

**JUDICIAL COUNCIL OF CALIFORNIA**  
**STANDARD AGREEMENT COVERSHEET** (rev 07-10-14)

AGREEMENT NUMBER <b>TBD</b>
FEDERAL EMPLOYER ID NUMBER <b>TBD</b>

1. In this agreement (the "Agreement"), the term "Contractor" refers to **TBD**, and the term "**Judicial Council**" refers to the **Judicial Council of California**.

2. This Agreement becomes effective as of **Date** (the "Effective Date") and expires on **TBD**.

3. The title of this Agreement is: **TBD**.

The title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of the Agreement.

4. The maximum amount that the Judicial Council may pay Contractor under this Agreement is **\$TBD**

5. The parties agree to the terms and conditions of this Agreement and acknowledge that this Agreement (made up of this coversheet, the following exhibits, and any attachments) contains the parties' entire understanding related to the subject matter of this Agreement. If there are any inconsistent terms in the exhibits, the following is the descending order of precedence: Exhibits **A, B, C, D, and E**.

- Exhibit A, Standard Provisions;
- Exhibit B, Special Provisions;
- Exhibit C, Payment Provisions;
- Exhibit D, Work to be Performed; and,
- Exhibit E, Attachments, @including Attachment 1, Acceptance and Signoff Form.

JUDICIAL COUNCIL'S SIGNATURE	CONTRACTOR'S SIGNATURE
Judicial Council of California	CONTRACTOR'S NAME (if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.) <b>TBD</b>

**SAMPLE ONLY – DO NOT SIGN**

ADDRESS Attn: Fiscal Services Office, Business Services Unit 455 Golden Gate Avenue San Francisco, CA 94102	ADDRESS <b>TBD</b>
--	-----------------------

## **EXHIBIT A - STANDARD PROVISIONS**

### 1. Indemnification

The Contractor shall indemnify, defend (with counsel satisfactory to the Judicial Council), and save harmless the Judicial Council and its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all other contractors, Subcontractors, suppliers, and laborers, and any other person, firm, or corporation furnishing or supplying Work, Materials, Data, or services in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor or its agents or employees in the performance of this Agreement.

### 2. Relationship of Parties

The Contractor and the agents and employees of the Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

### 3. Termination for Cause

A. Pursuant to this provision, the State may terminate this Agreement in whole or in part under any one of the following circumstances, by issuing a written Notice of termination for default to the Contractor:

- i. If the Contractor (a) fails to perform the services within the time specified herein or any extension thereof, (b) fails to perform any requirements of this Agreement, or (c) so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and, after receipt of a written Notice from the State specifying failure due to any of the preceding three (3) circumstances, the Contractor does not cure such failure within a period of five (5) business days or a longer period, if authorized in the Notice of failure; or,
- ii. If the Contractor should cease conducting business in the normal course, become insolvent or bankrupt, make a general assignment for the benefit of creditors, admit in writing its inability to pay its debts as they mature, suffer or permit the appointment of the receiver for its business or assets, merge with or be purchased by another entity, or avail itself of or become subject for a period of thirty (30) Days to any proceeding under any statute of any State authority relating to insolvency or protection from the rights of creditors.
- iii. If the Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading.

B. In the event the State terminates this Agreement in whole or in part, due to the

Contractor's failure to perform, the State may procure, upon such terms and in such manner as it may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the State for any excess costs for such similar supplies or services, subject to the limitations contained elsewhere herein; further, the Contractor shall continue the performance of this Agreement to the extent not terminated under this provision.

- C. If Contractor is in default, the State may withhold all or any portion of a payment otherwise due the Contractor.
- D. The Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises out of acts of Force Majeure; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- E. If, after Notice of termination for default of this Agreement, it is determined for any reason that the Contractor was not in default under this provision, or that the default was excusable under this provision, the obligations of the State shall be to pay only for the services rendered at the rates set forth in the Agreement.
- F. The rights and remedies of either party provided in this provision shall not be exclusive and are in addition to any other rights

4. No Assignment

Without the written consent of the Judicial Council, the Contractor shall not assign this Agreement in whole or in part.

5. Time of Essence

Time is of the essence in the performance of Work under this Agreement.

6. Validity of Alterations

Alteration or variation of the terms of this Agreement shall not be valid unless made in writing and signed by the parties, and an oral understanding or agreement that is not incorporated shall not be binding on any of the parties.

7. Consideration

The consideration to be paid to the Contractor under this Agreement shall be compensation for all the Contractor's expenses incurred in the performance of this Agreement, including travel and per diem, unless otherwise expressly provided.

*END OF EXHIBIT*

## EXHIBIT B - SPECIAL PROVISIONS

### 1. Definitions

Terms defined below and elsewhere throughout the Contract Documents shall apply to the Agreement as defined.

