the same as online application) available to download as PDF on CNB website	3/31/18

6. ACCEPTANCE OR REJECTION PROCESS

On an ongoing basis JD Software will submit the required Deliverables specified in this SOW, or any Task Order entered into hereunder, to the Commission's Chief Technology Officer and Project Manager for testing, approval and acceptance. The Commission, through its CTO and project manager or their designees, will review work product for each of the Deliverables and evaluate whether each Deliverable has clearly met in all material respects the criteria established in this Agreement and the relevant Task Order specifications. Once reviewed and favorably evaluated, the Deliverables will be deemed acceptable.

On an ongoing basis or within ten (10) business days of receipt of each Deliverable, the Commission Project Manager will notify JD Software, in writing, of the acceptance or rejection of said Deliverable using the acceptance criteria specified in this Section and associated with the Task or Deliverable specifications in this Agreement. A form signed by the Commission shall indicate acceptance. JD Software shall acknowledge receipt of acceptance forms in writing.

Any rejection will include a written description of the defects of the Deliverable. If the Commission does not respond to the submission of the Deliverable, within five (5) business days of the Commission's receipt of each Deliverable, JD Software shall provide a reminder notice to the Commission Project Manager. If the Commission fails to reject a Deliverable within five (5) business days after the Commission's receipt of the reminder notice, the Task or Deliverable is deemed accepted.

If the Commission rejects a Deliverable, JD Software will, upon receipt of such rejection, act diligently and in good faith to correct the specified defects and deliver an updated version of the Deliverable to the Commonwealth. The Commission will then have an additional five (5) business days from receipt of the updated Deliverable to notify JD Software, in writing, of the acceptance or rejection of the updated Deliverable. Any such rejections will include a description of the way in which the updated Deliverable fails to correct the previously reported deficiency.

Following any acceptance of a Deliverable which requires additional work to be entirely compliant with the pertinent specifications, and until the next delivery, JD Software will use reasonable efforts to provide a prompt correction or workaround.

7. PROJECT MANAGEMENT

JD Software and the Commission must notify the other party of any change in the name, address, phone number, fax number, or email address of their respective Project Manager.

7.1 The Commission Project Manager

The Commission's CTO or Project Manager or their designee shall perform project management on behalf of the Commission for this engagement.

The Commission's Project Manager will:

- 7.1.1 Work closely with JD Software Project Manager to ensure successful completion of the project.
- 7.1.2 Consult with JD Software Project Manager to develop the Project Management Plan.
- 7.1.3 Review weekly status reports and schedule weekly meetings with JD Software, as necessary.

- 7.1.4 Coordinate participation from DPH, Comptroller, DOR, and any other agencies and/or vendors identified by the Commission as required during the engagement.
- 7.1.5 Acquire the Commission project team members as needed.
- 7.1.6 Coordinate the Commission's review of the Deliverables and sign an acceptance form to signify acceptance for each accepted Deliverable.

The Commission's Project Manager reports to the Commission's Chief Technology Officer, who reports to Shawn Collins, the Executive Director, who reports to the Commission. Shawn Collins, the Executive Director will sign this SOW and all amendments hereto on behalf of the Commission.

7.2 Vendor Project Manager

Lhassan Oubala ("JD Software's Project Manager") shall perform project management on behalf of JD Software for this engagement. JD Software's Project Manager will:

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 Commission Project Manager and all JD Software personnel participating in this engagement.
3. Develop and maintain the Project Management Plan, in consultation with the Commission Project Manager.
4. Facilitate regular communication with the Commission 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 the Commission.
7. Be responsible for the management and deployment of JD Software personnel.

Lhassan Oubala, CEO, is the sole authorized signatory named in JD Software's response to RFR, and will sign this SOW and all amendments thereto on behalf of JD Software.

7.3 Issue Resolution

The Project Managers from each organization bear the primary responsibility for ensuring issue resolution. If they mutually agree that they are unable to resolve an issue, they are responsible for escalating the issue to TBD, the Commission's Chief Technology Officer, Shawn Collins, the Executive Director.

