



INSIGHT METHODS INC  
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CONTRACT ISSUE DATE: July 1, 2020 | CONTRACT # EBIA-20-0

## MASTER SERVICES AGREEMENT

1. Purpose - This Master Services Agreement (MSA) is between INSIGHT METHODS INC DBA BEEHIVELY. (“Beehively”) and East Bay Innovation Academy (“Client”). Beehively will provide IT Services to Client as specified and agreed upon in Individual Service Word Orders (“Work Orders”). Any separately signed and executed Work Order entered into between Client and Beehively shall be fully incorporated within and controlled by this MSA, including the sections “Contract Renewals” and “Contract Termination” below. Although the designated Client is the parish corporation, the parties acknowledge that the services to be performed under any Work Order will be performed for, and at the direction of, the parish school.
2. Term - This MSA begins on the date of acceptance and signature by Client below and shall remain in effect as long as any Work Order Service Term remains in effect or any payments on the Work Order remains outstanding.
3. Services to be Provided - For any period of time in which Client wishes to engage Beehively to provide services, the services will be more specifically defined and agreed upon in individual Work Orders. Each Work Order will have a services description that specifies the specific services provided and the accompanying service details, including any exclusions, and service terms.
4. Confidentiality - Beehively and client understand that during the course of this MSA, they may be exposed to data and information, which are confidential and proprietary to Beehively and Client. All such data and information (hereinafter “Confidential Information”) written or verbal, tangible or intangible, made available, disclosed, or otherwise made known to Beehively and Client and their employees, partners and subcontractors as a result of services under this MSA shall be considered confidential and shall remain Beehively’s or Client’s sole property. Each party agrees that it will not reveal, publish or otherwise disclose Confidential Information to any third party without the prior written consent of the disclosing party, provided that the foregoing obligations shall not apply to Confidential Information which:
  - a. Is or becomes generally available to the public other than as a result of a disclosure by the receiving party;

- b. Becomes available to the receiving party on a non-confidential basis from a source, which is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation to the disclosing party;
- c. The receiving party develops independently of any disclosure by the disclosing party;
- d. Was in the receiving party's possession or known to the receiving party prior to its receipt from the disclosing party; or
- e. Is required by law to be disclosed.

This obligation of confidentiality and non-disclosure shall remain in effect for a period of three years after the termination of this MSA.

5. Independent Contractor Relationship - For the purposes of this MSA, Beehively is an independent Work Contractor/service provider and nothing contained in this MSA shall be construed to place them in the relationship of partners, principal and agent, or employer and employee. Beehively agrees that it shall have no power or right to bind or obligate Client, nor shall Beehively hold itself out as having such authority. Client shall not represent Beehively as officials, management, or staff of the former; however, Client may represent Beehively as consultants and advisors.

6. Performance of Services - In carrying out its responsibilities under this MSA, Beehively agrees that these services shall be conducted in compliance with, when appropriate, any applicable protocol and specifications and with all applicable laws, rules, and regulations.

7. Communication and Problem Resolution - It is understood by both parties that over the course of the service term misunderstandings, problems, and even mistakes may arise. Both parties agree to promptly notify the other party of any such problems or concerns, either verbally or via email, and to facilitate and work in good faith to quickly resolve the concerns

8. Work Order Renewals - A Work Order length or "Term" is specified within the Terms and Conditions on each Work Order. The parties agree that they will have the ability to negotiate and modify the specific terms of any successive Work Order. If no changes are necessary other than the term of the Work Order, the Work Order will automatically renew, for a 1 year term, annually, on the anniversary of the Work Order "Start Date", as included on the Work Order. The Work Order will not automatically renew if either party exercises its right to Work Order termination, as set forth in Section 9, below.

9. Work Order Termination - There is no early termination option for a Work Order during the Work Order service term, or any Work Order renewal service term, outside of the Cause for Termination Exception as described in Section 10. However, before the end of the current service term, Client may choose not to extend the Work Order beyond the existing year service term, by notifying Beehively at least 90 days prior to the next annual renewal date. Client remains obligated to pay any outstanding payments after the Work Order terminates. After notification, the Work Order term will end at the next renewal date and the Work Order will have been "terminated."

10. Work Order Cause for Termination Exception

a. Client may terminate a Work Order for “Cause” at the end of an existing service term, without further payment liability, and with email notification of Client's intention to terminate, should any of the following occur:

i. Client has asked Beehively to change Client’s onsite support or training personnel and Beehively has not made the change within 90 days of notification.

ii. Client has notified Beehively that Beehively has failed to provide the services described directly below in this section, and Beehively fails to resolve the service problem(s) within 90 days of notification. Such services include:

- (1) Completion of onsite support and EdTech training visits
- (2) Completion of Client management and technology planning

meetings

b. Beehively may terminate a Work Order for “Cause” if payment for any Work Order is not received by Beehively within (90) days of the due date of any such invoice.

11. MSA Termination - This MSA may be terminated for cause by Beehively or by Client, with 30 days’ notice, provided all Work Orders have been terminated AND all payments have been made to Beehively for all Work Orders. Cause for terminating this MSA is defined may occur if:

a. Client has notified Beehively that Beehively has materially breached this MSA, and Beehively fails to cure the breach(s) within 90 days of notification.