- A. “**Acceptance**” means the written acceptance issued to the Contractor by the State after the Contractor has completed a Deliverable or other Contract requirement, in compliance with the Contract Documents, including without limitation, *Exhibit D, Work to be Performed* and *Appendix B, Acceptance of the Work and Sign-off Form*.
- B. “**Administrative Director of the Courts**” refers to that individual, or authorized designee, empowered by the Judicial Council to make final and binding executive decisions on behalf of the Judicial Council.
- C. “**Amendment**” means a written document issued by the Judicial Council and signed by the Contractor which alters the Contract Documents and identifies the following: (i) a change in the Work; (ii) a change in Contract Amount; (iii) a change in time allotted for performance; and/or (iv) an adjustment to the Agreement terms.
- D. “**Confidential Information**” means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the Judicial Council’s business or the business of its constituents. Confidential Information does not include (i) information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information that becomes generally available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement; (iii) information that is independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.
- E. The “**Contract**” or “**Contract Documents**” constitute the entire integrated agreement between the Judicial Council and the Contractor, as attached to and incorporated by a fully executed Judicial Council Standard Agreement form. The terms “Contract” or “Contract Documents” may be used interchangeably with the term “**Agreement**.”
- F. The “**Contractor**” means the individual, association, partnership, firm, company, consultant, corporation, subsidiaries, affiliates, or combination thereof, including joint ventures, contracting with the Judicial Council to do the Contract Work. The Contractor is one of the parties to this Agreement.
- G. “**Data**” means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.

- H. **“Day”** means calendar day, unless otherwise specified.
- I. **“Deliverable(s)”** or **“Submittal(s)”** means one or more items, if specified in the Contract Documents, that the Contractor shall complete and deliver or submit to the Judicial Council for acceptance.
- J. **“Force Majeure”** means a delay which impacts the timely performance of Work which neither the Contractor nor the Judicial Council are liable for because such delay or failure to perform was unforeseeable and beyond the control of the party. Acts of Force Majeure include, but are not limited to:
- i. Acts of God or the public enemy;
  - ii. Acts or omissions of any government entity;
  - iii. Fire or other casualty for which a party is not responsible;
  - iv. Quarantine or epidemic;
  - v. Strike or defensive lockout; and,
  - vi. Unusually severe weather conditions.
- K. **“Judicial Council Standard Agreement”** means the form used by the Judicial Council to enter into agreements with other parties. Several originally signed, fully executed versions of the Judicial Council Standard Agreement, together with the integrated Contract Documents, shall each represent the Agreement as an individual **“Contract Counterpart.”**
- L. **“Material”** means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- M. **“Notice”** means a written document initiated by the authorized representative of either party to this Agreement and given by:
- i. Depositing in the U. S. Mail (or approved commercial express carrier) prepaid to the address of the appropriate authorized representative of the other party, which shall be effective upon date of receipt; or
  - ii. Hand-delivered to the other party’s authorized representative, which shall be effective on the date of service.
- N. **“Project”** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the Judicial Council and the Judicial Council’s representatives.
- O. **“Stop Work Order”** means the written Notice, delivered in accordance with this Agreement, by which the Judicial Council may require the Contractor to stop all, or any part, of the Work of this Agreement, for the period set forth in the Stop Work Order. The Stop Work Order shall be specifically identified as such and shall indicate that it is issued pursuant to the Stop Work provision in this Exhibit B.

- P. **“Subcontractor”** shall mean an individual, firm, partnership, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of the Agreement. When the Judicial Council refers to Subcontractor(s) in this document, for purposes of this Agreement and unless otherwise expressly stated, the term “Subcontractor” includes, at every level and/or tier, all subcontractors, sub-consultants, suppliers, and materialmen.
- Q. **“Task(s)”** means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the Judicial Council.
- R. **“Third Party”** refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the Judicial Council or the Contractor, which is not a party to this Agreement.
- S. **“Work”** or **“Work to be Performed”** or **“Contract Work”** may be used interchangeably to refer to the service, labor, Materials, Data, and other items necessary for the execution, completion and fulfillment of the Agreement by the Contractor to the satisfaction of the Judicial Council. Work may be defined to include Tasks, Deliverables, and/or Submittals, as required by the Contract.

2. Manner of Performance of Work

The Contractor shall complete all Work specified in these Contract Documents to the Judicial Council's satisfaction and in compliance with the Nondiscrimination / No Harassment Clause, as set forth in this Exhibit B.

3. Acceptance of the Work

- A. The Judicial Council Project Manager shall be responsible for the sign-off Acceptance of all the Work required and submitted pursuant to this Agreement. Prior to approval of the Work and prior to approval for payment, the Judicial Council Project Manager will apply the Acceptance Criteria set forth in subparagraph B of this provision, as appropriate, to determine the acceptability of the Work provided by the Contractor. Unsatisfactory ratings will be resolved as set forth in this provision.
- B. Acceptance Criteria for Work (**“Criteria”**) provided by the Contractor pursuant to this Agreement:
  - i. Timeliness: The Work was delivered on time;
  - ii. Completeness: The Work contained the Data, Materials, and features required in the Contract; and
  - iii. Technical accuracy: The Work is accurate as measured against commonly accepted standard (for instance, a statistical formula, an industry standard, or de facto marketplace standard).

