



# Superior Court of California, San Mateo County

400 County Center, 4<sup>th</sup> Floor; Redwood City, CA 94063  
www.sanmateocourt.org

## Request for Proposal

RFP Number	Title	Issued	Due Date and Time
19-R001	Queue Management System	Nov. 13, 2018	Dec. 21, 2018 @ 2PM
Contract Officer		Contact Information	
Mary Treanor		procurement@sanmateocourt.org	

### Proposer Information:

Firm Address	
Federal EIN	
Phone	
Email	

In accordance with the following and in compliance with all terms and conditions, unless otherwise noted, the undersigned offers and agrees, if the proposal is accepted, to furnish items or services for which prices are quoted, at the price set, delivered or furnished to designated points within the time specified. It is understood and agreed that with respect to all terms and conditions accepted by the court the items or services offered and accompanying attachments shall constitute a contract.

### Vendor's Legally Authorized Representative:

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## 1. Background

The Superior Court of California, County of San Mateo (“Court”) has obtained grant funding to support the purchase and installation of an automated queue management system for assisting and organizing people awaiting customer services at court clerk windows and other court public services. The premise of the grant is to improve on the services that are provided to the public through innovative solutions. An automated queue management system will meet this need by directing customer requests for services to the appropriate court clerk windows, and in facilitating staff planning and assignments to meet that demand.

The Court is seeking an automated queue management system that will allow customers to check in for court services, obtain directions to scheduled activities, check in for appointments made online, provide for remote check in from a mobile device, and will provide text updates.

The Court envisions that such an automated system will ultimately assist the Court in managing the demand of public access to services in the Traffic, Criminal, Civil, Family Law, Probate, Small Claims Divisions as well as the Self-Help and Family Law Facilitator’s offices.

The proposed systems will be used at the Court’s Redwood City Hall of Justice and South San Francisco Northern Branch Courthouse.

## 2. Scope of Work

- A. Provide, install and configure an automated queue management system that:
  - I. Allows Court customers to check in, at an electronic kiosk, for, or access the following services:
    - a. Court services in all divisions;
    - b. Scheduled court workshops and other non-case-filing services;
    - c. Payments made in person;
    - d. Document and files viewing with Court assistance;
    - e. Any other services that the Court may offer in the future;
  - II. Generates a numbered and/or lettered ticket;
  - III. Refers the customer to the appropriate window or location to be served, through on-screen displays and by automated voice prompts;
  - IV. Provides Court staff with online status of pending visits in various queues;
  - V. Alerts staff when a customer is waiting for service;
  - VI. Monitors and provides reporting functions on wait times and queue performance statistics for court management and grant reporting requirements;

- B. Install system that does the above at the following locations:
- I. Phase 1: Traffic Clerks office and Criminal Clerks office at:  
Northern Branch, 1050 Mission Rd., South San Francisco, CA 94080
  - II. Phase 2: Criminal Clerks office at:  
Hall of Justice, 400 County Center, Redwood City, CA 94063
- C. Provide training upon initial implementation and upon subsequent updates on:
- I. Regular usage of the system
  - II. Support
  - III. Maintenance and support of the associated hardware
  - IV. Reporting capabilities
  - V. Management capabilities
- D. Timeline. The Phase I project plan must be agreed upon within five business days of contract award. Phase II may be scheduled at a later date by mutual agreement.
- E. Personnel. All on-site personnel must complete a California LiveScan or equivalent background certification prior to beginning work on any Court premises.

### 3. Solicitation Timeline

The following timeline lists key dates and times related to this solicitation. All dates are subject to change at the discretion of the Superior Court of California, San Mateo County.

Event	Date
RFP Issued	November 13, 2018
Mandatory Site Visits	November 30, 2018
Deadline for Questions	December 4, 2018
Questions and Answers Posted	December 11, 2018
Proposals and Submissions Due	December 21, 2018
Notice of Intent to Award	January 30, 2019
Contract Execution	February 27, 2019

### 4. Attachments

The following attachments are included and part of this solicitation:

Attachment	Description
Attachment 1: Administrative Rules Governing RFPs	These rules govern this solicitation.
Attachment 2: Standard Terms and Conditions	If selected, the person or entity submitting a proposal must sign this standard form agreement.

Attachment 3: Proposer's Acceptance of the Terms and Conditions	On this form, the Proposer must indicate acceptance of the Terms and Conditions or identify exceptions to the Terms and Conditions.
Attachment 4: General Certifications Form	The Proposer must complete the General Certifications Form and submit the completed form with its proposal.
Attachment 5: Payee Data Record Form	This form contains information the Court requires in order to process payments and must be submitted with the proposal.
Attachment 6: Unruh and FEHA Certification	Proposer must complete the Unruh Civil Rights Act and California Fair Employment and Housing Act Certification.

## 5. Payments

Contractor shall submit monthly invoices for services performed for the previous month. Monthly invoices shall detail work completed. After receipt of an invoice, Court will review the services performed before approving the invoice for payment, or provide contractor with specific reasons why any payment is being withheld and inform contractor of remedial actions required in order for contractor to receive the amount withheld.

An invoice shall contain a detail of services rendered, any other incidental expenses allowable under the contract, the Court's contract number, and be signed by the contractor.

This project is grant funded and the budget may be limited accordingly.

## 6. Mandatory Site Visit

Attendance at the scheduled site visit is required to be eligible to submit a proposal.

The site visit will take place at the date and time listed below in Section 3, Solicitation Timeline at the 2 locations listed below. Attendance at both locations will be taken and is required:

1. Northern Branch of the Superior Court of California  
1050 Mission Road,  
South San Francisco, CA 94080  
**Meet in main lobby just past security checkpoint at  
9:00AM on Friday, November 30, 2018**
2. Hall of Justice  
400 County Center  
Redwood City, CA 94063  
**Meet in 4<sup>th</sup> floor lobby outside Criminal Clerks Office at  
2:00PM on Friday, November 30, 2018**

**7. Submission of Proposals**

- A. Proposals should provide straightforward, concise information that satisfies the requirements of the "Proposal Contents" section below. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the RFP's instructions and requirements, and completeness and clarity of content.
- B. The Proposer must submit its proposal in two parts, the technical proposal and the cost proposal.
- I. The Proposer must submit one (1) original and five (5) electronic copies of the technical proposal on five separate **USB thumb drives**. The original must be signed by an authorized representative of the Proposer. The original technical proposal (and the copies thereof) must be submitted to the Court sealed and separate from the cost proposal. The Proposer must write the RFP title and number on the outside of the sealed envelope.
- II. The Proposer must submit one (1) original and five (5) electronic copies of the cost proposal on five separate **USB thumb drives**. The original must be signed by an authorized representative of the Proposer. The original cost proposal (and the copies thereof) must be submitted to the Court, sealed and separate from the technical proposal. The Proposer must write the RFP title and number on the outside of the sealed envelope.
- C. All proposals must be sealed and submitted, by no later than the date and time on the cover sheet, to the address below. Proposals received by the Contract Officer in the Finance Division after the due date and time shall be deemed non-responsive, and will not be accepted. :
- Superior Court of California, San Mateo County  
Attention: Finance Division - Procurement  
400 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94063
- D. All submissions must include the cover sheet signed and dated by an authorized representative.
- E. Only written or typed proposals will be accepted. Submission is accepted by US Mail, Parcel Service, or Hand Delivery. Proposals may not be transmitted or accepted by fax or email.

## 8. Contents of Proposals

### A. Technical Proposal.

The following information must be included in the technical proposal. A proposal lacking any of the following information may be deemed non-responsive.

- I. A completed cover page including the proposer's name, address, telephone number, and federal tax identification number. **Note:** If proposer is a sole proprietor using his or her social security number, the social security number will be required before finalizing a contract.
- II. Name, title, address, telephone number, and email address of the individual who will act as the Proposer's designated representative for purposes of this RFP.
- III. For each key staff member: a resume describing the individual's background and experience, as well as the individual's ability and experience in conducting the proposed activities.
- IV. Names, addresses, and telephone numbers of a minimum of three (3) clients for whom the Proposer has conducted similar services. The Court may check references listed by the Proposer.
- V. Proposed method to complete the work, including:
  - a. Detailed project plan and timeline, following requirements in Section 2(G). Include time estimates for
    - i. Project Start
    - ii. Installation Complete
    - iii. Training Complete
    - iv. Go Live
  - b. Project/team organization, including:
    - i. Whether or not subcontractors will be utilized;
    - ii. How many staff will be utilized;
    - iii. Hourly rate ranges for proposed positions
    - iv. Names and titles of the following key staff positions:
      - o Project Manager
      - o Contract Manager
      - o Other management personnel involved in the execution and implementation of this contract.
  - c. Provide any requisite licensing agreements

VI. Acceptance of the Terms and Conditions.

- a. On Attachment 4, the Proposer must either indicate acceptance of the Terms and Conditions.
- b. If exceptions are identified, the Proposer must also submit (i) a red-lined version of the Terms and Conditions that implements all proposed changes, and (ii) a written explanation or rationale for each exception and/or proposed change.

