

## **ATTACHMENT 2 CONTRACT TERMS**

### **EXHIBIT A - STANDARD PROVISIONS**

#### **1. INDEMNIFICATION**

The Contractor shall indemnify, defend (with counsel satisfactory to the State), and save harmless the State 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**

The State may terminate this Agreement and be relieved of the payment of any consideration to the Contractor if the Contractor fails to perform the provisions of this Agreement at the time and in the manner provided. If the Agreement is terminated, the State may proceed with the Work in any manner it deems proper. The cost to the State to perform this Agreement shall be deducted from any sum due the Contractor under this Agreement or any other agreement, and the balance, if any, shall be paid to the Contractor upon demand.

#### **4. NO ASSIGNMENT**

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

#### **5. TIME OF ESSENCE**

Time is of the essence in 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 given to the Contractor under this Agreement shall be solely in the form of rights to sell the four (4) publications, Felony Sentencing Handbook, Mandatory Criminal Jury Instructions Handbook, California Judges Benchbook: Search and Seizure, and California Judges Benchbook: Domestic Violence Cases in Criminal Court to others, in print and electronic formats.

***END OF EXHIBIT***

## ATTACHMENT 2 CONTRACT TERMS

### EXHIBIT B - SPECIAL PROVISIONS

#### 1. DEFINITIONS

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

- A. **“Administrative Director”** refers to that individual or authorized designee, empowered by the State to make final and binding executive decisions on behalf of the State.
- B. **“Amendment”** means a written document issued by the State and signed by the Contractor which alters the Contract Documents and identifies the following: (i) a change in the Work; (ii) a change in time allotted for performance; and/or (iii) an adjustment to the Agreement terms.
- C. **“Bar”** refers to the California State Bar Association.
- D. **“Confidential Information”** means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the State’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 State and the Contractor, as attached to and incorporated by a fully executed State 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, affiliates, or combination thereof, including joint ventures, contracting with the State 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 State for acceptance.
- J. **“Force Majeure”** means a delay which impacts the timely performance of Work which neither the Contractor nor the State 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. **“Material”** means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- L. **“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.
- M. **“Project”** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State’s representatives.
- N. The **“State”** refers to the Judicial Council of California / Administrative Office of the Courts (“AOC”). The State is one of the parties to this Agreement.
- O. **“State Standard Agreement”** means the form used by the State to enter into agreements with other parties. Several originally signed, fully executed versions of the State Standard Agreement, together with the integrated Contract Documents, shall each represent the Agreement as an individual “Contract Counterpart.”
- P. **“Stop Work Order”** means the written Notice, delivered in accordance with this Agreement, by which the State 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 *Special Provisions*.

- Q. “**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 State 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-Contractors, suppliers, and materialmen.
- R. “**Task(s)**” means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- S. “**Third Party**” refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the State or the Contractor, which is not a party to this Agreement.
- T. “**To Be Determined**” or “TBD” is the item that is not yet identified. Any and all To Be Determined items, set forth herein, shall be determined prior to award or by mutual agreement between the Contractor and the State and incorporated into the Agreement via Amendment(s).
- U. “**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 State. 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 State's satisfaction and in compliance with the Non-discrimination/No Harassment Clause, as set forth in *Special Provisions*.

## 3. TERMINATION OTHER THAN FOR CAUSE

In addition to termination for cause under *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.

## 4. 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 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.

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

## **5. AGREEMENT ADMINISTRATION/COMMUNICATION**

A. Under this Agreement, the Project Manager, 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. Any Notice from the Contractor to the State shall be in writing and shall be delivered the Project Manager as follows:

Judicial Council of California  
Administrative Office of the Courts  
TBD, Project Manager  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688

B. Notice to the Contractor shall be directed in writing to: TBD.

## **6. 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.

## 7. ACCEPTANCE OF THE WORK

- A. The 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 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 Project Manager. The State shall accept the Work, provided the Contractor has delivered the Work in accordance with the Criteria. The Project Manager shall use the *Acceptance and Signoff Form* to notify the Contractor of the Work’s acceptability.
- D. If the State rejects the Work provided, the Project Manager shall submit to the Contractor a written rejection using the *Acceptance and Sign-off Form*, 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 Project Manager requests further change, the Contractor shall meet with the 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 AOC and a principal of the Contractor, as set forth in subparagraph F below.
- F. If agreement cannot be reached between the Project Manager and the Contractor on the Work’s acceptability, a principal of the Contractor and the Administrative Director of the AOC, or its designee, shall meet to discuss the problem. If agreement cannot be reached, in the reasonable judgment of the Administrative Director of the AOC, 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 of *Standard Provisions paragraph 3*.

