



**ATTACHMENT B
JBE STANDARD TERMS AND CONDITIONS**

(Rev. Dec. 2019)

MASTER AGREEMENT

AGREEMENT NUMBER
[@Agreement number]

- In this Master Agreement (“Agreement”), the term “Contractor” refers to **[@Contractor name]**, and the term “Establishing Judicial Branch Entity” or “Establishing JBE” refers to the **Judicial Council**. This Agreement is entered into between Contractor and the Establishing JBE for the benefit of the Judicial Council and Judicial Branch Entities (as defined in Exhibit 1). Any Judicial Branch Entity that enters into a Participating Addendum with Contractor pursuant to this Agreement is a “Participating Entity” (collectively, “Participating Entities”). The Establishing JBE and the Participating Entities are collectively referred to as “JBEs” and individually as “JBE”.
 - This Agreement is effective as of **[@Date]** (“Effective Date”) and expires on **[@Date]** (“Expiration Date”). This Agreement includes two (2) options of consecutive one-year periods (“Option Term(s)” or “Subsequent Term(s)”), which may be exercised and administered at the Establishing JBE’s sole discretion and as indicated in Exhibit 5 (General Terms and Conditions), which are attached hereto and incorporated herein.
 - The title of this Agreement is: Master Agreement for **Video Surveillance, Access Control, Detention Control Systems and Maintenance Services**.
- The title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.*
- The parties agree that this Agreement, made up of this coversheet, the exhibits and appendixes listed below, and any attachments, contains the parties’ entire understanding related to the subject matter of this Agreement, and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties, and is mutually binding on the parties in accordance with its terms.

- Exhibit 1 – Definitions
- Exhibit 2 – Use of Leveraged Purchase Agreement
- Exhibit 3 – Goods and Services
- Exhibit 4 – Scope of Work and Specifications
- Exhibit 5 – General Terms and Conditions
- Exhibit 6 – Transition Services
- Exhibit 7 – Maintenance and Support Services
- Exhibit 8 – Pricing and Payment Provisions
- Exhibit 9 – Judicial Council’s Expense and Travel Reimbursement Guidelines

- Exhibit 10 – Participating Addendum
- Exhibit 11 – Unruh Civil Rights Act and FEHA Certification
- Exhibit 12 – Labor Compliance Provisions
- Appendix A – Judicial Council Service Work Order Authorization Process
- Attachment 1 – Acceptance and Sign-Off Form
- Attachment 2 – Prevailing Wage and Related Labor Requirements Certification

ESTABLISHING JBE’S SIGNATURE	CONTRACTOR’S SIGNATURE
Judicial Council	CONTRACTOR’S NAME <i>(if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc., and the state or territory where Contractor is organized)</i> [@Contractor name]
BY <i>(Authorized Signature)</i> 	BY <i>(Authorized Signature)</i>
PRINTED NAME AND TITLE OF PERSON SIGNING [@Name and title]	PRINTED NAME AND TITLE OF PERSON SIGNING [@Name and title]
DATE EXECUTED [@Date]	DATE EXECUTED [@Date]
ADDRESS Branch Accounting and Procurement 455 Golden Gate Avenue, 6th Floor San Francisco, CA 94102	ADDRESS [@Address]

EXHIBIT 1 – Defined Terms¹

As used in this Agreement, the following terms have the indicated meanings:

“Acceptance” is defined in Exhibit 5, Section 2.3.

“Agreement” means the entire integrated master agreement, including all contract documents, Exhibits, Appendices, Attachments, and Amendments incorporated therein, signed by the Establishing JBE and Contractor, for performance of the Work.

“Amendment” means a written contract document issued by a JBE, and signed by both Contractor and the JBE, which, in the case of the Establishing JBE, modifies the Agreement or, in the case of any Participating Entity, modifies the Participating Entity’s Participating Addendum, including any (1) change in the Work; (2) change in fees, pricing and payment terms; (3) change in schedule for delivery and performance of Work; or (4) change to other terms and conditions.

“Applicable Law” means any applicable laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders.

“Appropriation Year” refers to the authorized period of time for government spending for a defined purpose. The Appropriation Year for state-funded agreements ends on June 30th of each year.

“Business Day” means any day other than Saturday, Sunday or a scheduled JBE holiday.

“Claims” means claims, suits, actions, arbitrations, demands, proceedings, fines, penalties, losses, damages, liabilities, judgments, settlements, costs, and expenses (including reasonable attorneys’ fees and costs), including those based on the injury to or death of any person or damage to property.

“Confidential Information” means: (i) any information related to the business or operations of each JBE, including court records, and information relating to court proceedings, security practices, and business methodologies, (ii) information relating to each JBE’s personnel, users, contractors, or agents, including information that the JBE’s personnel, agents, and users upload, create, access or modify pursuant to this Agreement; (iii) all financial, statistical, technical and other data and information of the JBEs (and proprietary information of third parties provided to Contractor), including trade secrets and other intellectual property, or proprietary information; (iv) data and information that is designated confidential or proprietary, or that Contractor otherwise knows, or would reasonably be expected to know is confidential; and (v) Personal Information, Deliverables, Developed Materials, and JBE Materials. Confidential Information does not include information (that Contractor demonstrates to the JBE’s satisfaction, by written evidence): (a) that Contractor lawfully knew prior to the JBE’s first disclosure to Contractor, (b) that a Third-Party rightfully disclosed to Contractor free of any confidentiality duties or obligations, or (c) that is, or through no fault of Contractor has become, generally available to the public.