VII. Certifications, Attachments, and other requirements

- a. Proposer must include the following certifications in its proposal:
  - i. Proposer certifies that it has no interest that would constitute a conflict of interest under California Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or rule 10.103 or rule 10.104 of the California Rules of Court, which restrict employees and former employees from contracting with judicial branch entities.
  - ii. Proposer certifies that either (i) it is not a scrutinized company as defined in PCC 10490(b), or (ii) the goods or services the Proposer would provide to the Court are not related to products or services that are the reason the Proposer must comply with Section 13(p) of the Securities Exchange Act of 1934. (Note: PCC 10490(b) defines a "scrutinized company" as "a person that has been found to be in violation of Section 13(p) of the Securities Exchange Act of 1934 by final judgment or settlement entered in a civil or administrative action brought by the Securities and Exchange Commission and the person has not remedied or cured the violation in a manner accepted by the commission on or before final judgment or settlement.")
- b. Proposer must submit with its proposal, for itself and each of its affiliates that make sales for delivery into California, a copy of either (a) a California seller's permit issued under Revenue and Taxation Code section 6066 et seq. or (b) a certificate of registration issued under Revenue and Taxation Code section 6226.
- c. Proposer must complete the Darfur Contracting Act Certification (Attachment 5) and submit the completed certification with its proposal.
- d. If (i) Proposer is a corporation, limited liability company, or limited partnership, and (ii) the agreement resulting from this IFB will be performed in California, proof that Proposer is in good standing and qualified to conduct business in California.

- e. Proposer must complete the Unruh Civil Rights Act and California Fair Employment and Housing Act Certification (Attachment 7) and submit the completed certification with its proposal.

**B. Cost Proposal**

- I. A detailed line item budget showing total cost of the proposed services.
  - a. Include any applicable recurring costs such as maintenance, license, or subscription fees.
- II. A full explanation of all budget line items in a narrative entitled “Budget Justification.”
- III. A “not to exceed” total for all work and expenses payable under the contract, if awarded.

**NOTICE:** It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.

**9. Offer Period**

A Proposer's proposal is an irrevocable offer for one hundred and eighty (180) days following the proposal due date. In the event a final contract has not been awarded within this period, the court reserves the right to negotiate extensions to this period.

**10. Evaluation Criteria**

- A. At the time proposals are opened, each proposal will be checked for the presence or absence of the required proposal contents.
- B. The Court will evaluate the proposals on a 100 point scale using the criteria set forth in the table below. Award, if made, will be to the highest-scored proposal.

Criteria	Weight
Proposed Solution	25
Support (services, installation, training)	10
Acceptance of Terms and Conditions	5
Project Plan	10
Cost	50
<b>Total:</b>	<b>100 Points</b>

- C. If a contract will be awarded, the court will post an intent to award notice at [www.sanmateocourt.org](http://www.sanmateocourt.org).

**11. Confidential or Proprietary Information**

One copy of each proposal will be retained by the court for official files and will become a public record. The Public Contract Code requires that proposals be publicly opened and made available for public inspection. Accordingly, Proposer should not include confidential or proprietary information in its proposal.



**12. Disabled Veteran Business Enterprises**

Waived

**13. Protests**

Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contract Manual (see [www.courts.ca.gov/documents/jbcl-manual.pdf](http://www.courts.ca.gov/documents/jbcl-manual.pdf)). Failure of a Proposer to comply with the protest procedures set forth in that chapter will render a protest inadequate and non-responsive, and will result in rejection of the protest. The deadline for the court to receive a solicitation specifications protest is three business days prior to the due date on the cover sheet.

Protests must be submitted either by mail to

Superior Court of California, San Mateo County  
Attention: Finance Division - Procurement  
400 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94063

Or electronically to the contract officer listed on the cover sheet.

**ADMINISTRATIVE RULES GOVERNING RFPs  
(NON-IT GOODS)**

**1. COMMUNICATIONS REGARDING THIS RFP**

Except as specifically addressed elsewhere in the RFP, Proposers must send any communications regarding the RFP to the contract officer listed on the cover page of this solicitation (“Solicitations Mailbox”). Proposers must include the RFP Number in subject line of any communication.

**2. QUESTIONS REGARDING THE RFP**

Proposers interested in responding to the RFP may submit questions via email to the Solicitations Mailbox on procedural matters related to the RFP or requests for clarification or modification of the RFP no later than the deadline for questions listed in the timeline of the RFP. Once submitted, questions become part of the procurement file and are subject to disclosure. Proposers are accordingly cautioned not to include any proprietary or confidential information in questions. If the Proposer is requesting a change, the request must set forth the recommended change and the Proposer’s reasons for proposing the change. Questions or requests submitted after the deadline for questions will not be answered. Without disclosing the source of the question or request, a copy of the questions and the Court’s responses will be made available prior to the proposal due date and time.

**3. ERRORS IN THE RFP**

- A. If, before the proposal due date and time listed in the timeline of the RFP, a Proposer discovers any ambiguity, conflict, discrepancy, omission, or error in the RFP, the Proposer must immediately notify the Court via email to the Solicitations Mailbox and request modification or clarification of the RFP. Without disclosing the source of the request, the Court may modify the RFP before the proposal due date and time by releasing an addendum to the solicitation.
- B. If a Proposer fails to notify the Court of an error in the RFP known to the Proposer, or an error that reasonably should have been known to the Proposer, before the proposal due date and time listed in the timeline of the RFP, the Proposer shall propose at its own risk. Furthermore, if the Proposer is awarded the agreement, the Proposer shall not be entitled to additional compensation or time by reason of the error or its later correction.

**4. ADDENDA**

- A. The Court may modify the RFP before the proposal due date and time listed in the timeline of the RFP by issuing an addendum. Addendums will be posted electronically at [www.sanmateocourt.org](http://www.sanmateocourt.org) It is each Proposer’s responsibility to inform itself of any addendum.
- B. If any Proposer determines that an addendum unnecessarily restricts its ability to propose, the Proposer shall immediately notify the Court via email to the Solicitations Mailbox no later than one day following issuance of the addendum.

**5. WITHDRAWAL AND RESUBMISSION/MODIFICATION OF PROPOSALS**

A Proposer may withdraw its proposal at any time before the deadline for submitting proposals by notifying the Court in writing of its withdrawal. The notice must be signed by the Proposer. The Proposer may thereafter submit a new or modified proposal, provided that it is received at the Court no later than the proposal due date and time listed in the timeline of the RFP. Modifications

offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed in the timeline of the RFP.

## 6. ERRORS IN THE PROPOSAL

If errors are found in a proposal, the Court may reject the proposal; however, the Court may, at its sole option, correct arithmetic or transposition errors or both. If these corrections result in significant changes in the amount of money to be paid to the Proposer (if selected for the award of the agreement), the Proposer will be informed of the errors and how they were corrected, and given the option to abide by the corrected amount or withdraw the proposal.

## 7. RIGHT TO REJECT PROPOSALS

- A. Before the proposal due date and time listed in the timeline of the RFP, the Court may cancel the RFP for any or no reason. After the proposal due date and time listed in the timeline of the RFP, the Court may reject all proposals and cancel the RFP if the Court determines that: (i) the proposals received do not reflect effective competition; (ii) the cost is not reasonable; (iii) the cost exceeds the amount expected; or (iv) awarding the contract is not in the best interest of the Court.
- B. The Court may or may not waive an immaterial deviation or defect in a proposal. The Court's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a Proposer from full compliance with RFP specifications. Until a contract resulting from this RFP is signed, the Court reserves the right to accept or reject any or all of the items in the proposal, to award the contract in whole or in part and/or negotiate any or all items with individual Proposers if it is deemed in the Court's best interest. A notice of intent to award does not constitute a contract, and confers no right of contract on any Proposer.
- C. The Court reserves the right to issue similar RFPs in the future. The RFP is in no way an agreement, obligation, or contract and in no way is the Court or the State of California responsible for the cost of preparing the proposal.
- D. Proposers are specifically directed **NOT** to contact any Court personnel or consultants for meetings, conferences, or discussions that are related to the RFP at any time between release of the RFP and any award and execution of a contract. Unauthorized contact with any Court personnel or consultants may be cause for rejection of the Proposer's proposal.

## 8. EVALUATION PROCESS

- A. The Court will follow the following process in evaluating proposals.
  - 1. The Court will first open the non-cost portion of each proposal received by the appropriate deadline to confirm that it meets the format requirements specified in the RFP.
  - 2. The Court will complete its evaluation of the non-cost portions of all such proposals using the methods specified in the RFP.
  - 3. The Court will publish the results of the completed non-cost evaluation at the following location: [www.sanmateocourt.org](http://www.sanmateocourt.org). Because the small business preference and DVBE incentive cannot be properly applied until both the non-cost and cost portions of the proposals have been scored, these factors will be excluded when publishing the results of the completed non-cost evaluation.
  - 4. The Court will publicly open the cost portion of the proposals as specified in the RFP. The Court will not, however, open the cost portion of any proposal determined to have a material deviation in the non-cost portion.