## **8. CONTRACTOR'S PERSONNEL AND REPLACEMENT OF PERSONNEL**

- A. The State reserves the right to disapprove the continuing assignment of any of the Contractor's personnel provided to the State under this Agreement if in the State's opinion, the performance of the Contractor's personnel is unsatisfactory. The State agrees to provide Notice to the Contractor in the event it makes such a determination. If the State exercises this right, the Contractor shall immediately assign replacement personnel, possessing equivalent or greater experience and skills.
- B. If any of the Contractor's personnel become unavailable during the term of this Agreement, the Contractor shall immediately assign replacement personnel, possessing equivalent or greater experience and skills.
- C. The Contractor shall endeavor to retain the same individuals on the Project during the performance of the Work of this Agreement. However, the Contractor may, with approval of the Project Manager, introduce personnel to the Project with specific skill sets or release personnel from the Project whose skill set is not needed at the time.
- D. If any of the Contractor's personnel identified within the Agreement become unavailable during the term of this Agreement, the Contractor will supply a substitute acceptable to the Project Manager.
- E. If any of the Contractor's personnel become unavailable or are disapproved and the Contractor cannot furnish a replacement acceptable to the State, the State may terminate this Agreement for cause pursuant to *Standard Provisions paragraph 3*.

## **9. ASSIGNMENTS OR SUBCONTRACTING**

- A. This Agreement is based upon the unique expertise of the Contractor. Therefore, in addition to the prohibition against assignment under *Standard Provisions, paragraph 4*, it is the policy of the State to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance under this Agreement. No performance of this Agreement or any portion thereof may be assigned or subcontracted by the Contractor without the express written consent of the State, and any attempt by the Contractor to assign or subcontract any performance of this Agreement without the express written consent of the State shall be void and shall constitute a breach of this Agreement. If the Contractor is authorized by the State to subcontract or assign, all the terms of this Agreement shall be included in such subcontract or assignment.
- B. Any substitution or prolonged absence of the personnel, who were specifically identified in the original proposal, as accepted, must be approved. Failure to obtain acceptance shall constitute a major breach of this Agreement.

## **10. CHANGES AND AMENDMENTS**

- A. 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. 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 State Standard Agreement.
- B. The time required for performance under this Agreement may be extended because of an Act of Force Majeure, but no funds may be encumbered thereby.

## **11. ACCOUNTING SYSTEM REQUIREMENT**

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

## **12. TAXES**

The State 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.

## **13. 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.

## **14. AUDIT**

The Contractor shall permit the authorized representative of the State or its designee or both at any reasonable time to inspect or audit all Data relating to performance to the State under this Agreement. The Contractor further agrees to maintain such Data for a period of four (4) years after the expiration date of this Agreement, whichever occurs later.

## **15. LIMITATION ON STATE'S 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.

## **16. OWNERSHIP OF INTELLECTUAL PROPERTY, ETC.**

- A. Unless the Contractor and the State reach a written agreement to the contrary, the Contractor agrees for itself and its personnel that pursuant to the State's requirement (i) 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 State shall be treated as if it were "work for hire" for the State, and (ii) the Contractor will immediately disclose to the State 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 State.
- 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 State, and the Contractor hereby assigns all right, title, and interest that the Contractor may have in such Data, Materials, and Creations to the State, 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 State. The Contractor agrees to execute any documents required by the State to register its rights and to implement the provisions herein.
- C. Except as expressly set forth herein, the State does not grant to the Contractor any intellectual property rights in the four (4) publications or any derivative works thereof, and no such rights shall be implied hereby. The Contractor shall not use, reproduce and/or prepare derivative works of the Handbooks without the express written consent of the State.