“Consulting Services” refers to the services performed under “Consulting Services Agreements,” which are defined in Public Contract Code section 10335.5, substantially, as contracts that: (i) are of an advisory nature; (ii) provide a recommended course of action or personal expertise; (iii) have an end product that is basically a transmittal of information, either written or oral, that is related to the governmental functions of state agency administration and management and program management or innovation; and (iv) are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type. The end product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

“Contract Amount” means the contract amount of any Participating Addendum.

“Contractor” refers to an individual or entity, contracting with the JBEs to do the agreed Work and supply any Deliverable under this Agreement and any Participating Addendum. Contractor is a party to this Agreement.

¹ Additional capitalized terms may be defined in the other Appendices to this Agreement.

“Contractor Key Personnel” means the Contractor Project Manager and those Project Staff members identified as “Key Personnel” as set forth in a Scope of Work.

“Contractor Project Manager” means the employee identified in a Scope of Work as the Contractor project manager.

“Contractor Work Location(s)” means any location (except for a JBE Work Location) from which Contractor provides Work.

“Contractor Materials” means Materials owned or developed prior to the provision of the Work or developed by Contractor independently from the provision of the Work and without use of the JBE Materials or Confidential Information.

“Coversheet” refers to the first sheet of this Agreement.

“Data” refers to information, including, but not limited to, Confidential Information, personal information, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.

“Data Safeguards” means the highest industry-standard safeguards (including administrative, physical, technical, and procedural safeguards) against the destruction, loss, misuse, unauthorized disclosure, or alteration of the JBE Data or Confidential Information, and such other related safeguards that are set forth in Applicable Laws, a Scope of Work, or pursuant to JBE policies or procedures.

“Default” means if any of the following occurs: (i) Contractor breaches any of Contractor’s obligations under this Agreement, and this breach is not cured within ten (10) days following notice of breach (or in the opinion of the JBE, is not capable of being cured within this cure period); (ii) Contractor or Contractor’s creditors file a petition as to Contractor’s bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business; (iii) Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading; or (iv) any act, condition, or item required to be fulfilled or performed by Contractor to (x) enable Contractor lawfully to enter into or perform its obligations under this Agreement, (xi) ensure that these obligations are legal, valid, and binding, or (xii) make this Agreement admissible when required is not fulfilled or performed.

“Defect” means any failure of any portion of the Work to conform to and perform in accordance with the requirements of this Agreement and all applicable Specifications and Documentation.

“Deliverables” means any Developed Materials, Contractor Materials, Third-Party Materials, or any combination thereof (including those identified as “Deliverables” in a Scope of Work, together with all Upgrades thereto), as well as any other items, goods, or equipment provided pursuant to the Work (except the Licensed Software).

“Developed Materials” means Materials created, made, or developed by Contractor or Subcontractors, either solely or jointly with the Judicial Branch Entities or JBE Contractors, in the course of providing the Work under this Agreement, and all Intellectual Property Rights therein and thereto, including, without limitation, (i) all work-in-process, data or information, (ii) all modifications, enhancements and derivative works made to Contractor Materials, and (iii) all Deliverables; provided, however, that Developed Materials do not include Contractor Materials.

“Documentation” means all documentation published by Contractor for the Licensed Software, and all technical architecture documents, technical manuals, user manuals, flow diagrams, operations guides, file descriptions, training materials and other documentation related to the Work; together with all Upgrades thereto.

“Effective Date” has the meaning set forth on the Coversheet.

“Establishing JBE” is defined on the Coversheet.

“Expiration Date” is the later of (i) the day so designated on the Coversheet, and (ii) the last day of any Option Term.

“Goods” is defined in Exhibit 3.

“Hosted Services” means any cloud-based services, hosted service (including hosted services relating to the Licensed Software), software as a service, or other Internet or network-based services provided under the Agreement.

“Initial Term” is the period commencing on the Effective Date and ending on the Expiration Date designated on the Coversheet.

“Intellectual Property Rights” means all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including copyrights, moral rights, and mask work rights; (b) trademark and trade name rights and similar rights; (c) trade secret rights; (d) patent and industrial property rights; (e) other proprietary rights in intellectual property of every kind and nature; and (f) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses (a) through (e) of this sentence.

“IT Infrastructure” means software and all computers and related equipment, including, as applicable, central processing units and other processors, controllers, modems, servers, communications and telecommunications equipment and other hardware and peripherals.

“JBE” and “JBEs” have the meaning defined in the coversheet of this Agreement.

“JBE Contractors” means the agents, subcontractors and other representatives of the Judicial Branch Entities, other than Contractor and Subcontractors.

“JBE Data” means the Confidential Information, Personal Information, and any information, data, or content that is provided to or accessed by Contractor.

“JBE Project Manager” means the individual appointed by the JBE to communicate directly with the Contractor Project Manager.

“JBE Work Locations” means any JBE facility at which Contractor provides Work.

“JBE Materials” means Materials owned, licensed, made, conceived, or reduced to practice by a Judicial Branch Entity or a JBE Contractor, any Materials developed or acquired separate from this Agreement, and all modifications, enhancements, derivative works, and Intellectual Property Rights in any of the foregoing.