5. The Court will evaluate the cost portion of the proposals opened in item A.4 above. All figures entered on the cost portion must be clearly legible.
- B. Proposals that contain false or misleading statements may be rejected if in the Court's opinion the information was intended to mislead the evaluation team regarding a requirement of the RFP.
- C. During the evaluation process, the Court may require a Proposer's representative to answer questions with regard to the Proposer's proposal. Failure of a Proposer to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.
- E. The Court's Small Business Preference Procedures for the Procurement of Information Technology Goods and Services ("Small Business Procedures") address the resolution of certain ties involving the small business preference. In the event of a tie not addressed in the Small Business Procedures, the contract will be awarded to the winner of a single coin toss. The coin toss will be witnessed by two Court employees. The Court will provide notice of the date and time of the coin toss to the affected Proposers, who may attend the coin toss at their own expense.

## 9. DISPOSITION OF MATERIALS

All materials submitted in response to the RFP will become the property of the Court and will be returned only at the Court's option and at the expense of the Proposer submitting the proposal.

## 10. PAYMENT

- A. Payment terms will be specified in any agreement that may ensue as a result of the RFP.
- B. **THE COURT DOES NOT MAKE ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provided in the agreement between the Court and the selected Proposer. The Court may withhold ten percent of each invoice until receipt and acceptance of the final deliverable. The amount of the withhold may depend upon the length of the project and the payment schedule provided in the agreement between the Court and the selected Proposer.
- C. Upon a Proposer's timely request, the Court may consider a Proposer's "best financing alternative" (including lease or purchase alternatives). If the RFP is posted more than 30 days before the proposal due date and time listed in the timeline of the RFP, the Proposer's request must be received by the Court at least 30 days before the proposal due date and time. If the solicitation is posted less than 30 days before the proposal due date and time, the Proposer's request must be received by the Court by the day that is halfway between the posting date and the proposal due date. The Court may determine that a specific financing alternative should not be considered.

## 11. AWARD AND EXECUTION OF CONTRACT

- A. Award of contract, if made, will be in accordance with the RFP to a responsible Proposer submitting a proposal compliant with all the requirements of the RFP and any addenda thereto (including any administrative or technical requirements), except for such immaterial defects as may be waived by the Court.
- B. A Proposer submitting a proposal must be prepared to use a standard Court contract form rather than its own contract form.
- C. The Court will make a reasonable effort to execute any contract based on the RFP within forty-five (45) days of selecting a proposal that best meets its requirements. However, exceptions taken by a Proposer may delay execution of a contract.

- D. Upon award of the agreement, the agreement shall be signed by the Proposer in two original contract counterparts and returned, along with the required attachments, to the Court no later than ten (10) business days of receipt of agreement form or prior to the end of June if award is at fiscal year-end. Agreements are not effective until executed by both parties. Any work performed before receipt of a fully-executed agreement shall be at the Proposer's own risk.

## **12. FAILURE TO EXECUTE THE CONTRACT**

The period for execution set forth in Section 11 ("Award and Execution of Agreement") may only be changed by mutual agreement of the parties. Failure to execute the agreement within the time frame identified above constitutes sufficient cause for voiding the award. Failure to comply with other requirements within the set time constitutes failure to execute the agreement. If the successful Proposer refuses or fails to execute the agreement, the Court may award the agreement to the next qualified Proposer.

## **13. NEWS RELEASES**

News releases or other publicity pertaining to the award of a contract may not be issued without prior written approval of the Contract Officer or their designee.

## **14. ANTI-TRUST CLAIMS**

- A. In submitting a proposal to the Court, the Proposer offers and agrees that if the proposal is accepted, the Proposer will assign to the Court all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the Court pursuant to the proposal. Such assignment shall be made and become effective at the time the Court tenders final payment to the Proposer. (See Government Code section 4552.)
- B. If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Proposer shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Court any portion of the recovery, including treble damages, attributable to overcharges that were paid.
- C. Upon demand in writing by the Proposer, the Court shall, within one year from such demand, reassign the cause of action assigned under this section if the Proposer has been or may have been injured by the violation of law for which the cause of action arose and (a) the Court has not been injured thereby, or (b) the Court declines to file a court action for the cause of action. (See Government Code section 4554.)

## **15. AMERICANS WITH DISABILITIES ACT**

The court complies with the Americans with Disabilities Act (ADA) and similar California statutes. Requests for accommodation of disabilities by Bidders should be directed to George Antrea at (650) 261-5035 or [GAntrea@sanmateocourt.org](mailto:GAntrea@sanmateocourt.org).

**16. FEASIBILITY STUDIES AND ACQUISITION RECOMMENDATIONS**

Proposals in response to procurements for assistance in the preparation of feasibility studies or the development of recommendations for the acquisition of IT goods and services must disclose any financial interests (e.g., service contracts, original equipment manufacturer (OEM) agreements, remarketing agreements) that may foreseeably allow the Proposer to benefit materially from the Court's adoption of a course of action recommended in the feasibility study or of the acquisition recommendations.

**1. Work**

1.1 Work. Contractor shall provide the Work described in this Agreement, including the Statement of Work and the Specifications. Except as set forth in the Statement of Work, Contractor is responsible for providing all facilities, materials and resources (including personnel, equipment and software) necessary and appropriate for delivery of the Work and to meet Contractor's obligations under this Agreement.

1.2 Stop Work Orders.

(a) Effect. The Court may, at any time, by written stop work order to Contractor, require Contractor to stop all, or any part, of the Work for a period of up to ninety (90) days after the stop work order is delivered to Contractor, and for any further period to which the Parties may agree. Upon receipt of a stop work order, Contractor shall promptly comply with the terms of the stop work order and take all reasonable steps to end the incurrence of any costs, expenses or liabilities allocable to the Work covered by the stop work order during the period of work stoppage. The Court shall not be liable to Contractor for loss of profits arising out of such stop work order. Within ninety (90) days after a stop work order is delivered to Contractor, or within any extension of that period mutually agreed to by the Parties, the Court shall either: (i) cancel the stop work order; or (ii) terminate the Work covered by the stop work order.

(b) Expiration or Cancellation. If a stop work order is canceled by the Court or the period of the stop work order or any extension thereof expires, Contractor shall promptly resume the Work covered by such stop work order. The Court shall make an equitable adjustment in the delivery schedule, and the applicable Statement of Work shall be modified, in writing, accordingly, if: (i) the stop work order directly and proximately results in an increase in the time required for the performance of any part of the Statement of Work; and (ii) Contractor asserts its right to such equitable adjustment within thirty (30) days after the end of the period of work stoppage.

1.3 Change Orders. From time to time during the term of this Agreement, the Parties may mutually agree on a change to the Work, which may require an extension or reduction in the schedule and/or an increase or decrease in the fees and expenses and/or the Work (each, a "Change"), including: (i) a change to the scope or functionality of the Deliverables; or (ii) a change to the scope of the Work. In the event the Parties agree on a Change, the Parties will seek to mutually agree on a change order identifying the impact and setting forth any applicable adjustments in the Statement of Work and/or payments to Contractor. An authorized representative of each Party shall promptly sign the mutually agreed upon change order to acknowledge the impact and to indicate that Party's agreement to the adjustments.

1.4 Third Party or Court Services. Notwithstanding anything in this Agreement to the contrary, the Court shall have the right to perform or contract with a Third Party to provide any services or goods within or outside the scope of the Work, including services to augment or supplement the Work or to interface with the IT Infrastructure of the Judicial Branch Entities or Court Contractors. In the event the Court performs or contracts with a Third Party to perform any such service, Contractor shall cooperate in good faith with the Judicial Branch Entities and any such Third Party, to the extent reasonably required by the Court. Such cooperation shall include, without limitation, providing such information as a person with reasonable commercial skills and expertise would find reasonably necessary for the Court or a Third Party to perform its services relating to the Work.

1.5 Data and Security.

(a) Safety and Security Procedures. Contractor shall maintain and enforce, at the Contractor Work Locations, industry-standard safety and physical security policies and procedures. While at each Court Work Location, Contractor shall comply with the safety and security policies and procedures in effect at such Court Work Location.

(b) Data Security.

(i) Contractor shall comply with the Data Safeguards. Contractor shall implement and maintain a comprehensive information security program ("Contractor's Information Security Program") in accordance with the Data Safeguards. Contractor shall comply with all applicable privacy and data security laws, and other laws (including the

California Rules of Court) and regulations relating to the protection, collection, use, and distribution of Court Data, as well as privacy and data security requirements and standards set forth in the Court's policies or procedures. To the extent that California Rule of Court 2.505 applies to this Agreement, Contractor shall provide access and protect confidentiality of court records as set forth in that rule and in accordance with this Agreement.

- (ii) Unauthorized access to, or use or disclosure of Court Data (including data mining, or any commercial use) by Contractor or third parties, is prohibited. Contractor shall not, without the prior written consent of an authorized representative of Court, use or access the Court Data for any purpose other than to provide the Work under this Agreement. In no event shall Contractor transfer the Court Data to third parties, or provide third parties access to the Court Data, except as may be expressly authorized by Court. Contractor is responsible for the security and confidentiality of the Court Data. Court owns and retains all right and title to the Court Data, and has the exclusive right to control its use.
- (iii) No Work shall be provided from outside the continental United States. Remote access to Court Data from outside the continental United States is prohibited unless approved in writing in advance by the Court. The physical location of Contractor's data center, systems, and equipment where the Court Data is stored shall be within the continental United States. Contractor shall ensure that access to the Court Data will be provided to the Court (and its authorized users) 24 hours per day, 365 days per year (excluding agreed-upon maintenance downtime). Upon the Court's request, all Court Data in the possession of Contractor shall be provided to Court in a manner reasonably requested by Court and all copies shall be permanently removed from Contractor's system, records, and backups, and all subsequent use of such information by Contractor shall cease.
- (iv) Confidential, sensitive, or personally identifiable information shall be encrypted in accordance with the highest industry standards, applicable laws, this Agreement, and Court policies and procedures.