## **17. WARRANTY – BASIC & PROFESSIONAL**

- A. Unless otherwise specified, the warranties contained in this Agreement begin after Work has been approved and accepted by the State.
- B. The Contractor warrants that the Work furnished hereunder will conform to the requirements of this Agreement and such Work (if a product) will be merchantable, for its intended purposes, free from all defects in Materials and workmanship, and to the extent not manufactured pursuant to detailed designs furnished by the State, free from defects in design. The State's approval of designs or specifications furnished by the Contractor shall not relieve the Contractor of its obligations under this warranty.
- C. All warranties, including any special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and users of the Work provided hereunder.

## **18. 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 State 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 **\$1,000,000.00** for each accident.
  - iii. Commercial General Liability Insurance with limits not less than **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage.
  - iv. Business Automobile Liability Insurance with limits not less than **\$1,000,000.00** 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; **\$500,000.00**.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the State. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor’s liability to the State 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 State, 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 State, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the State, 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 State certificates of insurance satisfactory to the State evidencing all required coverages before Contractor begins any Work under this Agreement, and complete copies of each policy upon the State's request.
- F. If at any time the foregoing policies shall be or become unsatisfactory to the State, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the State, the Contractor shall, upon Notice to that effect from the State, promptly obtain a new policy, and shall submit the same to the State, 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 State of cancellation, nonrenewal, and reduction in coverage, within fifteen (15) Days, mailed to the following address: Judicial Council, Administrative Office of the Courts, Business Services Manager, 455 Golden Gate Avenue, 7<sup>th</sup> Floor, San Francisco, CA 94102-3688.

## **19. CONFIDENTIALITY**

- A. Both the State and the Contractor acknowledge and agree that in the course of performing the Work under this Agreement, the State may disclose Confidential Information to the Contractor.
- B. The Contractor agrees not to disclose the Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that the Contractor may disclose the State's Confidential Information on a "need to know" basis to the Contractor's employees and Subcontractors and, as directed by the Project Manager, representatives of the State that are working on the Project. All such employees and Subcontractors of the Contractor shall have executed a confidentiality agreement with the Contractor requiring a promise of confidentiality concerning the Contractor's clients and business.
- C. The Contractor shall acquire no right or title to the Confidential Information. The Contractor agrees not to use the Confidential Information for any purpose except as contemplated pursuant to this Agreement. Notwithstanding the foregoing, the Contractor may disclose the Confidential Information (i) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it; (ii) as appropriate to respond to any summons or subpoena applicable to it; or (iii) to the extent necessary to enforce its rights under this Agreement.

## **20. 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 State 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 State 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.

## **21. 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 State 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 State will have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State 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 State 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.

## **22. NATIONAL LABOR RELATIONS BOARD**

By executing this Agreement, the Contractor certifies under penalty of perjury under the laws of the State of California that no more than one (1) final, unappealable finding of contempt of court by a federal Court has been issued against the Contractor within the immediately preceding two (2) year period because of the Contractor's failure to comply with an order of the National Labor Relations Board.

## **23. DRUG-FREE WORKPLACE**

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

**24. NONDISCRIMINATION/NO HARASSMENT CLAUSE**

- A. During the performance of this Agreement, the Contractor and its Subcontractors shall not unlawfully discriminate against any employee or proposer for employment because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. The Contractor shall ensure that the evaluation and treatment of employees and proposers for employment are free of such discrimination.
- B. During the performance of this Agreement, the Contractor and its Subcontractors shall not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom the Contractor or its Subcontractors interact in the performance of this Agreement. The Contractor and its Subcontractors shall take all reasonable steps to prevent harassment from occurring.
- C. The Contractor shall comply with applicable provisions of the Fair Employment and Housing Act, California Government Code, §§ 12990 et seq., and the applicable regulations promulgated under California Code of Regulations, title 2, §§ 7285 et seq. The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code, § 12990, set forth in chapter 5 of division 4 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full.
- D. The Contractor and any of its Subcontractors shall give written Notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- E. The Contractor shall include the nondiscrimination/no harassment and compliance provisions of this clause in any and all subcontracts issued to perform Work under the Agreement.