“Judicial Branch Entity” or “Judicial Branch Entities” means the JBE and any California superior or appellate court, the Judicial Council of California, and the Habeas Corpus Resource Center; these entities comprise the “Judicial Branch.”

“Judicial Branch Personnel” means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.

“Licensed Software” means Contractor’s software set forth in Exhibit 4, Section 2.4, including Source Code and object code versions of such software, in whatever form or media, together with all Upgrades and Documentation thereto.

“Malicious Code” means any (i) program routine, device or other feature or hidden file, including any time bomb, virus, software lock, trojan horse, drop-dead device, worm, malicious logic or trap door that may delete, disable, deactivate, interfere with or otherwise harm any of the Judicial Branch Entities’ hardware, software, data or other programs, and (ii) hardware-limiting, software-limiting or services-limiting function (including any key, node lock, time-out or other similar functions), whether implemented by electronic or other means.

“Maintenance” refers to enhancements, Upgrades and new releases of the Licensed Software (including without limitation those updates required to allow the Licensed Software to operate properly under new releases of the operating system or database platform), which Contractor agrees to provide the JBEs under the provisions of Exhibit 7 (Maintenance and Support Services).

“Maintenance Release(s)” refers to modules, improvements, enhancements, Upgrades or extensions to the Licensed Software as more particularly defined in Exhibit 7 (Maintenance and Support).

“Maintenance and Support Services” means the services provided by Contractor under Exhibit 7.

“Materials” means (i) all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication hardware and software, and (ii) all inventions (whether patentable or not), discoveries, literary works and other works of authorship (including software), designations, designs, know-how, technology, tools, ideas and information.

“Notice” means a written communication from one party to another that is (a) delivered in person, (b) sent by registered or certified mail, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient set forth in Exhibit 5.

“Option Term” means a period, if any, through which this Agreement may be or has been extended by the Establishing JBE.

“Participating Addendum” is defined in Exhibit 2.

“Participating Entities” and “Participating Entity” are defined on the Coversheet.

“Parties” means the JBE and Contractor, collectively.

“Party” means either the JBE or Contractor, as the case may be.

“PCC” refers to the California Public Contract Code.

“Personal Information” means any personally identifiable information (e.g., person’s name, address, credit card number, email address) that is provided, generated, collected, accessed, stored or obtained pursuant to this Agreement, including transactional and other data pertaining to individuals.

“Project Lead” means Contractor’s representative who will operate as the main interface with the JBE regarding the Work to be performed under this Agreement or any Participating Addendum. Contractor’s Project Lead may vary by Participating Entity.

“Project Manager” means JBE representative who will operate as the main interface between Contractor and the JBE regarding the Work to be performed under this Agreement and each Participating Addendum.

“Project Staff” means the personnel of Contractor and Subcontractors who provide the Work.

“Services” is defined in Exhibit 3.

“Source Code” means human-readable program statements written by a programmer or developer in a high-level or assembly language that are not directly readable by a computer and that need to be compiled into object code before they can be executed by a computer.

“Specifications” means with respect to each Deliverable, Licensed Software, service, goods, or other portion of the Work, the detailed provisions and documents setting out the specifications, functionality and requirements.

“Specifications” means collectively (i) the functional specifications for the Licensed Software, as such functional specifications may be developed and revised from time to time, and (ii) the additional specifications required by a JBE to be implemented in addition to the specifications for the Licensed Software. Specifications include, without limitation, the technical specifications for the Licensed Software as established in the Documentation accompanying the Licensed Software. The Specifications in effect as of the Effective Date of this Agreement are set forth in Exhibit 4 (Scope of Work and Specifications).

“Scope of Work” means one or more statements of Work to be provided pursuant to and governed under the terms of this Agreement, substantially in the form attached as Exhibit 4 , as agreed to by the Parties.

“Stop Work Order” is defined in Exhibit 5.

“Subcontractor” means the agents, subcontractors and other representatives of Contractor providing Work hereunder who are not employees of Contractor.

“Support Services” means those services required to support or maintain the Licensed Software or Hosted Services, in accordance with the terms of Section 4 (Maintenance and Support Services) of Exhibit 5 (General Terms and Conditions) and Exhibit 7 (Maintenance and Support Services).

“Task” refers to one or more functions, services, or actions, as specified in this Agreement or a Participating Addendum, to be performed by Contractor for the JBE.

“Term” comprises the Initial Term and any Option Terms.

“Termination Assistance Period” means the period commencing upon the expiration or termination of this Agreement and each Scope of Work and expiring six (6) months thereafter, as such period may be extended by the Parties.

“Third-Party” means any person or entity other than the JBE or Contractor.

“Third-Party Materials” means Materials that are licensed or obtained by Contractor from a Third-Party.

“Transition” means Contractor assistance services necessary to ensure the smooth transition of the Maintenance and Support Services performed by Contractor or Contractor’s subcontractor to the JBE or its designee, in the event of termination of this Agreement or a Participating Addendum.