- C. The Contractor shall provide the Work to the State, in accordance with direction from the Judicial Council Project Manager. The State shall accept the Work, provided the Contractor has delivered the Work in accordance with the Criteria. The Judicial Council Project Manager shall use the Acceptance and Sign-off Form, provided as Appendix B, to notify the Contractor of the Work's acceptability.
- D. If the State rejects the Work provided, the Judicial Council Project Manager shall submit to the Contractor a written rejection using Appendix B, describing in detail the failure of the Work as measured against the Criteria. If the State rejects the Work, then the Contractor shall have a period of ten (10) business days from receipt of the Notice of rejection to correct the stated failure(s) to conform to the Criteria.
- E. If the Judicial Council Project Manager requests further change, the Contractor shall meet with the Judicial Council Project Manager, within three (3) business days of such request, to discuss changes for the final submission of the Work. The Contractor shall provide the Work within three (3) business days after this meeting, at which time the Work will be accepted or the question of its acceptability referred to the Administrative Director of the Judicial Council and a principal of the Contractor, as set forth in subparagraph F below.
- F. If agreement cannot be reached between the Judicial Council Project Manager and the Contractor on the Work's acceptability, a principal of the Contractor and the Administrative Director of the Judicial Council, or its designee, shall meet to discuss the problem. If agreement cannot be reached, in the reasonable judgment of the Administrative Director of the Judicial Council, or its designee, and/or the Contractor fails to cure such deficiencies that are perceived in the Work to the reasonable satisfaction of the Administrative Director, or its designee, in the reasonable time established by the Administrative Director, the State may reject the Work and will notify the Contractor in writing of such action and the reason(s) for so doing. Upon rejection of the Work, the State may terminate this Agreement pursuant to the terms set forth in *Exhibit A, Standard Provisions, paragraph 3*.

4. Termination Other Than for Cause

- A. In addition to termination for cause under *Exhibit A, Standard Provisions, paragraph 3*, the State may terminate this Agreement at any time upon providing the Contractor written Notice at least ten (10) days before the effective date of termination. Upon receipt of the termination Notice, the Contractor shall promptly discontinue all services affected unless the Notice specifies otherwise.
- B. If the State terminates all or a portion of this Agreement other than for cause, the State shall pay the Contractor for the fair value of satisfactory services rendered before the termination, not to exceed the total Contract Amount.

5. Judicial Council's Obligation Subject to Availability of Funds

- A. The Judicial Council's obligation under this Agreement is subject to the availability of authorized funds. The Judicial Council may terminate the Agreement or any part of the Contract Work, without prejudice to any right or remedy of the Judicial Council, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or limited in any way prior to the expiration date set forth in this Agreement, or in any Amendment hereto, the Judicial Council may terminate this Agreement in whole or in part, upon written Notice to the Contractor. Such termination shall be in addition to the Judicial Council's rights to terminate for convenience or default.
- B. Payment shall not exceed the amount allowable for appropriation by Legislature. If the Agreement is terminated for non-appropriation:
  - i. The Judicial Council will be liable only for payment in accordance with the terms of this Agreement for services rendered prior to the effective date of termination; and
  - ii. The Contractor shall be released from any obligation to provide further services pursuant to the Agreement as are affected by the termination.
- C. Funding for this Agreement beyond the current appropriation year is conditional upon appropriation by the Legislature of sufficient funds to support the activities described in this Agreement. Should such an appropriation not be approved, the Agreement may terminate at the close of the current appropriation year. The appropriation year ends on June 30 of each year.

6. Agreement Administration / Communication

- A. Under this Agreement, the Project Manager, [TBD], shall monitor and evaluate the Contractor's performance. All requests and communications about the Work to be Performed under this Agreement shall be made through the Project Manager.
  - i. Any Notice from the Contractor to the Judicial Council shall be in writing and shall be delivered the Project Manager as follows:

Judicial Council of California  
Attn: [TBD], Project Manager  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688

Other than for Notices, the Judicial Council Project Manager may be contacted as follows:

[TBD], Judicial Council Project Manager

Telephone: [TBD]  
Facsimile: [TBD]  
Email: [TBD]

- ii. Notice to the Contractor shall be directed in writing to:

[TBD]

7. Standard of Professionalism

The Contractor shall conduct all work consistent with professional standards for the industry and type of work being performed under the Agreement.

8. Stop Work

- A. The State may, at any time, by written Notice to the Contractor, require the Contractor to stop all, or any part, of the Work of this Agreement, for a period up to ninety (90) Days after the Notice is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Stop Work Order during the period of Work stoppage. Within a period of ninety (90) Days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
  - i. Cancel the Stop Work Order; or
  - ii. Terminate the Work covered by the Stop Work Order as provided for in either of the termination provisions of this Agreement.
- B. If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume Work. The State shall make an equitable adjustment in the delivery schedule, the Contract Amount, or both, and the Agreement shall be modified, in writing, accordingly, if:
  - i. The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Agreement; and
  - ii. The Contractor asserts its right to an equitable adjustment within thirty (30) Days after the end of the period of Work stoppage; however, if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Agreement.
- C. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the Termination Other Than For Cause provision or the State's Obligation Subject to Availability of Funds provision, as set forth under this Exhibit

B, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.