(c) Data Breach

If there is a suspected or actual Data Breach, Contractor shall notify the Court in writing within two (2) hours of becoming aware of such occurrence. A "Data Breach" means any access, destruction, loss, theft, use, modification or disclosure of the Court Data by an unauthorized party. Contractor's notification shall identify: (i) the nature of the Data Breach; (ii) the data accessed, used or disclosed; (iii) who accessed, used, disclosed and/or received data (if known); (iv) what Contractor has done or will do to mitigate the Data Breach; and (v) corrective action Contractor has taken or will take to prevent future Data Breaches. Contractor shall promptly investigate the Data Breach and shall provide daily updates, or more frequently if required by the Court, regarding findings and actions performed by Contractor until the Data Breach has been resolved to the Court's satisfaction, and Contractor has taken measures satisfactory to the Court to prevent future Data Breaches. Contractor shall conduct an investigation of the Data Breach and shall share the report of the investigation with the Court. The Court and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the Court, its agents and law enforcement, including with respect to taking steps to mitigate any adverse impact or harm arising from the Data Breach. After any Data Breach, Contractor shall at its expense have an independent, industry-recognized, Court-approved third party perform an information security audit. The audit results shall be shared with the Court within seven (7) days of Contractor's receipt of such results. Upon Contractor receiving the results of the audit, Contractor shall provide the Court with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Agreement.

(d) Security Assessments

Upon advance written notice by the Court, Contractor agrees that the Court shall have reasonable access to Contractor's operational documentation, records, logs, and databases that relate to data security and



the Contractor's Information Security Program. Upon the Court's request, Contractor shall, at its expense, perform, or cause to have performed an assessment of Contractor's compliance with its privacy and data security obligations. Contractor shall provide to the Court the results, including any findings and recommendations made by Contractor's assessors, of such assessment, and, at its expense, take any corrective actions.

(e) Data Requests

Contractor shall promptly notify the Court upon receipt of any requests which in any way might reasonably require access to the Court Data. Contractor shall not respond to subpoenas, service of process, Public Records Act requests (or requests under California Rule of Court 10.500), and other legal requests directed at Contractor regarding this Agreement or Court Data without first notifying the Court. Contractor shall provide its intended responses to the Court with adequate time for the Court to review, revise and, if necessary, seek a protective order in a court of competent jurisdiction. Contractor shall not respond to legal requests directed at the Court unless authorized in writing to do so by the Court.

(f) Data Backups

If Contractor is providing Hosted Services under this Agreement, Contractor shall:

- ensure that any hosting facilities (including computers, network, data storage, backup, archive devices, and the data storage media), and disaster recovery facilities (if applicable) shall be located in the continental United States;
- provide periodic full backup of all Court Data;
- provide periodic incremental backup of all Court Data;
- have the capability to recover data from the Court Data backup copy;
- have the capability to export the Court's raw data in human readable and machine readable format, and have the capability to promptly provide the Court Data to Court upon its request;
- have the capability to import the Court Data (subject to Contractor's confidentiality and data security obligations);
- provide hourly snapshot backups of the Court Data (daily backups shall also be performed);
- maintain recoverable, secure backups of the Court Data offsite in a fire-protected, secure area, geographically separate from the primary datacenter; and
- maintain and implement data backup and disaster recovery processes and procedures in accordance with the highest industry standards and applicable laws.

(g) Transition Period

For ninety (90) days prior to the expiration date of this Agreement or Statement of Work, or upon notice of termination of this Agreement or Statement of Work, Contractor shall assist the Court in extracting and/or transitioning all Court Data in the format determined by the Court ("Transition Period"). During the Transition Period, the Hosted Services and Court Data access shall continue to be made available without alteration.

1.6 Project Staff.

(a) Contractor Project Manager. The Contractor Project Manager shall serve, from the Effective Date, as the Contractor project manager and primary Contractor representative under this Agreement. The Contractor Project Manager shall (i) have overall responsibility for managing and coordinating the performance of Contractor's obligations under this Agreement, including the performance of all Subcontractors; and (ii) be authorized to act for and bind Contractor and Subcontractors in connection with all aspects of this Agreement. The Contractor Project Manager shall respond promptly and fully to all inquiries from the Court Project Manager.

(b) Contractor Key Personnel. The Court reserves the right to interview and approve proposed Contractor Key Personnel prior to their assignment to the Court. Contractor shall not replace or reassign any Contractor Key Personnel unless the Court consents in advance in writing or such

Contractor Key Personnel (i) voluntarily resigns or takes a leave of absence from Contractor, (ii) has his/her employment, professional or other for-hire relationship terminated by Contractor, (iii) fails to perform his or her duties and responsibilities pursuant to this Agreement, or (iv) dies or is unable to work due to his or her disability. If Contractor needs to replace a Contractor Key Personnel for any of the foregoing reasons, Contractor shall (1) notify the Court promptly, (2) provide resumes for proposed replacement Contractor Key Personnel within two (2) Business Days after so notifying the Court, and (3) be responsible for all costs and expenses associated with any replacement of any Contractor Key Personnel member (including, without limitation, any costs and expenses associated with training, project orientation or knowledge transfer reasonably required for replacement personnel to provide the applicable Work).

(c) Subcontractors. Contractor shall not subcontract or delegate any of the obligations under this Agreement except as approved by the Court in writing in advance. The Court may withdraw its approval of a subcontractor if the Court determines in good faith that the subcontractor is, or will be, unable to effectively perform its responsibilities. If the Court rejects any proposed subcontractor in writing, Contractor will assume the proposed subcontractor's responsibilities. No subcontracting shall release Contractor from its responsibility for performance of its obligations under this Agreement. Contractor shall remain fully responsible for the performance of Subcontractors hereunder, including, without limitation, all work and activities of Subcontractors providing services to Contractor in connection with the Work. Contractor shall be the sole point of contact with Subcontractors under this Agreement, and Contractor shall be solely responsible for Subcontractors, including, without limitation, payment of any and all charges resulting from any subcontract. The Court's consent to any subcontracting or delegation of Contractor's obligations will take effect only if there is a written agreement with the Subcontractor, stating that the Contractor and Subcontractor: (i) are jointly and severally liable to the Court for performing the duties in this Agreement; (ii) affirm the rights granted in this Agreement to the Court; (iii) make the representations and warranties made by the Contractor in this Agreement; (iv) appoint the Court an intended third party beneficiary under Contractor's written agreement with the Subcontractor; and (v) shall comply with and be subject to the terms of this Agreement, including with respect to Intellectual Property Rights, Confidential Information and Data Safeguards.

(d) Project Staff. Contractor shall appoint to the Project Staff: (i) individuals with suitable training and skills to provide the Work, and (ii) sufficient staffing to adequately provide the Work. Contractor shall make commercially reasonable efforts consistent with sound business practices to honor the specific request of the Court with regard to assignment of its employees. The Court may require Contractor to remove any personnel from the Project Staff that interact with any personnel of the Judicial Branch Entities or Court Contractors (including, without limitation, the Contractor Project Manager) upon providing to Contractor a reason (permitted by law) for such removal. Contractor may, with the Court's consent, continue to retain such member of the Project Staff in a role that does not interact with any personnel of the Judicial Branch Entities or Court Contractors. The Contractor Project Manager and the Court Project Manager shall work together to mitigate any impact on the schedule as set forth in a Statement of Work caused by any replacement of a Project Staff member. Contractor shall be responsible for all costs and expenses associated with any Project Staff replacement. Contractor shall assure an orderly and prompt succession for any Project Staff member who is replaced. If the Contract Amount is over \$200,000 (excluding Consulting Services), then Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.

(e) Conduct of Project Staff.

(i) While at the Court Work Locations, Contractor shall, and shall cause Subcontractors to: (1) comply with the requests, standard rules and regulations and policies and procedures of the Judicial Branch Entities regarding safety and health, security, personal and professional conduct generally applicable to such Court Work Locations, and (2) otherwise conduct themselves in a businesslike manner.

(ii) Contractor shall enter into an agreement with each of the members of the Project Staff, which assigns, transfers and conveys to Contractor all of such Project Staff member's right, title and interest in and to any Developed Materials, including all Intellectual Property Rights in and to Developed Materials.

(iii) Contractor shall cooperate with the Court if the Court wishes to perform any background

checks on Contractor's employees or contractors by obtaining, at no additional cost, all releases, waivers, and permissions the Court may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Court of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Court and performed by Contractor. Contractor shall remove from the Project Staff any person refusing to undergo such background checks and any other person whose background check results are unacceptable to Contractor or that, after disclosure to the Court, the Court advises are unacceptable to the Court or the Judicial Branch Entities.