7.4 Code Review

All Deliverables that include software code or applications shall follow current industry design and best practices, including, but not limited to those published by The National Institute of Standards & Technology (NIST), the SANS (SysAdmin, Audit, Network, Security (SANS) Institute), and other recognized bodies.

JD Software shall cooperate with the Commission's code review of the relevant software or application Deliverables. Prior to implementation or acceptance of a Deliverable, JD Software shall subject Deliverables that include software code or script to independent application review by the Commission or its delegated reviewer to validate that all applicable enterprise information technology standards and security policies have been met, as well as other specifications as identified in this Agreement or the relevant Task Order. The cost of any application review, whether by the Commission or its delegated reviewer, will be the responsibility of the Commission.

8. AMENDMENTS TO THE SCOPE OF WORK

This Agreement may be amended prior to the end of the Term. The Project Manager who would like to request a change in scope for this engagement or any other terms contained within the Agreement, will provide the suggested amendment in writing to the other party's Project Manager. The Project Managers will jointly determine whether the change impacts any terms contained within the Agreement. JD Software and the Commission's designee may mutually agree to the change through a signed written amendment to this SOW.

For any amendment entered into under this Agreement where JD Software will be providing services on a Time and Materials basis, the parties shall apply the Time and Materials terms as described in Section 11.2 of this SOW to the relevant Task Order.

9. SUPPORT AND TRAINING

9.1 JD Software must provide technical support via online helpdesk and toll-free phone number, during Business Hours (Monday through Friday from 9:00 a.m. to 6:00 p.m. Eastern Time), and upon written request of the Commission reasonable, mutually-agreed extended hours following the deployment of and change to the software. Notwithstanding any other provision of this SOW, technical support (including but not limited to any help desk) will be provided only to the Commission staff and the Commission's contractors.

9.2 JD Software must make training available online to users. Training must be accessible, per the Commonwealth Web Accessibility Standards or alternative standards adopted by the Commission.

9.3 All support and training shall be provided at no additional cost to Commission, except for customized support and training expressly requested by Commission.

10. SERVICE LEVELS

When the Service is in use, JD Software will comply with its SLA, which incorporates, at minimum, the following terms unless otherwise accepted by the Commission:

Uptime and scheduled maintenance

10.1 Overall system availability must be at least 99.99% on a rolling annual basis. This translates to no more than 78 minutes of unplanned outage (Denominator for the calculation: 365 days per year x 24 hours per day x 60 minutes per hour).

10.2 For purposes of calculating uptime percentage, (i) scheduled maintenance may be excluded up to twenty (20) hours per month, but unscheduled maintenance and any scheduled maintenance in excess of twenty (20) hours must be included as downtime; and (ii) periods of force majeure affecting uptime may be excluded.

10.3 Scheduled maintenance must occur: with at least two (2) business days' advance notice; at agreed-upon times when a minimum number of users will be using the system; and in no event during Business Hours.

Defects and other SLA metrics

10.4 SLA must include:

- (1) response and resolution times for defects;
- (2) at least three levels of defect classifications (severe, medium, low); and
- (3) any other applicable performance metrics (e.g., latency, transaction time) based on industry standards.

10.5 While JD Software may initially classify defects, Commission determines in its reasonable judgment final classification of defects.

Remedies

10.6 First time failure to meet the uptime SLA may result in a penalty of up to 200% of the prorated portion of the subscription payment applicable to the duration of the outage. Subsequent failures to meet uptime SLA in a given calendar month may incur in a penalty between 1% and 10% of the overall monthly subscription rate for the month in which the outage occurs, with the actual percentage based on the amount by which such failure reduces uptime SLA below the 99.99% standard described in Sections 10.1, 10.2 and 10.3 as follows:

- 1% for downtime less than 99.99% but equal to greater than 99.70%
- 5% for downtime less than 99.69 % but equal to greater than 99.3_%
- 10% for downtime less than 99.29%.

10.7 JD Software may issue credits or extensions in service period at no cost in lieu of payment reductions. Such remedies shall be issued by JD Software with no action required from The Commission.

