### Generative AI ITGP

### 22. Generative Artificial Intelligence

**22.1 DEFINITIONS**

For purposes of this Section, the following terms shall be given the meaning shown below. Capitalized terms used below and not defined in this Section shall have the meaning set forth in Section 1 (Definitions) or in the text of these General Provisions (ITGP Cloud).

**22.1.1 Artificial Intelligence (AI):** an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments (Gov Code §§ 11549.64 & 11546.45.5).

**22.1.2 GenAI Training Data:** any content, information, or data that is used to train, tune, test, or validate a GenAI, including text, images, video, audio, code, or similar types of input.

**22.1.3 Generated Data:** any output, results, content, or other data that is produced by GenAI, including but not limited to text, images, video, audio, code, or similar types of output.

**22.1.4 Generative AI (GenAI):** an AI system that can generate derived synthetic content, including text, images, video, and audio, that emulates the structure and characteristics of the system’s Training Data (Gov Code §11549.64).

**22.1.5 Hallucination:** Generated Data that is nonsensical, false, or misleading, and is not based on real or existing data, but is instead produced by bias or the GenAI’s extrapolation or creative interpretation of its Gen AI Training Data.

**22.1.6 Prompt:** any written, spoken, or rendered information provided as a query, command, or other form of input, to any GenAI in connection with this Contract. For avoidance of doubt, Prompt includes any input automatically detected or created by the GenAI, as well as any derivate works of a Prompt or collection of Prompts.

### 22.2 GENAI DISCLOSURE OBLIGATIONS

### 22.2.1 Disclosure Obligations

1. Contractor must notify the State in writing if it: (1) provides previously unreported GenAI as a Deliverable to the State; or (2), utilizes previously unreported GenAI, including unreported GenAI from third parties, to complete all or a portion of any Deliverable that materially impacts: (i) functionality of the System, (ii) risk to the State, or (iii) Contract performance. Contractor shall immediately complete the GenAI Reporting & Factsheet (STD 1000) to notify the State of any previously unreported GenAI.
2. At the direction of the State, Contractor shall discontinue the provision to the State of any previously unreported GenAI that results in a material impact to the functionality of the System, risk to the State, or Contract performance, as determined by the State, unless the provision or use of such GenAI has been approved by the State.
3. If the use of GenAI is approved by the State, Contractor will update the Deliverable description, and the Parties will amend the Contract accordingly.

### 22.2.2 Failure to Disclose

1. The State, at its sole discretion, may consider Contractor’s failure to disclose to the State the provision or use of GenAI as described above, or failure to submit the GenAI Reporting & Factsheet (STD 1000), to constitute a breach of Contract when such failure results in a material impact to functionality of the System, risk to the State, or Contract performance. The State is entitled to seek any and all remedies available to it under law as a result of such undisclosed provision or use of GenAI.
2. Notwithstanding Section 20.8, the State reserves the right to amend the Contract, without additional cost, to incorporate GenAI Special Provisions into the Contract, or terminate the Contract.

### 22.3 CONTRACTOR’S OBLIGATIONS FOR RESPONSIBLE USE

**22.3.1** Contractor shall ensure that it has obtained all necessary consents, permissions, and licenses from data subjects and third parties to use the GenAI for this Contract. Subject to Section 11, Contractor represents and warrants, it will have the appropriate U.S. Intellectual Property Rights associated with any GenAI used in the Deliverables provided under the Contract.

**22.3.2** Contractor shall ensure that the GenAI included, or made available as part of the Deliverables is equitable, non-discriminatory, and reasonably well-designed to avoid harmful, offensive, dangerous, and unlawful impact. (Assem. Bill 896, 2023-2024 Reg Sess. (Cal. 2024)). Contractor shall be liable for any Hallucination produced by the GenAI that has an adverse impact on Generated Data or a Deliverable.

**22.3.3** Contractor shall comply with all applicable laws and regulations as set forth in Section 13.1 above and these General Provisions in relation to the provision or use of any GenAI in the Deliverables.

### 22.4 GENAI TRAINING DATA OWNERSHIP

**22.4.1** Except as otherwise agreed to by the Parties, Contractor shall retain all ownership and intellectual property rights in the GenAI Training Data it provides.

**22.4.2** The State shall have the right to augment the GenAI Training Data provided by Contractor with State Data. State shall retain all ownership and intellectual property rights in State Data used to augment GenAI Training Data.

### 22.5 RIGHTS TO STATE GENERATED DATA

The Parties agree that Generated Data created from a State provided Prompt is not a derivative work of the GenAI Training Data. Notwithstanding the preceding sentence, in the event a court of competent jurisdiction determines that Generated Data created from a State-provided Prompt constitutes a derivative work of the GenAI Training Data, Contractor agrees to grant the State an unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive right, and license to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Generated Data for any State Government Purpose Rights.

### 22.6 CONTRACTOR’S USE OF STATE DATA

Contractor shall not incorporate any Non-Public State Data into GenAI Training Data and shall not otherwise utilize Non-Public State Data to train, tune, maintain, improve, or develop GenAI, except with the express written authorization from the State specifying the Non-Public State Data that may be used along with the acceptable scope of such usage.