1.7 Licenses and Approvals. Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by Applicable Laws to provide the Work. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any Applicable Law.

1.8 Progress Reports. As directed by the Court, Contractor must deliver progress reports or meet with Court personnel on a regular basis to allow: (i) the Court to determine whether the Contractor is on the right track and the project is on schedule, (ii) communication of interim findings, and (iii) opportunities for airing difficulties or special problems encountered so that remedies can be developed quickly.

## **2 Delivery, Acceptance, and Payment.**

2.1 Delivery. Contractor shall deliver to the Court the Deliverables in accordance with this Agreement, including the Statement of Work. Unless otherwise specified by the Court, Contractor will deliver all equipment purchased by the Court "Free on Board Destination Freight Prepaid" to the Court at the address and location specified by the Court. Title to all equipment purchased by the Court vests in the Court upon payment of the applicable purchase price. Contractor will bear the risk of loss for any Work being delivered until received by the Court at the proper location.

2.2 Acceptance. All Work is subject to written acceptance by the Court. The Court may reject any Work that: (i) fails to meet applicable requirements, Specifications, or acceptance criteria, (ii) are not as warranted, (iii) are performed or delivered late, or not provided in accordance with this Agreement; or (iv) contain Defects. Payment does not imply acceptance of Contractor's invoice or Work. If the Court provides Contractor a notice of rejection for any Work, Contractor shall modify such rejected Work at no expense to the Court to correct the relevant deficiencies and shall redeliver such Work to the Court within ten Business Days after Contractor's receipt of such notice of rejection, unless otherwise agreed in writing by the Parties. Thereafter, the Parties shall repeat the process set forth in this Section until Contractor's receipt of the Court's written acceptance of such corrected Work (each such Court written acceptance, an "Acceptance"); provided, however, that if the Court rejects any Work on at least two occasions, the Court may terminate that portion of this Agreement which relates to the rejected Work at no expense to the Court.

2.3 Fees and Payment. Subject to the terms of this Agreement, the Contractor shall invoice the Court, and the Court shall compensate Contractor, as set forth in Appendix B. The fees to be paid to Contractor under this Agreement shall be the total and complete compensation to be paid to Contractor for its performance under this Agreement. Contractor shall bear, and the Court shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature that Contractor incurs.

## **3 Representations and Warranties.** Contractor represents and warrants to the Court as follows:

3.1 Authorization/Compliance with Laws. (i) Contractor has full power and authority to enter into this Agreement, to grant the rights and licenses herein and to perform its obligations under this Agreement, and that Contractor's representative who signs this Agreement has the authority to bind Contractor to this Agreement; (ii) the execution, delivery and performance of this Agreement have been duly authorized by all requisite corporate action on the part of Contractor; (iii) Contractor shall not and shall cause Subcontractors not to enter into any arrangement with any Third Party which could reasonably be expected to abridge any rights of the Judicial Branch Entities under this Agreement; (iv) this Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms; (v) Contractor is qualified to do business and in good standing in the State of California; (vi) Contractor, its business, and its performance of its obligations under this Agreement comply with all Applicable Laws; and (vii) Contractor pays all undisputed debts when they come due.

3.2 No Gratuities or Conflict of Interest. Contractor: (i) has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement; and (ii) has no interest that would constitute a conflict of interest under Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.

3.3 No Litigation. No Claim or governmental investigation is pending or threatened against or affecting Contractor or Contractor's business, financial condition, or ability to perform this Agreement.

3.4 Not an Expatriate Corporation. Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1, and is eligible to contract with the Court.

3.5 No Interference. To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest or breach under any of Contractor's other contracts.

3.6 Drug Free Workplace. Contractor provides a drug-free workplace as required by California Government Code sections 8355 through 8357.

3.7 No Harassment / Nondiscrimination. Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring. Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of nondiscrimination.

3.8 Domestic Partners, Spouses, Gender, and Gender Identity Discrimination. If the Contract Amount is \$100,000 or more, Contractor is in compliance with: (i) Public Contract Code section 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) Public Contract Code section 10295.35, which places limitations on contracts with contractors that discriminate in the provision of benefits on the basis of an employee's or dependent's actual or perceived gender identity.

3.9 National Labor Relations Board Orders. No more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.

3.10 Child Support Compliance Act. If the Contract Amount is \$100,000 or more: (i) Contractor recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and (ii) Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

3.11 Intellectual Property. Contractor shall perform its obligations under this Agreement in a manner that the Work (including each Deliverable) and any portion thereof, does not infringe, or constitute an infringement, misappropriation or violation of, any Intellectual Property Right. Contractor has full Intellectual Property Rights and authority to perform all of its obligations under this Agreement, and Contractor is and will be either the owner of, or authorized to use for its own and the Judicial Branch Entities' benefit, all Contractor Materials, Third Party Materials, and Licensed Software used and to be

used in connection with the Work.

3.12 Work. (i) the Work will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Work; (ii) Contractor will use efficiently the resources or services necessary to provide the Work; and provide the Work in the most cost efficient manner consistent with the required level of quality and performance; (iii) the Work will be provided free and clear of all liens, claims, and encumbrances; (iv) all Work will be free from all defects in materials and workmanship, and will be in accordance with Specifications, Documentation, Applicable Laws, and other requirements of this Agreement; and (v) all equipment purchased by the Court from Contractor will be new. In the event any Work does not conform to the foregoing provisions of this Section 3.12, Contractor shall promptly correct all nonconformities.

3.13 Malicious Code. No Work will contain any Malicious Code. Contractor shall immediately provide to the Court written notice in reasonable detail upon becoming aware of the existence of any Malicious Code. Without limiting the foregoing, Contractor shall use best efforts and all necessary precautions to prevent the introduction and proliferation of any Malicious Code in the Judicial Branch Entities' IT Infrastructure or networks or in the Contractor systems used to provide Work. In the event Contractor or the Court discovers the existence of any Malicious Code, Contractor shall use its best efforts, in cooperation with the Court, to effect the prompt removal of the Malicious Code from the Work and the Judicial Branch Entities' IT Infrastructure and the repair of any files or data corrupted thereby, and the expenses associated with the removal of the Malicious Code and restoration of the data shall be borne by Contractor. In no event will Contractor or any Subcontractor invoke any Malicious Code.

3.14 Four-Digit Date Compliance. Contractor will provide only Four-Digit Date Compliant Work to the Court. "Four-Digit Date Compliant" Work can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries.

3.15 Conflict Minerals. Contractor certifies either: (i) it is not a "scrutinized company" as defined in PCC 10490(b), or (ii) the goods or services the Contractor will provide to the Court are not related to products or services that are the reason the Contractor must comply with Section 13(p) of the Securities Exchange Act of 1934

3.16 Miscellaneous. The rights and remedies of the Court provided in this Section 3 will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. The representations and warranties that Contractor makes in this Section 3 shall be true and accurate as of the Effective Date, and shall remain true during the term of this Agreement and the Termination Assistance Period. Contractor shall promptly notify the Court if any representation or warranty becomes untrue.

#### **4 Intellectual Property.**

4.1 Contractor/Third Party Materials. Contractor shall set forth in an exhibit to each Statement of Work all Contractor Materials and Third Party Materials that Contractor intends to use in connection with that Statement of Work. The Court shall have the right to approve in writing the introduction of any Contractor Materials or Third Party Materials into any Work prior to such introduction. Contractor grants to the Judicial Branch Entities, together with all Court Contractors, without additional charge, a perpetual, irrevocable, royalty-free, fully paid-up, worldwide, nonexclusive license to use, reproduce, perform, display, transmit, distribute, modify, create derivative works of, make, have made, sell, offer for sale and import Contractor Materials and Third Party Materials (including Source Code) and to sublicense such rights to other entities, in each case for California judicial branch business and operations.

4.2 Rights in Developed Materials. Notwithstanding any provision to the contrary, upon their creation the Developed Materials (and all Intellectual Property Rights therein) will be the sole and exclusive property of the Court. Contractor (for itself, Project Staff and Subcontractors) hereby irrevocably assigns, transfers and conveys to the Court without further consideration all worldwide right, title and interest in and to the Developed Materials, including all Intellectual Property Rights therein. Contractor further agrees to execute, and shall cause Project Staff and Subcontractors to execute, any documents or

take any other actions as may be reasonably necessary or convenient to perfect the Court's or its designee's ownership of any Developed Materials and to obtain and enforce Intellectual Property Rights in or relating to Developed Materials. Contractor shall promptly notify the Court upon the completion of the development, creation or reduction to practice of any and all Developed Materials.

4.3 Retention of Rights. The Court retains all rights, title and interest (including all Intellectual Property Rights) in and to the Court Materials. Subject to rights granted herein, Contractor retains all rights, title and interest (including all Intellectual Property Rights) in and to the Contractor Materials.

4.4 Third-Party Rights. Contractor hereby assigns to the Judicial Branch Entities all of Contractor's licenses and other rights (including any representations, warranties, or indemnities that inure to Contractor from third parties) to all Third Party Materials incorporated into the Work. If such licenses and rights cannot be validly assigned to or passed through to Judicial Branch Entities by Contractor without a Third Party's consent, then Contractor will use its best efforts to obtain such consent (at Contractor's expense) and will indemnify and hold harmless the Court, Judicial Branch Entities and Judicial Branch Personnel against all Claims arising from Contractor's failure to obtain such consent.