10.8 For all unplanned outages, JD Software shall provide CNB with root cause analysis within thirty (30) days of unscheduled downtime at no additional cost.

10.9 Scheduled maintenance must be conducted between midnight and 6:00 a.m. unless otherwise agreed upon and scheduled maintenance must occur with at least two (2) business days' advance notice

10.10 The Commission has a right to terminate without penalty and without waiver of any rights upon written notice to JD software.

Reports

10.11 JD Software will provide Commission with a written report (which may be electronic) of performance metrics, including uptime percentage and record of service support requests, classifications, and response and resolution times, at least quarterly or as requested by Commission. Commission may independently audit the report at Commission's expense and JD Software's cooperation.

10.12 Representatives of JD Software and Commission shall meet as often as may be reasonably requested by either party to review the performance of the Service and to discuss technical plans, financial matters, system performance, service levels, and any other matters related to this Agreement.

10.13 JD Software will provide to Commission regular status reports during unscheduled downtime, at least twice per day or upon request.

10.14 JD Software will provide Commission with root cause analysis within thirty (30) days of unscheduled downtime at no additional cost.

Changes to SLA

10.15 JD Software may not change the SLA in any manner that adversely affects Commission or degrades the service levels applicable to Commission, without Commission's written approval.

11. PAYMENTS FOR TASK AND DELIVERABLES & TIME AND MATERIALS PERSONNEL

All payments under this Agreement shall be made in accordance with the Commonwealth's bill paying policy.

11.1 Payments for Tasks and Deliverables

JD Software agrees to invoice the Commonwealth for the Deliverables or work completed per the requirements set forth in this SOW and the relevant Task Order. The Commission will make payments to JD Software only after receiving an accurate invoice for Tasks and Deliverables completed and accepted pursuant to Section 6 of this SOW.

Payments for specific Tasks and Deliverables shall be made in accordance with Tables 3 and 4 below.

**TABLE 3
Fixed Price Deliverables and Tasks**

CONFIGURATION & OTHER TASKS IN FY2018	MILESTONE SCHEDULE DATE	MILESTONE PAYMENT OR COST
System Setup and Configuration and training Fee Payment 1 (50%)	03/01/2018	118,750
System Setup and Configuration and training Fee Payment 2 (50%)	04/01/2018	118,750
SAAS Cost (April 2018)	04/01/2018	53,750, but not before system is deployed.
SAAS Cost (May 2018)	05/01/2018	53,750
SAAS Cost (June 2018)	06/01/2018	53,750
TOTAL		\$ 398,750.00

**TABLE 4
Fixed Price Deliverables and Tasks**

DELIVERABLES IN FY2019 THROUGH FY 2023	MILESTONE SCHEDULE DATE	MILESTONE PAYMENT OR COST
Subscription At Specified Servicing Level Agreement	FY2019	\$ 645,000 to be billed monthly

Subscription At Specified Servicing Level Agreement	FY2020	\$ 645,000 to be billed monthly
Subscription At Specified Servicing Level Agreement	FY2021	\$ 645,000 to be billed monthly
Subscription At Specified Servicing Level Agreement	FY2022	\$ 645,000 to be billed monthly
TOTAL		\$ 2,580,000

In the event that the Commission exercises an option to renew the contract, the parties will negotiate a contract cost that does not exceed 3% of the cost in the fiscal year immediately prior to the renewal date.

11.2 Additional Time and Material Costs

11.2.1 Resources

In the event that additional Time and Materials work is requested by the Commission in addition to the work contemplated in this SOW, JD Software agrees to provide the following Resources, whose resume(s) will be provided to the Commission prior to the start of any Time and Materials work hereunder, on a Time and Materials basis. All Time and Materials work will be as described in a written Task Order executed by the Commission and JD Software:

TABLE 5
Time and Materials Resources

Functional Title/Role	Hourly Rate
Project Manager	\$ 145.00
Software Architect	\$ 125.00
Security and Privacy Compliance Manager	\$ 140.00
Senior Software Engineer	\$ 120.00
Software Engineer	\$ 100.00
Business Analyst	\$ 95.00
Quality Assurance Engineer	\$ 95.00