“Upgrades” means all new versions and releases of, and bug fixes, error corrections, Workarounds, updates, upgrades, modifications, or patches for the Licensed Software, Hosted Services, Deliverables, Documentation, or any other portion of the Work. “Upgrades” shall also include any modification, improvement, enhancement, added feature, or added functionality to the Licensed Software that Contractor develops, distributes, or enables in connection with or as a result of any individual Participating Entity’s participation in this Agreement. Such Upgrades shall become part of the Licensed Software and Hosted Services and available to all other Participating Entities under the terms of this Agreement.

“Work” means each of the following, individually and collectively: any or all labor, training, services (including the Maintenance and Support Services, and the Hosted Services), Deliverables, Licensed Software, goods (including equipment) and materials provided under this Agreement, including those services and Deliverables set forth in a Scope of Work, and any incidental services, items, activities, or responsibilities that are reasonable and customary in the industry and not specifically described in this Agreement (or the Scope of Work), but which are required for the performance and completion of Contractor’s obligations and delivery of services.

“Workaround” means a temporary modification to or change in operating procedures for the Work that: (i) circumvents or effectively mitigates the adverse effects of a Defect so that the Work complies with and performs in accordance with the applicable Specifications and Documentation; (ii) does not require substantial reconfiguration of the Work or any reloading of data; and (iii) does not otherwise impose any requirements that would impede an end user’s efficient use of the Work.

“Work Location(s)” means any JBE Work Location or Contractor Work location.

END OF EXHIBIT

EXHIBIT 2 – Use of Leveraged Procurement Agreement

1. Use of Leveraged Procurement Agreement.

- 1.1** This Agreement sets forth the terms and conditions that apply to Contractor’s provision of Work to the JBEs. This Agreement does not obligate a JBE to place any orders for Work under this Agreement and does not guarantee Contractor a specific volume of orders.
- 1.2** Contractor will establish a customer account with the Judicial Council for placing orders on behalf of any JBE and an individual account for any JBE that elects to request services directly from the Contractor under this Agreement.
- 1.3** Each JBE shall have the right to request goods or services under this Agreement. A JBE may request goods or services by entering into a Participating Addendum with Contractor in the form attached as Exhibit 10 to this Agreement (“Participating Addendum”). Pricing for Work shall be in accordance with the prices set forth in this Agreement, and pricing in any Participating Addendum for the applicable Work may not exceed the prices and fees set forth in the Agreement. After a Participating Addendum has been presented to the Contractor by a JBE, the Contractor shall acknowledge, sign, and perform under the Participating Addendum in a timely manner. Contractor shall provide the Work for each JBE in accordance with the terms of this Agreement and the applicable Participating Addendum.
- 1.4** The parties acknowledge that a material consideration of this Agreement is the ability for all interested JBEs to be able to participate in this Agreement. Therefore, in the event Contractor unreasonably refuses or fails to execute a Participating Addendum with an interested JBE after such JBE has presented Contractor with a Participating Addendum for execution, Contractor shall be prohibited from executing any Participating Addendum with any other JBE unless and until Contractor executes a Participating Addendum with all interested JBEs. The foregoing provision is not intended to limit any other JBE rights or remedies available.
- 1.5** Each Participating Addendum constitutes and shall be construed as a separate, independent contract between Contractor and the JBE signing such Participating Addendum, subject to the following: (i) each Participating Addendum shall be governed by this Agreement, and the terms in this Agreement are hereby incorporated into each Participating Addendum; (ii) the Participating Addendum may not alter or conflict with the terms of this Agreement, or exceed the scope of the Work provided for in this Agreement; and (iii) the term of the Participating Addendum may not extend beyond the Expiration Date of the Agreement. The Participating Addendum and this Agreement shall take precedence over any terms and conditions included on a Scope of Work, purchase order document, service work order document, Contractor’s invoice or similar document. Contractor shall notify the Establishing JBE within five (5) business days of receipt of a Participating Addendum from a Participating Entity. The Contractor shall promptly provide the Establishing JBE with a fully signed copy of each Participating Addendum between the Contractor and a Participating Entity.
- 1.6** The JBE signing the Participating Addendum shall be solely responsible for: (i) the acceptance of and payment for the Work under such Participating Addendum; and (ii) its obligations and any breach of its obligations. Any breach of obligations by a JBE shall not be deemed a breach by any other JBE. Under no circumstances shall a JBE have any liability or obligation except pursuant to a Participating Addendum signed by such JBE, nor shall any breach by a JBE under a Participating Addendum give rise to a breach under any other Participating Addendum or be deemed grounds for termination of this Agreement by Contractor. The Establishing JBE shall have no liability or responsibility of any type related to: (i) any other JBE’s use of or procurement through this Agreement (including any Participating Addendum), or (ii) such JBE’s business relationship with Contractor. The Establishing JBE makes no guarantees, representations, or warranties to any Participating Entity.

1.7 Requests for Quotes for Goods and Services.

- A.** Requests for quotes for goods and services under this Agreement will be made by the Judicial Council and JBEs through the issuance of a Scope of Work, which may include all or a subset of the goods and services set forth in the this Agreement. The Scope of Work will reference the specific Agreement number and will list and describe all of the requested goods and services. The terms and conditions of this Agreement shall take precedence over the terms and conditions of any Scope of Work, contract, or terms and conditions included on an invoice or like document.
- B.** Contractor will provide the Judicial Council with the total cost and lead time required for the product(s) and services requested via the issuance of Scope of Work by the JBE, including maintenance and repairs on existing systems. The total cost will itemize the cost of the products, installation, and sales tax. Contractor will coordinate the installation dates with the Judicial Council prior to finalizing the Scope of Work.
- C.** Contractor is required to maintain a staffed number for ordering, inquiries, and customer service, including requests for maintenance service.