**25. AMERICANS WITH DISABILITIES ACT**

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

**26. SIGNATURE AUTHORITY**

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

**27. EVALUATION OF CONTRACTOR**

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

**28. 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.

**29. CALIFORNIA LAW**

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

**30. 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.

**31. 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.

**32. 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.

**33. AGREEMENT TERM AND OPTIONS TO RENEW**

- A. The Initial Term of the Agreement shall commence on July 1, 2008 and expire on June 30, 2009. Thereafter, the State, in its sole discretion, has the option to extend the term of the Agreement, on the same terms and conditions applicable during the Initial Term, for up to three consecutive, additional one-year periods defined below:

First Option Term: July 1, 2009 – June 30, 2010

Second Option Term: July 1, 2010 – June 30, 2011

Third Option Term: July 1, 2011 – June 30, 2012

- B. The State may exercise each of the options by amendment prior to expiration of the then-current term. In the event the State elects to exercise an option to extend the Agreement as set forth in this provision, the expiration date of the Agreement shall become the ending date of the option term exercised.

**34. 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 conform to the requirements of this Agreement. 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.

**35. SOLICITATION**

No employee of the applicant agency, the Contractor, or any agency acting on behalf of the agency, may solicit or accept gratuities, favors, or anything of monetary value from contractors or potential contractors.

**36. LIMITATION ON PUBLICATION**

The Contractor shall not, without prior written consent of the State, directly or indirectly, make use of advertising or publicity containing any reference to the State or any of its employees.

**37. 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 State.

***END OF EXHIBIT***

## ATTACHMENT 2 CONTRACT TERMS

### EXHIBIT C - WORK TO BE PERFORMED

#### 1.0 TERM

Services are expected to be performed by the service provider between **July 1, 2008** and **June 30, 2009**, with possible options to extend the work for up to three (3) consecutive 1-year options, not to exceed a total contract period of four (4) years. Option terms shall be exercised at the discretion of the AOC.

#### 2.0 SCOPE OF SERVICES

2.1. The Contractor Will Be Asked To:

2.1.1 Print 2,400 copies of each of the new editions of the Felony Sentencing Handbook and Mandatory Criminal Jury Instructions Handbook for distribution to California judicial officers in substantially the same size and format as the current editions. The current edition of the Mandatory Criminal Jury Instructions Handbook is perfect bound, soft cover, 207 pages, and approximately 6 1/2" by 9." The current edition of the Felony Sentencing Handbook is comb bound, soft cover, 121 pages, and approximately 9" by 6." Copies of the current editions are available for inspection.

If First Option Term is exercised, the print run of new editions of each handbook shall be increased to 2,500 copies.

If Second Option Term is exercised, the print run of new editions of each handbook shall remain at 2,500 copies.

If Third Option Term is exercised, the print run of new editions of each handbook shall be increased to 2,600 copies.

2.1.2 Print 3,500 copies of each of the new editions of the California Judges Benchbook: Domestic Violence Cases in Criminal Court and California Judges Benchbook: Search and Seizure for distribution to California judicial officers in substantially the same size and format as the current editions. The current edition of the California Judges Benchbook: Domestic Violence Cases in Criminal Court is perfect bound, soft cover, 287 pages, and approximately 6" by 9." The current edition of the California Judges Benchbook: Search and Seizure is perfect bound, soft cover, 573 pages, and approximately 6" by 9." Copies of the current editions are available for inspection.

If First Option Term is exercised, the print run of the first cumulative updates to each of the benchbooks shall be 2,500 copies.

If Second Option Term is exercised, the print run of the second cumulative updates to each of the benchbooks shall remain at 2,500 copies.

If Third Option Term is exercised, the print run of the third cumulative updates to each of the benchbooks shall be increased to 2,600 copies.

2.1.3 Meet the following production schedule for the Mandatory Criminal Jury Instructions Handbook:

CJER will supply the final manuscript of the handbook to the service provider on or about November 1, 2008. The handbook should be typeset and printed as soon as possible thereafter, but no later than January 2, 2009.

If First Option Term is exercised, the final manuscript delivery date will be November 1, 2009. The typeset and printing deadline will be January 2, 2010.