DevOps Engineer	\$ 110.00
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11.2.2 Payment Terms for Time and Materials Payments

For the Time and Materials Services provided in any Task Order entered hereunder, JD Software shall complete the work described in the relevant Task Order and as scheduled through weekly planning meetings. JD Software will submit weekly reports to the Commission Project Manager detailing the hours actually worked by the Named Resource performing Time and Materials work and described herein or in the relevant Task Order. The weekly reporting must show actual resource hours worked against assigned tasks. JD Software will also report weekly to the Commission Project Manager its expected work effort the forthcoming week, showing the Named Resource’s expected level of effort. Prior review and authorization by the Commission Project Manager is required to authorize any work by the Named Resource.

JD Software shall provide a bi-weekly invoice to the Commission Project Manager for the actual hours worked per week of the Named Resource identified in Table 3. No invoice will exceed 37.5 hours per week per resource, and the total payments under this SOW or the relevant Task Order will not exceed the authorized hours or the total authorized amount as identified in the relevant Task Order. The Commission Project Manager will review and approve these invoices based on satisfactory work performance by the Named Resource. The Commission Project Manager may terminate use of the Named Resource by providing ten (10) business days’ written notice to JD Software Project Manager. If termination is “For Cause”, or for a violation of a term of this Agreement, the Commission may terminate use of the Named Resource effective immediately by providing written notice to JD Software Project Manager.

12. UPDATES AND UPGRADES

12.1 JD Software will make updates and upgrades available to Commission at no additional cost when JD Software makes such updates and upgrades generally available to its users. If possible, JD Software will invite in the Commission to participate in the design and testing processes.

12.2 No update, upgrade or other change to the Service may decrease the Service’s functionality, adversely affect Commission’s use of or access to the Service, or increase the cost of the Service to Commission.

12.3 JD Software will notify Commission at least sixty (60) days in advance prior to any major update or upgrade that will substantially affect the Commission’s operations. If requested by the Commission, JD Software will provide additional training at no additional cost.

12.4 JD Software will provide written notice to the Commission at least two (2) business days in advance prior to any minor update or upgrade, including hotfixes and installation of service packs, except in the case of an emergency such as a security breach.

13. COMMISSION DATA

13.1 “Commission Data” means all data, content, video, images or other materials of any kind or format that are (i) uploaded to or stored on the Hosting Servers by the Commission or any Authorized User; (ii) transmitted by the Hosting Servers at the instigation of the Commission or any Authorized User; (iii) supplied by Commission or any Authorized User to JD Software for uploading to, transmission by or storage on the Hosting Servers; or (iv) generated by the Hosting Servers as a result of the use of the Service by Commission or any Authorized User. Commission retains full right and title to Commission Data and any data derived therefrom.

13.2 JD Software shall not collect, access, or use user-specific Commission Data except as strictly necessary to provide the Service to Commission and its Authorized Users. No information regarding Commission’s use of the Service may be disclosed, provided, rented or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall extend beyond the term of the Agreement in perpetuity.

13.3. JD Software shall not use any Commission Data, for any purpose other than fulfilling its obligations under the Agreement.

13.4 At no time may any Commission Data be copied, disclosed, or retained by JD Software for subsequent use in any transaction that does not include Commission.

13.5 Commission Data must be hosted on servers that remain at all times within the continental United States. As provided in Section 19.1, JD Software has disclosed to Commission the identity of any third-party host of Commission Data prior to the signing of this Agreement.

13.6 Commission may export the Commission Data at any time during the term of the Agreement or for up to three (3) months after the term (so long as the Commission Data remains in JD Software’s possession) in an agreed-upon file format and medium.