1.8 Authorizing Goods and Services.

- A.** The Establishing JBE under this Agreement or the JBE under a Participating Addendum may at its option place orders and authorize the JBE Work using a Purchase Order or Service Work Order (“SWO”) subject to the following: such Purchase Order or SWO is subject to and governed by the terms of this Agreement (or Participating Addendum), and any term in the Purchase Order or SWO that conflicts with or alters any term of this Agreement (or the Participating Addendum) or exceeds the scope of the Work provided for in this Agreement (or the Participating Addendum), will not be deemed part of the contract between Contractor and that JBE. Subject to the foregoing, the Participating Addendum shall be deemed to include such Purchase Orders or SWOs.
- B.** The Establishing JBE under this Agreement will place orders and authorize Judicial Council Work via a Purchase Order or Service Work Order, described in the Judicial Council Service Work Order Authorization Process, added as Appendix A. Appendix A is intended for utilization by the Judicial Council only for authorization and spending of funds. This process is not required by, nor does it modify, any Participating Entity’s Participating Addendum or ordering process.
- C.** The JBE under a Participating Addendum will place orders and authorize Work directly from the Contractor utilizing the ordering process identified in that Participating Entity’s Participating Addendum.
- D.** Contractor will provide the Judicial Council with an immediate acknowledgement of the order. The acknowledgement will be submitted by email, regardless of what method is used to issue the Scope of Work, Purchase Order, or Service Work Order, and will include: the products and services requested, installation dates, and contact information. If a JBE is placing orders or authorizing Work directly from the Contractor, the Contractor will provide the same information to the JBE.

- 1.9** This Agreement is a nonexclusive agreement. Each JBE reserves the right to provide, or have others provide the Work. Contractor shall reasonably cooperate with any third parties retained by a JBE to provide the Work.

END OF EXHIBIT

EXHIBIT 3 – Goods and Services

Contractor shall provide the Work described in this Agreement, including this Exhibit and the Scope of Work and Specifications.

1. Goods

1.1 Description of Goods. As ordered by the Establishing JBE under this Agreement or by each JBE under a Participating Addendum, Contractor shall provide to the JBEs the following products, goods, materials, and supplies (“Goods”), free and clear of all liens, claims, and encumbrances, and in accordance with this Agreement:

- A. Video Surveillance Systems
- B. Access Control Systems
- C. Detention Control Programmable Logic Controller (PLC) Systems

1.2 Inventory. The JBEs have an ongoing requirement for the products indicated in this Agreement. The Contractor shall maintain access to a reasonable stock of such products on hand for the term of this Agreement. Failure to maintain access to a reasonable stock may result in termination of this Agreement for default by the Contractor.

1.3 Estimated Volumes. No minimum ordering estimate is stated in this Agreement. The Judicial Council and JBEs will make their purchasing decision based on what is in the best interest of the Judicial Council and JBEs.

1.4 Warranties.

- A. Contractor warrants to the JBEs that the Goods will be new and merchantable for their intended purposes, free from all defects in materials, workmanship, and installation, in compliance with all applicable specifications and documentation, and to the extent not manufactured pursuant to detailed designs furnished by the JBE, free from defects in design. The JBE’s approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.
- B. Contractor warrants to the JBEs that the Goods will be compliant with all standards and regulations as set forth by all federal agencies and state and local governmental entities. All installations and materials shall meet state and local building codes, as well as California fire and safety codes.

2. Services.

2.1 Description of Services. As ordered by the Establishing JBE under this Agreement or by each JBE under a Participating Addendum, Contractor shall perform the following services (“Services”) for the JBEs:

- A. Onsite Maintenance Services
- B. Customer Service
- C. Installation
- D. Training
- E. Repair & Maintenance work
- F. System Design/Engineering
- G. Project Management

- 2.2 Description of Deliverables.** As ordered by each JBE under a Participating Addendum, Contractor shall complete and deliver or submit to the JBEs the following work products (“Deliverables”):
- A.** Hardware, licensed software, Third-Party software, firmware, documentation, services or other items
- 2.3 Timeline.** Contractor must perform the Services and deliver the Deliverables according to the following timeline:
- A.** Begin performance of the Services at any JBE facility or at multiple facilities in an identified region simultaneously within three (3) days, or less depending on severity of issue, of receiving a service request.
- 2.4 Project Managers.** Each JBE may designate a project manager. The Establishing JBE’s project manager is: [Insert name]. A JBE may change its project manager at any time upon notice to Contractor without need for an amendment to this Agreement. Contractor’s project manager is: [Insert name]. Subject to written approval by the Establishing JBE, Contractor may change its project manager without need for an amendment to this Agreement.
- 2.5 Resources.** Contractor is responsible for providing any and all facilities, materials and resources (including personnel, equipment, tools and software) necessary and appropriate for performance of the Services and to meet Contractor's obligations under this Agreement.
- 2.6 Commencement of Performance.** This Agreement is of no force and effect until signed by both parties and all Establishing JBE-required approvals are secured. Any commencement of performance prior to Agreement approval (and approval by a JBE of a Participating Addendum) shall be at Contractor's own risk.
- 3. Inspection and Acceptance Criteria.** All Work is subject to written acceptance by each JBE. The JBE will apply the acceptance criteria set forth in the applicable Scope of Work and Specifications (Exhibit 4) and the acceptance criteria set forth in the Acceptance and Signoff Form (Attachment 1) (including timeliness, completeness, technical accuracy, and conformance to statistical, industry or marketplace standards) to determine acceptance or rejection of the Work. Contractor will not be paid for any rejected Goods, Services, or Deliverables.
- 3.1** The JBE may use the attached Acceptance and Signoff Form (Attachment 1) to notify Contractor of the acceptance or rejection of the Goods, Services, or Deliverables.