- D. The State shall not be liable to the Contractor for loss of profits because of the Stop Work Order issued under this provision.

9. Subcontracting

The Contractor shall not subcontract this Agreement or services provided under this Agreement, unless the Judicial Council agrees to the subcontracting in writing. Any authorized subcontract(s) shall be executed in the same manner as this Agreement. No party to this Agreement shall in any way contract on behalf of or in the name of another party to this Agreement.

10. Evaluation of Contractor

The State shall evaluate the Contractor's performance under the Agreement.

11. Changes and Amendments

Changes or Amendments to any component of the Contract Documents can be made only with prior written approval from the Project Manager. Requests for changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. Additional funds may not be encumbered under the Agreement due to an act of Force Majeure, although the performance period of the Agreement may be amended due to an act of Force Majeure. After the Project Manager reviews the request, a written decision shall be provided to the Contractor. Amendments to the Agreement shall be authorized via bilateral execution of a Judicial Council Standard Agreement.

12. Copyrights and Rights in Data

All copyrights and rights in the Data produced with funding from this Agreement that may presumptively vest in the Contractor shall be transferred to the Judicial Council.

13. Ownership of Results

- A. Any interest of the Contractor in Data in any form, or other documents and/or recordings prepared by the Contractor for performance of services under this Agreement shall become the property of the Judicial Council. Upon the Judicial Council's written request, the Contractor shall provide the Judicial Council with all this Data within thirty (30) Days of the request.
- B. The Contractor agrees not to assert any rights at common law, or in equity, or establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole, or part, or any manner or form, or authorize others to do so without the written consent of the Judicial Council.

14. Ownership of Intellectual Property, Etc.

- A. Unless the Contractor and the Judicial Council reach a written agreement to the contrary, the Contractor agrees for itself and its personnel that pursuant to the Judicial Council’s requirement (a) all documents, deliverables, software, systems designs, disks, tapes, and any other Data or Materials created in whole or in part by the Contractor in the course of or related to providing services to the Judicial Council shall be treated as if it were “work for hire” for the Judicial Council, and (b) the Contractor will immediately disclose to the Judicial Council all discoveries, inventions, enhancements, improvements, and similar creations (collectively, “**Creations**”) made, in whole or in part, by the Contractor in the course of or related to providing services to the Judicial Council.
- B. All ownership and control of the above Data, Materials, and Creations, including any copyright, patent rights, and all other intellectual property rights therein, shall vest exclusively with the Judicial Council, and the Contractor hereby assigns all right, title, and interest that the Contractor may have in such Data, Materials, and Creations to the Judicial Council, without any additional compensation and free of all liens and encumbrances of any type. The Contractor affirms that the amount encumbered under this Agreement for the Work performed includes payment for assigning such rights to the Judicial Council. The Contractor agrees to execute any documents required by the Judicial Council to register its rights and to implement the provisions herein.

15. Ownership of Data, Materials and Deliverables

- A. **Judicial Council Works.** As between the Contractor and the Judicial Council, the Judicial Council will be the sole and exclusive owner of all Works owned by the Judicial Council as of the Effective Date or created by the Judicial Council separate from this Agreement (collectively, “**Judicial Council Works**”). Judicial Council Works include, but shall not be limited to, proprietary works of authorship, software, process or logic flowcharts, architecture designs, specifications, models, and documentation, as well as any associated Intellectual Property Rights. As of the Effective Date, the Contractor will be granted a limited, non-exclusive license during the term of the Agreement to use, access, copy, maintain, modify, enhance and create derivative works of the Judicial Council Works solely as necessary for and for the sole purpose of providing the Services. The Contractor may not use Judicial Council Works for any other purpose, and may not sublicense any rights with respect to such Judicial Council Works. The Contractor will cease use of such Judicial Council Works upon expiration or termination of this Agreement.
- B. **Rights in Developed Works.** The Contractor hereby irrevocably assigns all right, title, and interest, including without limitation any and all Intellectual Property Rights (all copyrights, including without limitation any renewal terms, patents, trademark, service

mark, and/or trade name rights, trade-secret rights, and other proprietary rights), in and to the works first created, made, developed, conceived, or reduced to practice in whole or in part, by or on behalf of the Contractor, the Contractor's agents or subcontractors, or any combination of the Contractor, the Contractor's agents or subcontractors, and the Judicial Council in connection with the performance of the services of this Agreement, but excluding Contractor Works and Third Party Works, (including, without limitation, any modifications, enhancements and derivative works of the Judicial Council Works) to the Judicial Council. Accordingly, the Judicial Council shall be entitled to access to and copies of any source code and any technical or user documentation relating to the Developed Works at all times, including during the progress of the work and upon completion of the work. The Judicial Council may seek registration of its rights in and to the Developed Works, including without limitation copyright, trademark, service mark, and patent applications, in its own name, though it will not be obligated to do so.