12. Limitation of Liability - Client agrees that Beehively's liability for any breach of this MSA or a Work Order by Beehively, shall be limited to the correction or replacement of any defective service or, at Beehively’s option, refund of the purchase price, whichever is less. In addition, in no event shall the Beehively’s liability for breach of this MSA or a Work Order exceed the amount of compensation actually received by Beehively from Client pursuant to the Work Order in question.

13. Indemnification - Client agrees to indemnify, defend and hold harmless Beehively and its affiliates and directors, officers, employees and agents (each, an “Indemnified Party”) from and against any and all losses, claims, actions, damages, liabilities, costs and expenses, including reasonable attorney’s fees and court costs, (collectively, “Losses”), that the Indemnified Party may incur or sustain relating to or arising from or in connection with this MSA (including, without limitation, any Losses arising from or in connection with any study, test, strategy, product or potential product to which this MSA relates) or any litigation, investigation or other proceeding relating to any of the foregoing.

14. Indemnification Procedure - An Indemnified Party shall: (a) give Client notice of any claim or lawsuit (including a copy thereof served) within fifteen (15) days after receiving the claim or lawsuit ; (b) fully cooperate with Client and its legal representatives in the investigation of any matter which is the subject of indemnification; and (c) not unreasonably withhold its approval of the settlement of any such claim, liability, or action by the party which is the subject of this Indemnification provision.

15. Mediation

a. The parties agree that any and all disputes, claims or controversies arising out of or relating to this MSA or any Work Order, that are not fully resolved through the process set forth in Section 7, shall be submitted for mediation.

b. Either party may commence mediation by providing to the other party a written request for mediation, setting forth the subject of the dispute and the relief requested.

c. The parties will cooperate with one another in selecting a mutually-agreeable mediator and in scheduling the mediation proceedings. The parties agree that they will participate in the mediation in good faith and that they will share equally in its costs.

16. Attorneys' Fees - In the event of any dispute arising from or related to this MSA or Work Order, or the services provided under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred including court costs, reasonable attorneys' fees, and all other related expenses incurred in such litigation.

17. Force Majeure - In the event either party shall be delayed or hindered in or prevented from the performance of any act required hereunder by reasons of strike, lockouts, labor troubles, inability to procure materials, failure of power or restrictive government or judicial orders or decrees, riots, insurrection, war, Acts of God, inclement weather, or any other reason or cause beyond that party's reasonable control, the performance of such act shall be excused for the period of such delay.

18. Non-solicitation - During the entire Work Order service term, and for one (1) year after final Work Order expiration or termination, Client will not, directly or indirectly solicit, hire, or attempt to induce separate or individual services from any employee or affiliate of Beehively without prior written consent of Beehively.

19. Assignment - Beehively may assign this contract with all of its rights and responsibilities to any person, firm, or corporation at any time during the term of this contract, and the assignee shall acquire all of the rights and assume all of Beehively's obligations under this contract.

20. Fee Schedule - Client will be invoiced as delineated in individual Work Orders and Payment shall be made by Client by the due date of the invoice. If payment is not received by Beehively within 60 days of the due date of any invoice, Beehively may suspend client services, at Beehively's discretion, and the outstanding balances due will accrue interest at 2% per month.

21. Notices - Any notice to either party shall be in writing. The notice will be deemed as

given on the date it is received, if the notice is delivered to the following addresses:

If to Beehively:                   Work Orders Department  
Insight Methods Inc.  
DBA Beehively  
129 E Street, Suite D3, Davis, CA 95616  
[Contracts@Beehively.com](mailto:Contracts@Beehively.com)

If to Client:                       Michelle Cho  
CEO  
East Bay Innovation Academy  
3400 Malcom Ave, Oakland, CA  
[michelle.cho@eastbayia.org](mailto:michelle.cho@eastbayia.org)

22.     Governing Law/Severability - This MSA, and any Work Order, shall be construed, governed, interpreted, and applied in accordance with the laws of the State of California, and the venue for any civil action shall be the County of Yolo. If any one or more provisions of this MSA shall be found to be illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

23.     Entire Agreement - This MSA contains the entire understandings of the parties with respect to its subject matter, and supersedes all previous agreements (oral and written), negotiations, and discussions, except as it relates to provisions incorporated by way of subsequent Work Orders. The parties may modify any of the provisions of the MSA or any Work Order only in writing duly executed by the parties.

24.     Waiver of Breach - Any waiver by either party of the breach of any provision of this MSA shall not operate or be construed as a waiver of any subsequent breach.

25.     Execution in Counterparts - The parties agree that this MSA may be executed in counterpart and it is the intent of the parties that a copy of the MSA signed by either party, including a copy transmitted via facsimile, shall be deemed to constitute an original of the MSA, shall be fully enforceable against the party, and shall be equally admissible into evidence.

ACKNOWLEDGED, ACCEPTED, AND AGREED TO:

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Client Signature

Date

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Print Name

Title