END OF EXHIBIT

EXHIBIT 4 – Scope of Work and Specifications

This Scope of Work and Specifications is subject to and incorporated into the Agreement and applicable Participating Addendum between Contractor and the JBE. The Parties agree to be bound by the terms and conditions set out in the Agreement and applicable Participating Addendum with respect to the Work to be provided under this Scope of Work and Specifications.

- 1. Scope of Work.** Pursuant to a JBE's Scope of Work, Contractor will perform and complete all Work set forth in any Participating Addendum, including any attachments, in compliance with the requirements of this Agreement, and to the satisfaction of the Participating Entity. The Scope of Work shall, at a minimum, include:
 - A.** An itemized list of services, Deliverables, and Work to be performed, including any requirements to perform the Work.
 - B.** A milestone schedule for the completion of the services, Deliverables, and Work.
 - C.** Any acceptance criteria in addition to the acceptance provisions set forth in Section 1(B) below.
 - D.** The personnel to be assigned, along with their job classification, if applicable.
 - E.** If applicable, the anticipated number of hours to be expended by each such person in the performance of Scope of Work.
 - F.** The name of Contractor's Project Lead, if applicable.
 - G.** A project plan that addresses the scope and detail of services to be performed.
 - H.** To the extent not provided in Exhibit 8 (Pricing and Payment Provisions), any additional fees and costs that may be applicable to the Scope of Work as the parties may agree upon.
- 1.1 Onsite Maintenance Services.** Contractor must provide the following onsite maintenance services:
 - A.** Maintenance contract for a minimum of four (4), one-year periods after expiration of initial one-year warranty period.
 - B.** Time and materials service and repair option.
 - C.** Ability to begin performing any maintenance work at any JBE facility or at multiple facilities in an identified region simultaneously within three (3) days, or less depending on severity of issue, of receiving a service request.
 - D.** Maintenance and repair of all systems Contractor has indicated they can service regardless of whether the existing system was initially purchased or installed by the Contractor.
 - E.** Contractor must have the ability to service access control systems and have staff that is DSX certified, due to the number of DSX systems currently installed.
- 1.2 Customer Service.** The Contractor's customer service process shall ensure that all customer service issues are addressed in a consistent and expeditious manner, including problem escalation and resolution of maintenance and service issues. The customer service process includes, but is not limited to:
 - A.** Customer service organizational structure.
 - B.** Contact process and contact person identified by position in the company (phone, email, fax, etc.).
 - C.** Follow up process.

- D. Internal procedures to track customer service contact and resolution.
- E. Escalation process to resolve outstanding customer service issues.

1.3 Installation.

- A. All products ordered under this Agreement shall be completely installed and tested for functionality by the Contractor. The Contractor shall provide all materials, equipment, parts and labor necessary for the installation of the ordered products. The Contractor shall be responsible to transport all ordered products to the JBE's facility prior to installation. The JBE will not be responsible for risk of loss for any materials delivered to its facility prior to the Contractor completing installation of the product.
- B. The installation shall be carried out by installers with the necessary training and experience. Installers shall have the appropriate tools and test equipment necessary to install the system correctly. Where measuring equipment is used, the equipment must be of a standard necessary to provide the required precision and accuracy to install and test the system.
- C. Prior to commencing work all relevant health and safety requirements shall be considered. These will vary with the nature of the premises and may involve special installation equipment when working in hazardous areas.
- D. Electrical installation methods shall comply with current national and site regulations and the electrical installation shall be carried out by technicians who are qualified to the appropriate level.
- E. Contractor is responsible for system integration and software validation. In engineering, system integration is the bringing together of the component subsystems into one system and ensuring that the subsystems function together as a system. In information technology, systems integration is the process of linking together different computing systems and software applications physically or functionally, to act as a coordinated whole. The system integrator brings together discrete systems utilizing a variety of techniques such as computer networking, enterprise application integration, business process management or manual programming.

1.4 Training. Contractor will provide all training necessary to familiarize court employees with equipment operations and operating and maintaining the system. Training will be provided on-site using the JBE's facilities.

1.5 Repair & Maintenance. The Contractor's service response process shall ensure that all maintenance and repairs requested by a JBE are responded to via telephone within two (2) business hours of receiving the request to determine the urgency of the issue and resolution and determine the need for technical onsite visits, if any. Based on that communication, the Contractor shall be able to schedule technical onsite visits within three (3) business days or less, unless otherwise agreed to by the JBE.