## **5 Confidentiality.**

5.1 General Obligations. During the Term and at all times thereafter, Contractor will: (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement, and (c) refrain from disclosing or permitting others to disclose any Confidential Information to any Third Party without obtaining the Court's express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to Project Staff (including Subcontractors) with a need to know in order to provide the Work hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this Section 5. The provisions of this Section 5 shall survive beyond the expiration or termination of this Agreement. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than reasonable care and industry-standard care. The Court owns all right, title and interest in the Confidential Information. Contractor will notify the Court promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the Court to protect such Confidential Information. Notwithstanding any provision to the contrary, Contractor will keep all Personal Information confidential, unless otherwise authorized by the Court in writing.

5.2 Removal; Return. Contractor will not remove any Confidential Information from Judicial Branch Entities' facilities or premises without the Court's express prior written consent. Upon the Court's request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the Court or, if so directed by the Court, destroy all Confidential Information (in every form and medium), and (b) certify to the Court in writing that Contractor has fully complied with the foregoing obligations.

5.3 Breach of Confidentiality. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations hereunder, that any such breach will likely result in irreparable harm, and therefore, that upon any breach or threatened breach of the confidentiality obligations, the Court shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.

## **6 Indemnification.**

6.1 General Indemnity. Contractor shall indemnify, defend (with counsel satisfactory to the Court), and hold harmless Judicial Branch Entities and Judicial Branch Personnel against all Claims founded upon or that arise out of or in connection with: (i) Contractor's provision of, or failure to provide, the Work (ii) any other breach by Contractor under this Agreement; or (iii) Third Party Claims relating to infringement or misappropriation of any Intellectual Property Right by Contractor or the Work, including software, services, systems, equipment, or other materials provided by Contractor or Subcontractors to Judicial Branch Entities (collectively, the "Covered Items"). Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the Court's prior written consent, which consent shall not be unreasonably withheld; and the Court shall have the right, at its option and expense,

to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.

6.2 Certain Remedies. If any Covered Item provided under this Agreement becomes, or in Contractor's or the Court's reasonable opinion is likely to become, the subject of any Claim arising from or alleging infringement, misappropriation or other violation of, or in the event of any adjudication that such Covered Item infringes, misappropriates or otherwise violates any Intellectual Property Right of a Third Party, Contractor at its own expense shall take the following actions in the listed order of preference: (a) secure for the Judicial Branch Entities the right to continue using the applicable Covered Item; or (b) if commercially reasonable efforts are unavailing, replace or modify the infringing Covered Item to make it noninfringing; provided, however, that such modification or replacement shall not degrade the operation or performance of the Covered Item.

## **7 Insurance.**

7.1 Basic Coverage. Contractor shall provide and maintain at Contractor's expense the following insurance during the Term:

(a) Workers Compensation and Employer's Liability. The policy is required only if Contractor has employees. It must include workers' compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1 million per accident or disease;

(b) Commercial General Liability. The policy must be written on an occurrence form with limits of not less than \$1 million per occurrence, and a \$1 million annual aggregate. Each policy must include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed in a contract.; and

(c) Professional Liability. The policy must cover Contractor's acts, errors and omissions committed or alleged to have been committed which arise out of rendering or failure to render services provided under this Agreement. The policy shall provide limits of not less than \$1 million per occurrence and annual aggregate.

(d) Commercial Automobile Liability. If an automobile is used in providing the Work, automobile liability insurance with limits of not less than \$1 million per accident. Such insurance must cover liability arising out of the operation of a motor vehicle, including owned, hired, and non-owned motor vehicles, assigned to or used in connection with providing the Work.

(e) Commercial Crime Insurance. If Contractor handles or has regular access to the Court's funds or property of significant value to the Court, this policy must cover dishonest acts including loss due to theft of money, securities, and property; forgery, and alteration of documents; and fraudulent transfer of money, securities, and property. The minimum liability limit must be \$[Dollar Amount].

7.2 "Claims Made" Coverage. If any required insurance is written on a "claims made" form, Contractor shall maintain the coverage continuously throughout the Term, and, without lapse, for three years beyond the termination or expiration of this Agreement and the Court's acceptance of all Work provided under this Agreement. The retroactive date or "prior acts inclusion date" of any "claims made" policy must be no later than the date that Work commences under this Agreement.

7.3 Umbrella Policies. Contractor may satisfy basic coverage limits through any combination of primary, excess or umbrella insurance.

7.4 Aggregate Limits of Liability. The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case the annual aggregate limits of liability must be at least two times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.

7.5 Deductibles and Self-Insured Retentions. Contractor is responsible for and may not recover from the Court, including Judicial Branch Personnel, any deductible or self-insured retention that is connected to the insurance required under this Section 7.

7.6 Additional Insured Status. With respect to commercial general liability, automobile liability insurance, and, if applicable, umbrella policy, the policies must be endorsed to name the Judicial Branch Entities and Judicial Branch Personnel as additional insureds with respect to liabilities arising out of the performance of the Agreement.

7.7 Certificates of Insurance. Before Contractor begins providing Work, Contractor shall give the Court certificates of insurance attesting to the existence of coverage. Contractor shall provide prompt written notice to the Court in the event that insurance coverage is cancelled or materially changed from the coverage set forth in the current certificate of insurance provided to the Court. Any replacement certificates of insurance are subject to the approval of the Court, and, without prejudice to the Court, Contractor shall not provide Work before the Court approves the certificates.

7.8 Qualifying Insurers. For insurance to satisfy the requirements of this section, all required insurance must be issued by an insurer with an A.M. Best rating of A - or better that is approved to do business in the State of California.

7.9 Required Policy Provisions. Each policy must provide, as follows:

(a) Insurance Primary; Waiver of Recovery. With respect to commercial general liability and automobile liability insurance, the policies must be endorsed to be primary and noncontributory with any insurance or self-insurance programs maintained by Judicial Branch Entities and Judicial Branch Personnel. Contractor waives any right of recovery it may have, and will require that any insurer providing commercial general liability, workers compensation, and automobile liability to also waive any right of recovery it may have against Judicial Branch Entities and Judicial Branch Personnel for liability arising out of the Work; and

(b) Separation of Insureds. The insurance applies separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer's liability.

7.10 Partnerships. If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods: (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.

7.11 Consequences of Lapse. If required insurance lapses during the Term, the Court is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

## **8 Term / Termination.**

8.1 Term. This Agreement shall commence on the Effective Date and continue until terminated in accordance with the terms of this Agreement.

8.2 Termination for Convenience. The Court may terminate, in whole or in part, this Agreement and/or any Statement of Work for convenience (without cause) upon thirty (30) days prior written notice. The Court's notice obligations under the foregoing sentence shall not apply to any stop work orders issued by the Court under this Agreement or any Statement of Work. After receipt of such notice, and except as otherwise directed by the Court, Contractor shall immediately: (a) stop Work as specified in the notice; and (b) place no further subcontracts, except as necessary to complete the continued portion of this Agreement.

8.3 Early Termination. The Court may terminate, in whole or in part, this Agreement or any Statement of Work immediately "for cause" if Contractor is in Default. The Court may also terminate this Agreement or limit Work (and proportionately, Contractor's fees) upon written notice to Contractor without prejudice to any right or remedy of the Judicial Branch Entities if: (i) expected or actual funding to compensate the Contractor is withdrawn, reduced or limited; or (ii) the Court determines that Contractor's performance under this Agreement has become infeasible due to changes in Applicable Laws.

8.4 Rights and Remedies of the Court.

(a) All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Court immediately if Contractor is



in Default, or if a Third Party claim or dispute is brought or threatened that alleges facts that would constitute a Default under this Agreement. If Contractor is in Default, the Court may do any of the following: (i) withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor; (ii) require Contractor to enter into nonbinding mediation; (iii) exercise, following notice, the Court's right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.

(b) If the Court terminates this Agreement or any Statement of Work in whole or in part for cause, the Court may acquire from third parties, under the terms and in the manner the Court considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the Court for any excess costs for those goods or services. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Judicial Branch Entities for such goods and services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Court or Judicial Branch Entities. Contractor shall continue the Work not terminated hereunder.

(c) In the event of any expiration or termination of this Agreement or the applicable Statement of Work, Contractor shall promptly provide the Court with all originals and copies of the Deliverables (including: (i) any partially-completed Deliverables and related work product or materials; and (ii) any Contractor Materials, Third Party Materials, and Developed Materials comprising such Deliverables or partially-completed Deliverables), Confidential Information, Court Data, Court Materials, and all portions thereof, in its possession, custody, or control. In the event of any termination of this Agreement or a Statement of Work, the Court shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the Court's termination is not based on a Default, Court shall pay any fees due under this Agreement for Deliverables completed and accepted as of the date of the Court's termination notice.