- C. Contractor Works. As between the Contractor and the Judicial Council, the Contractor will be the sole and exclusive owner of all Works owned by it as of the Effective Date or created by it separate from this Agreement (collectively, "**Contractor Works**"). Contractor Works that may be used as part of Contractor's provision of Services include, but shall not be limited to, proprietary works of authorship that have not been created specifically for the Judicial Council, including without limitation software, process or logic flowcharts, architecture designs, specifications, models, and documentation, as well as any associated Intellectual Property Rights ("**Contractor's Information**"). Upon introduction of any Contractor Works, the Contractor grants to the Judicial Council and their subcontractors, without additional charge, (i) a perpetual, irrevocable (except as otherwise expressly provided in this paragraph), fully paid-up, non-exclusive license to use, copy, maintain, modify, enhance and create derivative of such Contractor Works (including, with respect to software, source code, and programmer interfaces) and to sublicense such rights to other entities; and (ii) with respect to Contractor Works that are software, copies of machine-readable and human-readable source code and technical documentation for such software. The foregoing license is subject to a right of

revocation only upon the expiration or any whole or partial termination of this Agreement (following notice and a 45-day opportunity to cure) if the Judicial Council has not made full payment of undisputed amounts properly due and owing to the Contractor.

16. Limitation on Publication

The Contractor shall not publish or submit for publication any article, press release, or other writing relating to the Contractor's services for the State without prior review and written permission by the State.

17. Services Warranty

The Contractor warrants and represents that each of its employees, independent contractors or agents assigned to perform any services or provide any technical assistance in planning,

development, training, consulting or related services under the terms of this Agreement shall have the skills, training, and background reasonably commensurate with his or her level of performance or responsibility, so as to be able to perform in a competent and professional manner. The Contractor further warrants that the services provided hereunder will (i) be rendered with promptness and diligence; (ii) executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services; (iii) conform to the requirements of this Agreement. For each such Deliverable, the foregoing warranty shall commence for such Deliverable upon the State's acceptance of such Deliverable, and shall continue for a period of one (1) year following acceptance. In the event any Deliverable does not conform to the foregoing warranty, Contractor shall promptly correct all non-conformities to the satisfaction of the State. All warranties, including any special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and any other recipients of the services provided hereunder.

18. Changes and Amendments

Changes or Amendments to any component of the Contract Documents can be made only with prior written approval from the Judicial Council Project Manager. Requests for changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. Additional funds may not be encumbered under the Agreement due to an act of Force Majeure, although the performance period of the Agreement may be amended due to an act of Force Majeure. After the Judicial Council Project Manager reviews the request, a written decision shall be provided to the Contractor. Amendments to the Agreement shall be authorized via bilateral execution of a State Standard Agreement.

19. Accounting System Requirement

The Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP.

20. Retention of Records

The Contractor shall maintain all financial Data, supporting documents, and all other records relating to performance and billing under this Agreement for a period in accordance with state and federal law, a minimum retention period being no less than four (4) years. The retention period starts from the date of the submission of the final payment request. The Contractor is also obligated to protect Data adequately against fire or other damage.

21. Right to Audit

A. The Contractor shall permit all Data and records relating to performance, procedures, and billing to the State under this Agreement to be inspected and/or audited, at any reasonable time, by the authorized representative of any of the following or its designee:

- i. The State;
- ii. The Bureau of State Audits; and/or
- iii. Any State or Federal government auditing agency.

B. The right of each agency to inspect and/or audit this Agreement is independent of whether or not any other audit or inspection has been performed

22. Limitation on Publication

The Contractor shall not publish or submit for publication any article, press release, or other writing relating to the Contractor's services for the State without prior review and written permission by the State. The State review shall be completed within thirty (30) Days of submission to the Judicial Council Project Manager and, if permission is denied, the State shall provide its reasons for denial in writing.

23. Limitation on States Liability

The State shall not be responsible for loss of or damage to any non-State equipment arising from causes beyond the State's control.

24. Insurance Requirements

A. General. The Contractor shall obtain and maintain the minimum insurance set forth in subparagraph B, below. By requiring such minimum insurance, the Judicial Council shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. For full coverage, each insurance policy shall be written on an "occurrence" form; excepting that insurance for professional liability, when required, may be acceptable on a "claims made" form. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not

less than three (3) years from the date of completion of the Work which is the subject of this Agreement.

B. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage and limits no less than the following:

- i. Workers' Compensation at statutory requirements of the state of residency.
- ii. Employers' Liability with limits not less than \$500,000.00 for each accident.
- iii. Commercial General Liability Insurance with limits not less than \$500,000.00 for each occurrence, Combined Single Limit Bodily Injury and Property Damage.
- iv. Business Automobile Liability Insurance with limits not less than \$500,000.00 for each occurrence, Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired automobile coverage, as applicable.