13.7 Three (3) months after the termination or expiration of the Agreement or upon Commission’s earlier written request, and in any event after Commission has had an opportunity to export and recover the Commission Data, JD Software shall at its own expense destroy and erase from all systems it directly or indirectly uses or controls all tangible or intangible forms of the Commission Data and Commission’s Confidential Information, in whole or in part, and all copies thereof except such records as are required by law. To the extent that any applicable law prevents JD Software from destroying or erasing Commission Data as described in the preceding sentence, JD Software shall retain, in its then current state, all such Commission Data then within its right of control or possession in accordance with the confidentiality, security and other requirements of this Agreement, and perform its obligations under this section as soon as such law no longer prevents it from doing so. JD Software shall, upon request, send a written certification to Commission certifying that it has destroyed the Commission Data and Confidential Information in compliance with this section.

14. DATA PRIVACY AND SECURITY

14.1 JD Software must comply with all applicable laws related to data privacy and security.

14.2 JD Software shall not access Commission user accounts, or Commission Data, except as reasonable required to provide the Service, conduct its data center operations, provide technical support or otherwise respond to service or technical issuer at Commission's written request.

14.3 JD Software may not share Commission Data with its parent company, other affiliate, or any other third party without Commission's express written consent.

14.4 JD Software will be required to use Commission Data that includes personal data under Mass. Gen. Laws c. 66A and personal information under Mass. Gen. Laws c. 93H, and to work on systems that contain such data in order to complete its specified Tasks. JD Software will implement the maximum feasible safeguards reasonably needed to: (1) ensure the security, confidentiality, and integrity of electronic personal data and personal information; and (2) prevent unauthorized access to electronic personal data and personal information from any public or private network.

14.4.1 JD Software shall comply with all applicable laws regarding sensitive or personal information that will be stored or used in the Service. JD Software will execute any additional contractual documentation if required under any law, rule or regulation for the access, storage, processing, and use of sensitive or personal information (e.g., HIPAA, FERPA, IRS Pub. 1075).

14.5 JD Software shall provide a secure environment for Commission Data, and any hardware and software, including servers, network and data components provided by JD Software as part of its performance under this Agreement, in order to protect, and prevent unauthorized access to and use or modification of, the Service and Commission Data. JD Software will implement commercially reasonable safeguards necessary to prevent unauthorized access to Commission Data and physical access to any Commonwealth information technology resources.

14.6 JD Software will encrypt personal and non-public Commission Data in transit and at rest and implement any further commercially reasonable safeguards to prevent interception and manipulation of Commission Data.

14.7 Commission Data must be partitioned from other data in such a manner that access to it will not be impacted or forfeited due to e-discovery, search and seizure or other actions by third parties obtaining or attempting to obtain JD Software's records, information or data for reasons or activities that are not directly related to Commission's business.

14.8 In the event of any breach of the Service's security that adversely affects Commission Data or JD Software's obligations with respect thereto, or any evidence that leads JD Software to reasonably believe that such a breach is imminent, JD Software shall immediately (and in no event more than twenty-four hours after discovering such breach) notify Commission. JD Software shall identify the affected Commission Data and inform Commission of the actions it is taking or will take to reduce the risk of further loss to Commission. JD Software shall provide Commission the opportunity to participate in the investigation of the breach and to exercise control over reporting the unauthorized disclosure, to the extent permitted by law.

14.9 In the event that personally identifiable information is compromised due to JD Software's failure to comply with the SOW, negligence or omission, JD Software shall be responsible for providing breach notification to data owners in coordination with Commission and the Commonwealth as required by M.G.L. c. 93H or other applicable law or Commonwealth policy.

14.10 JD Software shall indemnify, defend, and hold Commission harmless from and against any and all fines, criminal or civil penalties, judgments, damages and assessments, including reasonable expenses suffered by, accrued against, charged to or recoverable from the Commonwealth, on account of the failure of JD Software to perform its obligations pursuant to this Section.

15. EQUIPMENT, WORK SPACE, OFFICE SUPPLIES

JD Software will submit a list of employees who will need access to the building and to state systems before execution of this SOW. Any JD Software employees who have access to the Commission's information technology resources must comply with Administration and Finance's "Acceptable Use Policy" or after JD Software's receipt of notice that such alternative policy is applicable, any alternative policy adopted by the Commission.