8.5 Termination Assistance. At the Court's request and option, during the Termination Assistance Period, Contractor shall provide, at the same rates charged immediately before the start of the Termination Assistance Period, to the Court or to its designee (collectively, "Successor") services reasonably necessary to enable the Court to obtain from another contractor, or to provide for itself, services to substitute for or replace the Work, together with all other services to allow the Work to continue without interruption or adverse effect and to facilitate the orderly transfer of the Work to the Successor (collectively, the "Termination Assistance Services"). Termination Assistance Services will be provided to the Court by Contractor regardless of the reason for termination or expiration. At the Court's option and election, the Court may extend the Termination Assistance Period for an additional six (6) months.

8.6 Survival. Termination of this Agreement shall not affect the rights and/or obligations of the Parties which arose prior to any such termination (unless otherwise provided herein) and such rights and/or obligations shall survive any such expiration or termination. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including Sections 3 through 10 of these General Terms and Conditions, and Appendix E.

## **9 Special Provisions.**

9.1 Agreements Providing for Compensation of \$50,000 or more; Union Activities Restrictions. As required under Government Code sections 16645-16649, if the Contact Amount is \$50,000 or more, Contractor agrees that no Court funds received under this agreement will be used to assist, promote or deter union organizing. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no Court funds were used for those expenditures and no reimbursement from the Court was sought for these costs. Contractor will provide those records to the Attorney General upon request.

9.2 DVBE Commitment. This section is applicable if Contractor received a disabled veteran business enterprise ("DVBE") incentive in connection with this Agreement. Contractor's failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of the Agreement. If Contractor used DVBE subcontractor(s) in connection with this Agreement: (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the Court approves in writing replacement by

another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must within sixty (60) days of receiving final payment under this Agreement certify in a report to the Court: (1) the total amount of money Contractor received under the Agreement; (2) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Agreement; (3) the amount each DVBE subcontractor received from Contractor in connection with the Agreement; and (4) that all payments under the Agreement have been made to the applicable DVBE subcontractors. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

9.3 Competitively Bid Contracts; Antitrust Claims. If this Agreement resulted from a competitive bid, Contractor shall comply with the requirements of the Government Code sections set out below.

(a) Contractor shall assign to the Court all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the Court pursuant to the bid. Such assignment shall be made and become effective at the time the Court tenders final payment to the Contractor. (GC 4552)

(b) If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Court any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the Court as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (GC 4553)

(c) Upon demand in writing by the Contractor, the Court shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (1) the Court has not been injured thereby, or (2) the Court declines to file a court action for the cause of action. (GC 4554)

9.4 Iran Contracting Act. If the Contract Amount is \$1,000,000 or more, Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran ("Iran List") created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending \$20,000,000 or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the Court to enter into this Agreement pursuant to PCC 2203(c).

9.5 Loss Leader Prohibition. If this Agreement involves the purchase of goods, this section is applicable. Contractor shall not sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code.

9.6 Recycling. If this Agreement provides for the purchase or use of goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods. Without limiting the foregoing, if this Agreement includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable. Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible. Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.

9.7 Sweatshop Labor. If this Agreement provides for the laundering of apparel, garments or corresponding accessories, or for furnishing equipment, materials, or supplies other than for public works, this section is applicable. Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the Court under this Agreement have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal

sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and PCC 6108. Contractor agrees to cooperate fully in providing reasonable access to Contractor's records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under this section and shall provide the same rights of access to the Court.

9.8 Federally-funded Agreements. If this Agreement is funded in whole or in part by the federal government, then:

(a) It is mutually understood between the Parties that this Agreement may have been written for the mutual benefit of both Parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.

(b) This Agreement is valid and enforceable only if sufficient funds are made available to the Court by the United States Government for the fiscal year in which they are due and consistent with any stated programmatic purpose. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.

(c) The Parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement is intended to be paid, this Agreement shall be deemed amended without any further action of the Parties to reflect any reduction in funds.

(d) The Parties may amend the Agreement to reflect any reduction in funds.

9.9 Equipment Purchases. If this Agreement includes the purchase of equipment, this section is applicable. The Court may, at its option, repair any damaged or replace any lost or stolen items and deduct the cost thereof from Contractor's invoice to the Court, or require Contractor to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the Court at no expense to the Court. If a theft occurs, Contractor must file a police report immediately.

9.10 Small Business Preference Contract Clause. This section is applicable if Contractor received a small business preference in connection with this Agreement. Contractor's failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement. Contractor must within sixty (60) days of receiving final payment under this Agreement report to the Court the actual percentage of small/micro business participation that was achieved. If Contractor is a nonprofit veteran service agency ("NVSA"), Contractor must employ veterans receiving services from the NVSA for not less than 75 percent of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement.

## **10 General.**

10.1 Audits. Contractor shall allow the Court and its designees to review and audit Contractor's documents and records relating to this Agreement, and Contractor shall retain such documents and records for a period of four years following final payment under this Agreement. Contractor shall correct errors and deficiencies by the 20th day of the month following the review or audit. Contractor shall provide to the Judicial Branch Entities and Court Contractors, on Contractor's premises (or, if the audit is being performed of an Subcontractor, Subcontractor's premises if necessary), space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office-related equipment and duplicating services as the Judicial Branch Entities or such Court Contractors may reasonably require to perform the audits described in this Section. Without limiting the foregoing, this Agreement is subject to examinations and audit by the State Auditor for a period three years after final payment.

10.2 References. In this Agreement and the Appendixes: (a) the Appendixes shall be incorporated into and deemed part of this Agreement and all references to this Agreement shall include the Appendixes; (b) the Article and Section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement; (c) references to and mentions of the word “including” or the phrase “e.g.” means “including, without limitation” and (d) unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.

10.3 Assignment. This Agreement will not be assignable by Contractor in whole or in part (whether by operation of law or otherwise) without the prior written consent of the Court. Any assignment made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the Parties and their permitted successors and assigns.

10.4 Notices. Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: (a) delivered in person, (b) sent by registered or certified mail, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient set forth below:

<b>If to Contractor:</b>	<b>If to the Court:</b>
[name, title, address] _____	[name, title, address] _____

Either Party may change its address for notification purposes by giving the other Party written notice of the new address in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, three (3) Business Days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.

10.5 Independent Contractors. Contractor and Subcontractors in the performance of this Agreement shall act in an independent capacity and not as officers or employees or agents of the Judicial Branch Entities or Court Contractors. Neither the making of this Agreement nor the performance of its provisions shall be construed to constitute either of the Parties hereto as an agent, employee, partner, joint venturer, or legal representative of the other, and the relationship of the Parties under this Agreement is that of independent contractors. Neither Party shall have any right, power or authority, express or implied, to bind the other.

10.6 Covenant of Further Assurances. Contractor covenants and agrees that, subsequent to the execution and delivery of this Agreement and without any additional consideration, Contractor shall execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Agreement.

10.7 Publicity. News releases and other public disclosures pertaining to this Agreement will not be made by Contractor without prior written approval of the Court.

10.8 Third Party Beneficiaries. Except for the Judicial Branch Entities, each Party intends that this Agreement shall not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Parties.

10.9 Governing Law; Jurisdiction; and Venue. This Agreement and performance under it will be exclusively governed by the laws of the State of California without regard to its conflict of law provisions. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. Contractor hereby irrevocably submits to the exclusive jurisdiction and venue of the state and federal district courts located in California in any legal action concerning or relating to this Agreement.

10.10 Follow-On Contracting. Subject to certain exceptions, no person, firm, or subsidiary thereof who has been awarded a Consulting Services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the Consulting Services contract.

10.11 Order of Precedence. Any conflict among or between the documents making up this Agreement will be resolved in accordance with the following order of precedence (in descending order of precedence): (i) Appendix C - The General Terms and Conditions and Appendix D – Defined Terms; (ii) the Coversheet; (iii) Appendix B – Pricing and Payment; (iv) Appendix A – Statement of Work; (v) Appendix E – The Licensed Software; (vi) Appendix F – Maintenance and Support Services; (vii) Appendix G – Unruh Civil Rights Act and FEHA Certification; and (viii) any exhibits to the Agreement.

10.12 Miscellaneous. This Agreement has been arrived at through negotiation between the Parties. Neither Party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654. No amendment to this Agreement will be effective unless in writing. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. If any part of this Agreement is held unenforceable, all other parts remain enforceable. A Party's waiver of enforcement of any of this Agreement's terms or conditions is effective only if in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. Time is of the essence regarding Contractor's performance of the Work. Unless otherwise approved by the Court in writing in advance, Work may not be performed outside of the United States. The Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but taken together, all of which shall constitute one and the same Agreement.


### ATTACHMENT 3 PROPOSER'S ACCEPTANCE OF TERMS AND CONDITIONS

**Instructions:** Mark the appropriate choice below and sign this attachment.

1. Proposer accepts Attachment 3: Court Standard Terms and Conditions ("Attachment 3") without exception.

**OR**

2. Proposer proposes exceptions or modifications to Attachment 3. Proposer must also submit (i) a red-lined version of Attachment 3 that clearly tracks proposed modifications, and (ii) a written explanation or rationale for each exception or proposed modification.