- v. Professional Liability: Errors and Omissions \$500,000.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the Judicial Council. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the Judicial Council and shall be the sole responsibility of the Contractor.
- D. Other Insurance Provisions. The General Liability policy required in this Agreement is to contain, or be endorsed to contain, the following provisions:
  - i. The Judicial Council, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement.
  - ii. To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects the Judicial Council, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the Judicial Council, its officers, officials, employees or agents shall not contribute with the insurance or benefit the Contractor in any way,
  - iii. The Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- E. The Contractor shall provide the Judicial Council certificates of insurance satisfactory to the Judicial Council evidencing all required coverages before Contractor begins any Work under this Agreement, and complete copies of each policy upon the Judicial Council's request.
- F. If at any time the foregoing policies shall be or become unsatisfactory to the Judicial Council, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Judicial Council, the Contractor shall, upon Notice to that effect from the Judicial Council, promptly obtain a new policy, and shall submit the same to the Judicial Council, with the appropriate certificates and endorsements, for approval.
- G. All of the Contractor's policies shall be endorsed to provide advanced written Notice to the Judicial Council of cancellation, nonrenewal, and reduction in coverage, within fifteen (15) Days, mailed to the following address: Judicial Council of California, Manager, Business Services, 455 Golden Gate Ave., 6<sup>th</sup> Floor, San Francisco, CA 94102-3688.

25. Conflict of Interest

- A. The Contractor and employees of the Contractor shall not participate in proceedings that involve the use of state funds or that are sponsored by the Judicial Council if the person's partner, family, or organization has a financial interest in the outcome of the proceedings. The Contractor and employees of the Contractor shall also avoid actions resulting in or creating the appearance of (i) use of an official position with the government for private

gain; (ii) preferential treatment to any particular person associated with this Agreement or the Work of this Agreement; (iii) loss of independence or impartiality; (iv) a decision made outside official channels; or (v) adverse effects on the confidence of the public in the integrity of the government or this Agreement.

- B. The Contractor certifies and shall require any Subcontractor to certify to the following: Former Judicial Council employees will not be awarded a contract for two (2) years from the date of separation if that employee had any part of the decision making process relevant to the contract, or for one (1) year from the date of separation if that employee was in a policy making position in the same general subject area as the proposed contract within the twelve (12) month period of his or her separation from state service.

26. Covenant Against Gratuities

The Contractor warrants by signing this Agreement that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the Contractor or any agent, director, or representative of the Contractor, to any officer, official, agent, or employee of the Judicial Council with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the Judicial Council will have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the Judicial Council in procuring, on the open market, any items which the Contractor agreed to supply, shall be borne and paid for by the Contractor. The rights and remedies of the Judicial Council provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

27. Drug-Free Workplace

The Contractor certifies that it will provide a drug-free workplace as required by California Government Code, Section 8355 through Section 8357.

28. Americans with Disabilities Act

By signing this Agreement, Contractor assures the Judicial Council that it complies with applicable provisions of the Americans with Disabilities Act (“ADA”) of 1990 (42 U.S.C.

Sections 012101 *et seq.*), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.

29. Permits and Licenses

The Contractor shall observe and comply with all Federal, state, city, and county laws, rules, and regulations affecting services under this Agreement. The Contractor shall procure and keep in full force and effect during the term of this Agreement all permits and licenses necessary to accomplish the Work contemplated in this Agreement.

30. California Law

This Agreement shall be subject to and construed in accordance with the laws of the State of California.

31. Severability

If any term or provision of this Agreement is found to be illegal or unenforceable, this Agreement shall remain in full force and effect and that term or provision shall be deemed stricken

32. Waiver

The omission by either party at any time to enforce any default or right, or to require performance of any of this Agreement's terms, covenants, or provisions by the other party at the time designated, shall not be a waiver of the default or right, nor shall it affect the right of the party to enforce those provisions later.

33. Signature Authority

The parties signing this Agreement certify that they have proper authorization to do so.

34. Survival

The termination or expiration of the Agreement shall not relieve either party of any obligation or liability accrued hereunder prior to or subsequent to such termination or expiration, nor affect or impair the rights of either party arising under the Agreement prior to or subsequent to such termination or expiration, except as expressly provided herein.

35. Entire Agreement

This Agreement, consisting of all documents as defined herein, constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties. No waiver, alteration, modification of, or addition to the terms and conditions contained herein shall be binding unless expressly agreed in writing by a duly authorized representative of the Judicial Council.

***END OF EXHIBIT***

**EXHIBIT C - PAYMENT PROVISIONS**

1. Contract Amount

- A. The total amount the State may pay to the Contractor under this Agreement for performing the Work set forth in *Exhibit D - Work to be Performed*, and allowable expenses, shall be the actual cost not to exceed the Contract Amount of \$15,000.00, as set forth in this Exhibit C.
- B. The Contractor has estimated the costs and expenses necessary to complete the Work. The State’s acceptance of the Contractor’s proposal and price does not (i) imply that the State approves of or adopts the Contractor’s plan, means, methods, techniques, or procedures required to perform the Work, nor (ii) relieve the Contractor from the sole responsibility for the accuracy of its estimate and timely completion of the Work of this Agreement within the total amount for compensation set forth herein.