If Second Option Term is exercised, the final manuscript delivery date will be November 1, 2010. The typeset and printing deadline will be January 2, 2011.

If Third Option Term is exercised, the final manuscript delivery date will be November 1, 2011. The typeset and printing deadline will be January 2, 2012.

2.1.4 Meet the following production schedule for the Felony Sentencing Handbook:

CJER will supply the final manuscript of the handbook to the service provider on or about January 2, 2009. The handbook should be typeset and printed as soon as possible thereafter, but no later than March 1, 2009.

If First Option Term is exercised, the final manuscript delivery date will be January 2, 2010. The typeset and printing deadline will be March 1, 2010.

If Second Option Term is exercised, the final manuscript delivery date will be January 2, 2011. The typeset and printing deadline will be March 1, 2011.

If Third Option Term is exercised, the final manuscript delivery date will be January 2, 2012. The typeset and printing deadline will be March 1, 2012.

2.1.5 Meet the following production schedule for the fifth edition of the California Judges Benchbook: Domestic Violence Cases in Criminal Court:

CJER will supply the final manuscript of the benchbook to the service provider on or about April 1, 2009. The benchbook should be typeset and printed as soon as

possible thereafter, but no later than June 1, 2009.

If First Option Term is exercised, the final manuscript delivery date of the first cumulative update to the benchbook e will be April 1, 2010. The typeset and printing deadline will be June 1, 2010.

If Second Option Term is exercised, the final manuscript delivery date of the second cumulative update to the benchbook will be April 1, 2011. The typeset and printing deadline will be June 1, 2011.

If Third Option Term is exercised, the final manuscript delivery date of the third cumulative update to the benchbook will be April 1, 2012. The typeset and printing deadline will be June 1, 2012.

2.1.6 Meet the following production schedule for the third edition of the California Judges Benchbook: Search and Seizure:

CJER will supply the final manuscript of the benchbook to the service provider on or about May 1, 2009. The benchbook should be typeset and printed as soon as possible thereafter, but no later than June 30, 2009.

If First Option Term is exercised, the final manuscript delivery date of the first cumulative update to the benchbook will be May 1, 2010. The typeset and printing deadline will be June 30, 2010.

If Second Option Term is exercised, the final manuscript delivery date of the second cumulative update to the benchbook will be May 1, 2011. The typeset and printing deadline will be June 30, 2011.

If Third Option Term is exercised, the final manuscript delivery date of the third cumulative update to the benchbook will be May 1, 2012. The typeset and printing deadline will be June 30, 2012.

2.1.7 Distribution.

2.1.7.1 Deliver copies of each benchbook and each handbook directly to California judicial officers at no cost to the State.

2.1.7.2 Deliver copies of each benchbook and each handbook directly to the Judicial Council of California at no cost to the State.

### 3.0 DELIVERABLES AND DUE DATES

3.1 INITIAL TERM: The contractor will be asked to do the following in the Initial Term, by the dates listed to the right of each deliverable: (All dates subject to negotiation prior to execution of a contract.)

3.1.1

<b>FIRST DELIVERABLE</b>	<b>Due Date</b>
2400 copies of the Mandatory Criminal Jury Instructions Handbook	January 2, 2009

3.1.2

<b>SECOND DELIVERABLE</b>	<b>Due Date</b>
2400 copies of the Felony Sentencing Handbook	March 1 ,2009

3.1.3

<b>THIRD DELIVERABLE</b>	<b>Due Date</b>
3500 copies of the California Judges Benchbook: Domestic Violence Cases in Criminal Court	June 1. 2009

3.1.4

<b>FOURTH DELIVERABLE</b>	<b>Due Date</b>
3500 copies of the California Judges Benchbook: Search and Seizure	June 30, 2009

3.2 **FIRST OPTION TERM:** The contractor will be asked to do the following in the First Option Term, by the dates listed to the right of each deliverable: (All dates subject to negotiation prior to execution of a contract.)