1.6 System Design/Engineering and Project Management. The objectives of the system design and engineering process are to determine the extent of the systems requested. The Contractor shall provide design, engineering, and project management services when requested including selecting the appropriate equipment and preparing a system design proposal.

2. Specifications and General Requirements. All maintenance and time and material service requests ordered under this Agreement will apply to existing video, camera, access, and detention control PLC systems installed in JBE facilities regardless of make and age as well as newly installed systems.

2.1 Video Surveillance Systems. Video Surveillance System listed with GSA. Equipment may include, but is not limited to, the following:

- A. Hybrid/Analog—CCTV (Pelco Digital Sentry System or equivalent manufacturer with product capable of accommodating both analog and IP cameras):

- i. Fixed interior color camera with lens.
 - ii. Pan, tilt, zoom interior color camera with lens.
 - iii. Fixed multi-view/panoramic interior and exterior color camera (180, 270, 360 deg. view)
 - iv. Fixed exterior color cameras with lens.
 - v. Pan, tilt, zoom exterior color camera with lens.
 - vi. Encoders for analog cameras.
 - vii. Console station with desktop and mounts for appropriate number of various size monitor Network Video Recorder (NVR) with 280 mbps bandwidth, support for up to 128 IP streams and up to 64 analog cameras at D1 resolution and full frame rate. Configurations with the ability to retain seven (30) days of recorded video at each site, Networkable / CD-RW/DVD-RW/Motion Detection.
 - viii. All materials, including but not limited to building code compliant, riser/plenum rated conduit, wiring, coax, and connectors for a fully functioning CCTV system.
 - ix. Lux requirements: 0.1 lux (color mode); 0.003 lux (sensitivity up x32); 0.1 lux (B/W mode); 0.003 lux (sensitivity up x32).
- B.** Digital IP (Pelco VideoXpert series or equivalent VMS manufacturer, recorders and associated hardware)
- C.** Peripherals
- i. External weather-proof camera housing and mounting suitable for protecting this equipment from all weather conditions found at any Purchasing Group member facility. Such weather conditions include, but are not limited to, extreme hot and cold temperatures and snow and rain, housing should be vandal resistant, and detention grade housings for detention areas.
 - ii. Interior camera domes are standard but purchasing group member may include cameras for video analytics and other specific design criteria.

2.2 Access Control Systems. Proximity card reader systems listed with the GSA. Equipment may include, but is not limited to, the following:

- A.** Proximity card readers with modern styling, as flush to wall as possible for internal applications.
- B.** External long distance (6 foot) readers should be available.
- C.** Self-illuminated readers.
- D.** Weatherproof, tamper-proof readers and dual use (Card and Pin Number) for external and an internal version.
- E.** Vandal resistant metal keypads.
- F.** Vandal resistant proximity reader.
- G.** System capacity for 200, 400, 600, and 800 proximity cards.
- H.** Stand-alone computer, monitor, and power supply, with operating system necessary to assign access levels, authenticate and delete cards/users, run reports, and overall administration of the proximity card system.
- I.** The operating system should allow for automatic and effortless back-ups.
- J.** The operating system should have an intuitive user interface.

- K.** Single workstation able to operate up to 110 doors, with the ability to increase to multiple workstations if necessary.
 - L.** A minimum of three security software user-levels.
 - M.** System should be pre-programmed to integrate with external alarm panels, CCTV system, and door locking management tools if necessary.
 - N.** Exit door panic alarm hardware.
 - O.** Door controllers and striker locks.
 - P.** Ability to add exit control buttons and exit door detection devices.
 - Q.** All materials, including but not limited to low voltage wiring, computer programming and electrical work, necessary for a fully functioning access system.
 - R.** Installation should include any paint and trim replacement as required.
 - S.** Installations may require the replacement of doors and other trim as required.
 - T.** Set-up and installation of a fully functioning system.
 - U.** Training for JBE personnel on operating and maintaining the system.
 - V.** Onsite service agreement on parts and installation for an initial one year from date of acceptance, with options for four (4) one-year terms for all items installed. Initial Onsite service should start following a 90-day stabilization period for newly installed systems. A time and materials service option shall also be available.
 - W.** Wireless access control locks and readers.
- 2.3 Detention Control Systems.** The detention control PLC systems services are for the repair and maintenance of existing systems.
- 2.4 Licensed Software.** All software licenses and software tools (“Licensed Software”) ordered under this Agreement will apply to existing video, camera, access, and detention control PLC systems installed in JBE facilities regardless of make and age as well as newly installed systems:
- A.** Video Surveillance Systems
 - B.** Access Control Systems

All copies of Licensed Software must remain with the JBE receiving any Goods or Services from the Contractor. System should be complete without further charges for license agreements beyond initial purchase, or ongoing license requirements/renewals and associated costs clearly identified and agreed to prior to ordering of materials.

END OF EXHIBIT

EXHIBIT 5 - General Terms and Conditions

1. Work

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

1.2 Stop Work Orders.

A. Effect. Each JBE may, at any time, by Notice to Contractor, require Contractor to stop all, or any part, of the Work being provided to such JBE for a period of up to ninety (90) days after the Notice is delivered to Contractor, and for any further period to which the JBE and the Contractor may agree ("Stop Work Order"). The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision. Upon receipt of a Stop Work Order, Contractor shall immediately comply with the terms of the Stop Work Order and take all reasonable steps to end the incurrence of any costs, expenses or liabilities allocable to the Work covered by the Stop Work Order during the period of work stoppage. The JBE shall not be liable to Contractor for loss of profits arising out of such Stop Work Order. Within ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period mutually agreed to by the Parties, the JBE shall either: (i) cancel the Stop Work Order; or (ii) terminate the Work covered by the Stop Work Order.