2. Compensation for Contract Work

- A. For performing the Work of this Agreement, as set forth in *Attachment 2 Contract Terms, Exhibit D - Work to be Performed*, the State shall compensate the Contractor at the rate(s) set forth in Table 1, below, not to exceed the amount per Deliverable nor the estimated due date per Deliverable, as set forth in Table 2 below.

**Table 1: Hourly Rates for Key Personnel and Other Personnel/Job Functions**

1. Key Personnel	Hourly Rate
1. [TBD]	[TBD]

**Table 2: Due Dates and Not to Exceed Amounts for the**

Deliverable No.	Description	Due Date	Not to exceed Amount	Invoice Due By Date
1	Revision of Benchguide 300	[TBD]	[TBD]	[TBD]
2	Revision of Benchguide 301	[TBD]	[TBD]	[TBD]
3	Revision of Benchguide 302	[TBD]	[TBD]	[TBD]

- B. For performing the Work of this Agreement, the Judicial Council shall compensate the Contractor for the rate(s) set forth in Table 1, above, per the not to exceed amount per Deliverable and the estimated due date per Deliverable, as set forth in Table 3 below.
- C. The hourly rate [**TBD**] set forth in Table 1, above is inclusive of all costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for services rendered to the Judicial Council.

3. Direct Expenses

All fees and charges noted in this Agreement are inclusive of any and all anticipated travel, lodging, transportation, clerical support, Materials, direct and indirect labor, fees, overhead, profits, and other costs and/or expenses incidental to the performance of the specified requirements under this Agreement.

4. Other Expenses

The State shall not consider reimbursement for costs not defined as allowable in this Agreement, including but not limited to any administrative, operating, travel, meals, and lodging expenses incurred during the performance of this Agreement.

5. Direct Expenses

All fees and charges noted in this Agreement are inclusive of any and all anticipated travel, lodging, transportation, clerical support, Materials, fees, overhead, profits, and other costs and/or expenses incidental to the performance of the specified requirements under this Agreement.

6. Taxes

The Judicial Council is exempt from federal excise taxes and no payment will be made for any taxes levied on the Contractor's or any Subcontractor's employees' wages. The Judicial Council will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement.

7. Method of Payment

- A. The Contractor shall submit an invoice for Work provided upon completion of the Deliverables, as set forth in Exhibit D, Work to be Performed, no more often than once a month. After receipt of invoice, the Judicial Council will either approve the invoice for payment or give the Contractor specific written reasons why part or all of the payment is being withheld and what remedial actions the Contractor must take to receive the withheld amount.

- B. The Judicial Council will make payment in arrears after receipt of the Contractor's properly completed invoice. Invoices shall clearly indicate the following:
- i. The Contract number.
  - ii. An unique invoice number.
  - iii. The Contractor's name and address.
  - iv. The taxpayer identification number (the Contractor's social security number).
  - v. A description of the completed Work, including services rendered, Task(s) performed, and/or Deliverable(s) made, as appropriate.
  - vi. The dates worked.
  - vii. The contractual charges, including the appropriate cost allowable under this Contract.
  - viii. A preferred remittance address, if different from the mailing address
- C. The Contractor shall submit one (1) original and two (2) copies of invoices to:

Judicial Council of California  
c/o Fiscal Services Office, Accounts Payable  
455 Golden Gate Avenue, 6<sup>th</sup> Floor  
San Francisco, CA 94102-3688

Judicial Council of California  
c/o Center for Judicial Education & Research  
Attention: **[TBD]**  
455 Golden Gate Avenue, 6<sup>th</sup> Floor  
San Francisco, CA 94102-3688

- D. Please note that invoices or vouchers not on printed bill heads shall be signed by the Contractor or the person furnishing the supplies or services.

8. Disallowance

If the Contractor claims or receives payment from the Judicial Council for a service or reimbursement that is later disallowed by the Judicial Council, the Contractor shall promptly refund the disallowed amount to the Judicial Council upon the Judicial Council's request. At its option, the Judicial Council may offset the amount disallowed from any payment due or that may become due to the Contractor under this Agreement or any other agreement.

9. Payment Does Not Imply Acceptance of Work

The granting of any payment by the Judicial Council as provided in Exhibit C, shall in no way lessen the liability of the Contractor to replace unsatisfactory Work or Material, even if the unsatisfactory character of such Work or Material may not have been apparent or detected at the time such payment was made. Materials, Data, components, or

workmanship that do not conform to Exhibit D, Work to Be Performed, shall be rejected and shall be replaced by the Contractor without delay.

10. Most Favorable Price

The Contractor agrees that no other customer will receive better rates for substantially similar services offered under substantially similar terms and conditions when the volume of business from such other customers is equal to or less than the volume of business the Judicial Council delivers under this Agreement.