3.2.1

<b>FIRST DELIVERABLE</b>	<b>Due Date</b>
2500 copies of the Mandatory Criminal Jury Instructions Handbook	January 2, 2010

3.2.2

<b>SECOND DELIVERABLE</b>	<b>Due Date</b>
2500 copies of the Felony Sentencing Handbook	March 1 ,2010

3.2.3

<b>THIRD DELIVERABLE</b>	<b>Due Date</b>
2500 copies of the first cumulative update to the California Judges Benchbook: Domestic Violence Cases in Criminal Court	June 1, 2010

3.2.4

<b>FOURTH DELIVERABLE</b>	<b>Due Date</b>
2500 copies of the first cumulative update to the California Judges Benchbook: Search and Seizure	June 30, 2010

3.3 SECOND OPTION TERM: The contractor will be asked to do the following in the Second Option Term, by the dates listed to the right of each deliverable: (All dates subject to negotiation prior to execution of a contract.)

3.3.1

<b>FIRST DELIVERABLE</b>	<b>Due Date</b>
2500 copies of the Mandatory Criminal Jury Instructions Handbook	January 2, 2011

3.3.2

<b>SECOND DELIVERABLE</b>	<b>Due Date</b>
2500 copies of the Felony Sentencing Handbook	March 1, 2011

3.3.3

<b>THIRD DELIVERABLE</b>	<b>Due Date</b>
2500 copies of the second cumulative update to the California Judges Benchbook: Domestic Violence Cases in Criminal Court	June 1, 2011

3.3.4

<b>FOURTH DELIVERABLE</b>	<b>Due Date</b>
2500 copies of the second cumulative update to the California Judges Benchbook: Search and Seizure	June 30, 2011

3.4 **THIRD OPTION TERM:** The contractor will be asked to do the following in the Third Option Term, by the dates listed to the right of each deliverable: (All dates subject to negotiation prior to execution of a contract.)

3.4.1

<b>FIRST DELIVERABLE</b>	<b>Due Date</b>
2600 copies of the Mandatory Criminal Jury Instructions Handbook	January 2, 2012

3.4.2

<b>SECOND DELIVERABLE</b>	<b>Due Date</b>
2600 copies of the Felony Sentencing Handbook	March 1 ,2012

3.4.3

<b>THIRD DELIVERABLE</b>	<b>Due Date</b>
2600 copies of the third cumulative update to the California Judges Benchbook: Domestic Violence Cases in Criminal Court	June 1. 2012

3.4.4

<b>FOURTH DELIVERABLE</b>	<b>Due Date</b>
2600 copies of the third cumulative update to the California Judges Benchbook: Search and Seizure	June 30, 2012

#### **4.0 CONFIDENTIALITY**

The contractor must agree to observe rigorous measures for the protection of subject confidentiality and anonymity. All tapes, transcripts, participant lists and informed consent forms are confidential and must be returned with the final deliverables. The contractor is to retain no information about any participant's identity, location, or interview status.

#### **5.0 PROGRESS REPORTS**

The Contractor shall submit progress reports to the Project Manager, as may be requested, describing Work performed, Work status, Work progress difficulties encountered, remedial actions, and statement of activity anticipated.

#### **6.0 CONTRACTOR'S RESPONSIBILITIES**

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

- i. Responsible for the end results and for day-to-day Project management;
- ii. Serves as the Contractor's primary contact;
- iii. Works closely with AOC Project Manager;
- iv. Manages, prepares, and refines the Contract's end results;
- v. Proactively assists with resolution of issues with any aspect of the Work;
- vi. Proactively anticipates Project deviations and is responsible for taking immediate corrective action; and
- vii. Works with Project Manager to manage and coordinate work and knowledge transfer.

## **7.0 AOC'S RESPONSIBILITIES**

The State'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 AOC management.

***END OF EXHIBIT***

**ATTACHMENT 2  
CONTRACT TERMS**

**EXHIBIT D - ACCEPTANCE OF WORK AND  
SIGN-OFF FORM FOR DELIVERABLES**

▶ Description of Work for Deliverable No. \_\_\_\_\_ provided by Contractor:

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▶ Date submitted: \_\_\_\_\_

▶ Work is:

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

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

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

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▶ Please indicate the level of satisfaction:  Poor  Fair  Good  Very Good  Excellent

▶ Comments, if any:

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▶ Work:  is accepted.  is unacceptable as noted above.

Signature: \_\_\_\_\_

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

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

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

***END OF FORM***