16. RELATED PROJECT KNOWLEDGE

In addition to the Statewide Contract IT Specification and all other terms of RFR, JD Software shall, prior to commencing any other work under this SOW, become familiar with the documents identified by the Commission's CTO and Project Manager.

17. WARRANTY

At minimum, JD Software must warrant that:

17.1 JD Software has acquired any and all rights, grants, assignments, conveyances, licenses, permissions and authorizations necessary for JD Software to provide the Service to Commission;

17.2 The Service will perform materially as described in the Agreement;

17.3 JD Software will provide to Commission commercially reasonable continuous and uninterrupted access to the Service, and will not interfere with Commission's access to and use of the Service during the term of the Agreement;

17.4 The Service is compatible with and will operate successfully with any environment (including web browser and operating system) specified by JD Software in its documentation;

17.5 The Service will be performed in accordance with industry standards as commonly observed at the time of JD Software's performance hereunder, provided however that if a conflicting specific standard is provided in this Agreement or the documentation provided by JD Software, such specific standard will prevail;

17.6 JD Software will maintain adequate and qualified staff and subcontractors to perform its obligations under this Agreement with due care and diligence and in accordance with applicable professional standards; and

17.7 JD Software will host the SaaS Solution on servers and support the SaaS Solution with helpdesk personnel located within the continental United States; and

17.8 JD Software and its employees, subcontractors, partners and third-party providers have taken all necessary and reasonable measures to ensure that all software provided under this Agreement shall be free of Trojan horses, back doors, known security vulnerabilities, malicious code, degradation, or breach of privacy or security.

18. ACCESSIBILITY

For SaaS, JD Software must comply with the Commonwealth's established standards for accessibility as described in a separate attachment. If such attachment is not provided, JD Software must request the accessibility terms from Commission. The accessibility terms provide, among other things, that JD Software must

- (1) give Commission a VPAT or other results of accessibility testing prior to contract execution;
- (2) provide Commission with access to the Service so that Commission can conduct accessibility testing, and cooperate with Commission or third-party accessibility testing of the Service; and
- (3) make available, both prior to and during the course of the engagement, JD Software personnel to discuss accessibility and compliance with the Commonwealth's accessibility standards.

19. SUBCONTRACTORS

19.1 The Commission acknowledges that (i) initially the Service and related data will be hosted on Amazon Web Services in a FedRAMP US GovCloud region; and (ii) Scott Margolis is engaged as the Security and Privacy Compliance Manager on a subcontract basis. Before and during the term of this Agreement, JD Software must provide written notice to the Commission prior to any other subcontractor providing any services, directly or indirectly, to Commission under this Agreement that materially affect the Service being provided to Commission, including: hosting; data storage; security and data integrity; payment; and disaster recovery. Commission must approve all such subcontractors identified after the effective date of the Agreement.

19.2 JD Software is responsible for its subcontractors' compliance with the Agreement, and shall be fully liable for the actions and omissions of subcontractors as if such actions or omissions were performed by JD Software.

20. DISASTER RECOVERY

20.1 JD Software agrees to maintain and follow a disaster recovery plan designed to maintain Commission access to the Service, and to prevent the unintended destruction or loss of Commission Data. The disaster recovery plan shall provide for and be followed by JD Software such that in no event shall the Service be unavailable to Commission for a period in excess of twenty-four (24) hours.

20.2 If Commission designates the Service as mission-critical, as determined by Commission in its sole discretion:

(1) JD Software shall review and test the disaster recovery plan regularly, at minimum twice annually;

(2) JD Software shall back up Commission Data no less than twice daily in an off-site “hardened” facility located within the continental United States; and

(3) in the event of Service failure, JD Software shall be able to restore the Service, including Commission Data, with loss of no more than twelve (12) hours of Commission Data and transactions prior to failure.

21. RECORDS AND AUDIT

21.1 Records.

JD Software shall maintain accurate, reasonably detailed records pertaining to:

- (i) The substantiation of claims for payment under this Agreement, and
- (ii) Service Levels, including service availability and downtime.