*END OF EXHIBIT*

## EXHIBIT D - WORK TO BE PERFORMED

### 1. Scope of Services

Provide legal writing services for revision and updating of three probate publications. These publications are for use by California Judges in connection with Probate Law. The services initially require a review of Benchguide 300 – Conservatorship: Appointment and powers of Conservator (2010), Benchguide 301 – Conservatorship Proceedings (2010) and Benchguide 302 – Probate Administration (2010) for content, coverage, and organization. This is to be followed by a subsequent history review and update of each legal citation (case-law, statute, rule of court) to determine the citation’s legal currency. Written changes will be made to the text to incorporate the current citations and associated narrative. A research of law will be made to determine if new sections are required or existing sections require reorganization. Written drafts for all existing sections that require revision or reorganization and new sections will be submitted to Judicial Council Project Manager for review and feedback and further changes and edits to the text will be made as required. The estimated length of each publication is between 100 and 150 pages in length and is anticipated to take approximately two months to completely revise each publication. Work is anticipated to commence prior to June 30, 2015 and to be completed no later than December 15, 2015.

### 2. Statement of Work

2.1 The Contractor must complete the following Tasks and submit the following three (3) Deliverables no later than December 15, 2015.

#### 2.1.1 **Task 1 - Research and Develop Content for Benchguide 300- Conservatorship: Appointment and Powers of Conservator (2010)**

Legal research, reviewing, updating, revisions, writing, and drafting new sections and rearranging sections and other consulting services required. Submit to Judicial Council Project Manager for their review and feedback. Make changes and edits to the text as required.

***Deliverable 1:*** Deliver final text changes for publication Benchguide 300 – Conservatorship Appointment and Powers of Conservator (2010) incorporating all changes, changes from reviewers, and editing changes by date [TBD] but prior to the completion of Task 2.

#### 2.1.2 **Task 2 -Research and Develop Content for Benchguide 301 – Conservatorship Proceedings (2010).**

Legal research, reviewing, updating, revisions, writing, and drafting new sections and rearranging sections and other consulting services required. Submit to Judicial Council Project Manager for their review and feedback. Make changes and edits to the text as required.

***Deliverable 2:*** Deliver final text changes for publication Benchguide 301 – Conservatorship Proceedings (2010) incorporating all changes, changes from reviewers, and editing changes by date [TBD] but prior to the completion of Task 3.

2.1.3 **Task 3 - Research and Develop Content for Benchguide 302 – Probate Administration (2010).**

Legal research, reviewing, updating, revisions, writing, and drafting new sections and rearranging sections and other consulting services required. Submit to Judicial Council Project Manager for their review and feedback. Make changes and edits to the text as required.

***Deliverable 3:*** Deliver final text changes for publication Benchguide 302 – Probate Administration (2010) incorporating all changes, changes from reviewers, and editing changes by date [TBD] but no later than December 15, 2015.

3. **Progress Reports**

The Contractor shall submit monthly progress reports, if requested by Judicial Council Project Manager, describing Work performed, Work status, Work progress difficulties encountered, remedial actions, and statement of activity anticipated.

4. **Contractor Responsibilities**

A. The Contractor's Project Manager will have the following responsibilities under this Contract:

- i. Is responsible for the end results and for day-to-day Project management;
- ii. Serves as the Contractor's primary contact;
- iii. Works closely with the Judicial Council's Project Manager;
- iv. Provides on-going status reports to Judicial Council management;
- v. Manages, prepares, and refines the Contract's end results;
- vi. Proactively assists with resolution of issues with any aspect of the Work;
- vii. Proactively anticipates Project deviations and is responsible for taking immediate corrective action;
- viii. Works with Project Manager to manage and coordinate Work and knowledge transfer; and
- ix. Is responsible for management of Project budget within constraints of Work requirements.

5. **Judicial Council Responsibilities**

A. The Judicial Council's **Project Manager** will be responsible for managing, scheduling, and coordinating all Project activities, including Project plans, timelines, and resources, and escalating issues for resolution to Judicial Council management.

*END OF EXHIBIT*

**EXHIBIT E  
ATTACHMENTS**

@This Exhibit includes the following form(s):

@Attachment @1, Acceptance and Signoff Form

*END OF EXHIBIT*

**EXHIBIT E**  
**ATTACHMENT 1**  
**ACCEPTANCE AND SIGNOFF FORM**

Description of Work provided by Contractor:

---

---

Date submitted: \_\_\_\_\_

Work is:

1) Submitted on time:  yes  no. If no, please note length of delay and reasons.

---

---

---

2) Complete:  yes  no. If no, please identify incomplete aspects of the Work.

---

---

---

3) Technically accurate:  yes  no. If no, please note corrections required.

---

---

---

Please note level of satisfaction:

Poor  Fair  Good  Very Good  Excellent

Comments, if any:

---

---

Work is accepted.

Work is unacceptable as noted above.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*END OF ATTACHMENT*