<i>BY (Authorized Signature)</i> 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING

**ATTACHMENT 4  
GENERAL CERTIFICATIONS FORM**

Check the box below, if agreed, and sign this attachment. Please note that the Court will reject a proposal from a Proposer that does not indicate acceptance of these clauses.


**Conflict of Interest.** Proposer has no interest that would constitute a conflict of interest under California Public Contract Code (PCC) sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with judicial branch entities.

**Suspension or Debarment.** Proposer certifies that neither Proposer nor any of Proposer's intended subcontractors is on the California Department of General Services' list of firms and persons that have been suspended or debarred from contracting with the state because of a violation of PCC 10115.10, regarding disabled veteran business enterprises.

**Tax Delinquency.** Proposer certifies that it is not on either (i) the California Franchise Tax Board's list of 500 largest state income tax delinquencies, or (ii) the California Board of Equalization's list of 500 largest delinquent sales and use tax accounts.

**Conflict Minerals.** Proposer certifies that either (i) it is not a scrutinized company as defined in PCC 10490(b), or (ii) the goods or services the Proposer would provide to the Court are not related to products or services that are the reason the Proposer must comply with Section 13(p) of the Securities Exchange Act of 1934. (Note: PCC 10490(b) defines a "scrutinized company" as "a person that has been found to be in violation of Section 13(p) of the Securities Exchange Act of 1934 by final judgment or settlement entered in a civil or administrative action brought by the Securities and Exchange Commission and the person has not remedied or cured the violation in a manner accepted by the commission on or before final judgment or settlement.")

Check box to indicate acceptance of the clauses above.

BY (Authorized Signature) 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING

**PAYEE DATA RECORD (in lieu of IRS W-9)**

Required in lieu of IRS W-9 form when receiving payments from  
the Judicial Council of California (JCC) on behalf of the Superior Courts of California

<b>1 Instructions</b>	See page two for additional instructional information and Privacy Statement. Complete all information on this form, and sign, date. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used to prepare Information Returns (1099). Return this form to your court representative who will forward it to the Judicial Council of California.
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**SECTIONS 2 THRU 5 TO BE COMPLETED BY VENDOR**

<b>2 Legal Name</b>	PAYEE'S LEGAL NAME - AS SHOWN ON FEDERAL INCOME TAX RETURN		
	BUSINESS NAME - IF DIFFERENT FROM ABOVE		E-MAIL ADDRESS
	REMITTANCE MAILING ADDRESS		BUSINESS ADDRESS (if different from remittance mailing address)
	CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE
	PHONE NUMBER		FACSIMILE NUMBER

<b>3 Payee Entity Type  Complete One Box Only</b>	<b>ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)</b> _ _ - _ _ _ _ _ <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> EXEMPT (NON-PROFIT) <input type="checkbox"/> LIMITED LIABILITY COMPANY <input type="checkbox"/> CORPORATION – LEGAL <input type="checkbox"/> GOVERNMENT <input type="checkbox"/> CORPORATION – MEDICAL <input type="checkbox"/> OTHER – <input type="checkbox"/> ESTATE OR TRUST		
	<input type="checkbox"/> INDIVIDUAL/SOLE PROPRIETOR <b>ENTER SOCIAL SECURITY NUMBER (SSN)</b> _ _ - _ _ - _ _ _ _ <i>If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN; however, the IRS prefers that you use your SSN. An employee vendor is not required to provide a SSN.</i>		

<b>4 Resident Status</b> <small>check the appropriate box</small>	<input type="checkbox"/> California Resident - Qualified to do business in California or maintains place of business <input type="checkbox"/> California Nonresident (see reverse side) - Payments to non-resident for services may be subject to State Income Tax withholding. <input type="checkbox"/> No services performed in California <input type="checkbox"/> Copy of Franchise Tax Board waiver of State Withholding attached
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<b>5 Certification NOTE See instructions on page 2  Vendor Contact Information and signature</b>	Under penalties of perjury, I certify that:		
	1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and		
	2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and		
	3. I am a U.S. citizen or other U.S. person, as defined by the IRS.		
<b>I hereby certify under the penalty of perjury that the information provided on this document is true and correct. Should my information change, I will promptly notify the JCC at the address listed in Section 1.</b>			
VENDOR REPRESENTATIVE'S NAME (Type or Print)		TITLE	E-MAIL
AUTHORIZED VENDOR SIGNATURE		DATE	TELEPHONE

**SECTION 6 TO BE COMPLETED BY COURT**

<b>6 Vendor Category</b>	<b>Please choose from the JCC Vendor category below to help us expedite payment</b>		
	<input type="checkbox"/> ARBITRATOR <input type="checkbox"/> DECEASED FINAL PAYMENT <input type="checkbox"/> GRAND JURY <input type="checkbox"/> VOLUNTEER <input type="checkbox"/> CONTRACTOR <input type="checkbox"/> EMPLOYEE <input type="checkbox"/> MEDIATOR <input type="checkbox"/> OTHER ( <i>description required</i> ) <input type="checkbox"/> COURT APPT. COUNSEL <input type="checkbox"/> GARNISHMENT TRUSTEE <input type="checkbox"/> RENT <input type="checkbox"/> COURT INTERPRETER: ( <i>indicate language</i> ) <input type="checkbox"/> RETIREE <input type="checkbox"/> COURT REPORTER <input type="checkbox"/> SETTLEMENTS/AWARDS		
<b>Court Contact</b>	COURT CONTACT NAME	PHONE NUMBER	EMAIL

**FOR JCC USE ONLY (Form updated 2/8/2018)**

Assigned Vendor Number	Assigned By:
------------------------	--------------



# ATTACHMENT 5

<b>Requirement to Complete Payee Data Record</b>	
<i>A completed Payee Data Record (in lieu of the IRS W-9) is required for payments and will be kept on file at the Judicial Council of California, Trial Court Administrative Services Office. Since each state agency with which you do business must have a separate Payee Data Record on file, it is possible for a payee to receive a similar form from various state agencies.</i>	
<b>SECTIONS 2 THRU 5 TO BE FILLED OUT BY VENDOR</b>	
<b>2</b>	<p>Enter the payee's legal name. Sole proprietorships must also include the owner's full name.</p> <p>An individual must list his/her legal name as it appears on his/her Federal Income tax return. If a different name is used, that name should also be entered, beneath the legal name.</p> <p>The mailing address should be the address at which the payee chooses to receive correspondence. The business address is the physical location of business, if different than mailing address. The phone number, e-mail address, and facsimile number should also be provided.</p>
<b>3</b>	<p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation.</p> <p>The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals is their Social Security Number (SSN). A sole proprietor may have both a Federal Employer Identification Number (FEIN) and a SSN, the IRS prefers that sole proprietors use their SSN. Only partnerships, estates, trusts, and corporations will enter their FEIN.</p>
<b>4</b>	<p><b>Are you a California resident or non-resident?</b></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California.</p> <p>An estate is a resident if the decedent was a California resident at the time of death.</p> <p>A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a non-resident.</p> <p>Payments to all non-residents may be subject to withholding. Non-resident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Non-resident Withholding, contact the Franchise Tax Board at the numbers listed below:                      Withholding Services and Compliance Section: 1-888-792-4900 E-mail address: <a href="mailto:wscs.gen@ftb.ca.gov">wscs.gen@ftb.ca.gov</a>                      For hearing impaired with TDD, call: 1-800-822-6268 Website: <a href="http://www.ftb.ca.gov">www.ftb.ca.gov</a></p>
<b>5</b>	<p><u><b>This form must be signed.</b></u> Provide the name, title, e-mail, and telephone number of the individual completing this form. Also, provide the date the form was completed.</p> <p><u><b>Certification Instructions:</b></u> You must cross out item 2 if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. If you are not a U.S. Citizen or U.S. person, as defined by the Internal Revenue Service, a different form may be required and tax withholdings may apply. See IRS website <a href="http://www.irs.gov/businesses/international/index.html">http://www.irs.gov/businesses/international/index.html</a> for additional information.</p>
<b>SECTION 6 TO BE FILLED OUT BY COURT</b>	
<b>6</b>	<p>Please check the box that best describes the type of business/work the vendor provides. This will assist us in processing payment and tax withholdings. If the court is sending the request, please include contact information to assist with processing your request. <b>Not including court contact information may delay processing the request.</b></p>
<p><b>Privacy Statement:</b> Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.</p> <p>It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes non-compliance penalties of up to \$20,000.</p> <p>You have the right to access records containing your personal information, such as your SSN. To exercise the right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact that business.</p>	

**ATTACHMENT 6**

**UNRUH CIVIL RIGHTS ACT AND CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT CERTIFICATION**

Pursuant to Public Contract Code (PCC) section 2010, the following certifications must be provided when (i) submitting a bid or proposal to the JBE for a solicitation of goods or services of \$100,000 or more, or (ii) entering into or renewing a contract with the JBE for the purchase of goods or services of \$100,000 or more.

**CERTIFICATIONS:**

1. We are in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);
2. We are in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of the Title 2 of the Government Code); **and**
3. We do not have any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, that is used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

The certifications made in this document are made under penalty of perjury under the laws of the State of California. I, the official named below, certify that I am duly authorized to legally bind the proposer/bidder/vendor to certifications made in this document.

<i>Company Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of _____ in the State of _____</i>