21.2 Records Retention.

JD Software shall keep such records for a minimum retention period of seven (7) years from the date of creation, and will preserve all such records for five (5) years after termination of this Agreement. No applicable records may be discarded or destroyed during the course of any litigation, claim, negotiation, audit or other inquiry involving this Agreement.

21.3 Audit.

The Commission or its designated agent shall have the right, upon reasonable notice to JD Software, to audit, review and copy, or contract with a third party to audit, any and all records collected by JD Software pursuant to item 21.1 above, as well as any other JD Software records that may reasonably relate to Commission’s use of the Service, no more than twice per calendar year. Such records will be made available to Commission at no cost in a format that can be downloaded or otherwise duplicated. The cost of any audit, whether by the Commission or its designated agent, will be the responsibility of the Commission.

22. TRANSITION ASSISTANCE

22.1 JD Software shall maintain system documentation, relevant technical materials, and Commission Data in a form that is suitable for a potential successor to migrate the data to another solution.

22.2 JD Software shall reasonably cooperate with the Commission and its designee in connection with all services to be delivered under this Agreement, including without limitation any successor provider to whom Commission Data is to be transferred in connection with termination. JD Software shall assist Commission in exporting and extracting the Commission Data, in a format usable without the use of the Service and as mutually agreed to by Commission and JD Software. JD Software agrees to answer any Commission questions that are relevant to ensuring a successful

transfer of the data to a different system or solution. JD Software will provide reasonable support for the transfer at no cost to the Commission.

22.3 If Commission determines in its sole discretion that a documented transition plan is necessary, then no later than sixty (60) days prior to termination, JD Software and Commission shall jointly create a written Transition Plan Document identifying transition services to be provided and including an SOW if applicable. Both parties shall comply with the Transition Plan Document both prior to and after termination as needed.

22.4 Any transition services requested by Commission involving additional knowledge transfer and support may be subject to a separate transition SOW on a time and materials basis either for a fixed fee or at rates to be mutually agreed upon by the parties.

23. BUSINESS CONTINUITY PROVISION

In the event that JD Software ceases business operations and there is no acquiring entity that will manage the Service, JD Software shall provide the Commission with source code and process manuals to allow the Commission to take over the management of the Service for its own internal business use only, upon the payment of applicable license Fees and for the term set forth in this Agreement. JD Software shall provide a list of all third-party contracts that are used in conjunction with the Service at the time it provides the applicable source code. The Commission shall procure the necessary vendor agreements for all third-party software or platforms that are not the property of JD Software.

24. BANKRUPTCY

All rights and licenses granted under or pursuant to this Agreement by JD Software to the Commission and the Commonwealth are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code, licenses to rights to "intellectual property" as defined in the United States Bankruptcy Code. The Parties agree that the Commission and the Commonwealth, as licensees of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the United States Bankruptcy Code, upon payment of applicable license Fees, and for the term specified in the Agreement. The Parties further agree that, in the event of the commencement of bankruptcy proceedings by or against JD Software under the United States Bankruptcy Code, the Commission and the Commonwealth shall be entitled to retain all of its rights under this Agreement and JD Software shall promptly provide all Commission Data that it currently holds, stores, or processes to the Commission in an agreed-upon format.

25. OTHER GENERAL PROVISIONS

Neither party shall be responsible for any delay or failure in performance of any part of this SOW to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil, or military authority, act of God, or other causes beyond its reasonable control. If any such event of force majeure occurs the party delayed or unable to perform shall give immediate notice to the other party describing the event, its anticipated effect and duration, and the measures the affected party will take to mitigate such effect.

[End of page. Signature page follows.]

The undersigned hereby represent that they are duly authorized to execute this SOW on behalf of their respective organizations.

The Cannabis Control Commission

JD Software, Inc.

Shawn Collins, Executive Director

**Lhassan Oubala, Chief Executive Officer
(CEO)**

Date

Date

DRAFT FOR DISCUSSION