B. Expiration or Cancellation. If a Stop Work Order is canceled by the JBE or the period of the Stop Work Order or any extension thereof expires, Contractor shall promptly resume the Work covered by such Stop Work Order. The JBE shall make an equitable adjustment in the delivery schedule, and the applicable Scope of Work, Purchase Order, or Service Work Order shall be modified, in writing, accordingly, if: (i) the Stop Work Order directly and proximately results in an increase in the time required for the performance of any part of the Work; and (ii) Contractor requests an equitable adjustment within thirty (30) days after the end of the period of work stoppage.

1.3 Changes in Work.

A. The JBEs reserve the right to require Contractor to make changes in the Work during the term of this Agreement which may require an extension or reduction in the schedule and/or an increase or decrease in the fees and expenses and/or the Work (each, a "Change"), including: (i) a change to the scope or functionality of the Deliverables; or (ii) a change to the scope, timing or level of effort of the Work.

B. For any change proposed by a JBE or Contractor, Contractor will submit in writing:

- i.** A description of the proposed change and the reasons for the change;
- ii.** A summary of the total compensation to be paid Contractor with a breakdown of tasks and costs, including any reduction in work or costs resulting from the change; and
- iii.** A statement of the expected impact on schedule.

C. If the JBE and Contractor agree on a change, the JBE will issue an Amendment documenting the change for the parties' execution. An authorized representative of each Party shall promptly sign the mutually agreed upon Amendment to acknowledge the impact and to indicate that Party's agreement to the adjustments.

D. If the parties cannot agree to the terms of a change, Contractor will proceed diligently with the Work unless otherwise directed by the JBE, and any continuing disagreement will follow the process set forth in the provisions entitled “Dispute Resolution.” Contractor should not proceed with any change prior to receiving a written directive or Amendment from the JBE. All costs for changes performed by Contractor without the JBE’s prior written approval will be at Contractor’s sole risk and expense.

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

1.5 Data and Security. *[SECTION INSTRUCTIONS: the JBE should modify the provisions below depending on the specific privacy, data security, and IT requirements for its project.]*

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

B. Data Security.

i. Contractor shall comply with the Data Safeguards. Contractor shall implement and maintain a comprehensive information security program (“Contractor’s Information Security Program”) in accordance with the Data Safeguards. Contractor shall comply with all applicable privacy and data security laws, and other laws (including the California Rules of Court) and regulations relating to the protection, collection, use, and distribution of JBE Data, as well as privacy and data security requirements and standards set forth in the JBE’s policies or procedures. To the extent that California Rule of Court 2.505 applies to this Agreement, Contractor shall provide access and protect confidentiality of court records as set forth in that rule and in accordance with this Agreement. In addition to the foregoing, Contractor represents and warrants that Contractor complies with, and throughout the term of this Agreement, Contractor and its performance of its obligations under this Agreement shall be in compliance with, the current NIST (National Institute of Standards and Technology) Special Publication 800-53, including without limitation any NIST 800-53 standards, guidelines, or requirements for security controls or data security protocols.

ii. Unauthorized access to or use or disclosure of JBE Data (including data mining, or any commercial use) by Contractor or third parties, is prohibited. Contractor shall not, without the prior written consent of an authorized representative of JBE, use or access the JBE Data for any purpose other than to provide the Work under this Agreement. In no event shall Contractor transfer the JBE Data to third parties, or provide third parties access to the JBE Data, except as may be expressly authorized by JBE. Contractor is responsible for the security and confidentiality of the JBE Data. JBE owns and retains all right and title to the JBE Data and has the exclusive right to control its use.

- iii. No Work shall be provided from outside the continental United States. Remote access to JBE Data from outside the continental United States is prohibited unless approved in writing in advance by the JBE. The physical location of Contractor's data center, systems, and equipment where the JBE Data is stored shall be within the continental United States. Contractor shall ensure that access to the JBE Data will be provided to the JBE (and its authorized users) 24 hours per day, 365 days per year (excluding agreed-upon maintenance downtime). Upon the JBE's request, all JBE Data in the possession of Contractor shall be provided to JBE in a manner reasonably requested by JBE and all copies shall be permanently removed from Contractor's system, records, and backups, and all subsequent use of such information by Contractor shall cease.
 - iv. Confidential, sensitive, or personally identifiable information shall be encrypted in accordance with the highest industry standards, applicable laws, this Agreement, and JBE policies and procedures.
- C. Data Breach. If there is a suspected or actual Data Breach, Contractor shall notify the JBE in writing within two (2) hours of becoming aware of such occurrence. A "Data Breach" means any access, destruction, loss, theft, use, modification or disclosure of the JBE Data by an unauthorized party. Contractor's notification shall identify: (i) the nature of the Data Breach; (ii) the data accessed, used or disclosed; (iii) who accessed, used, disclosed and/or received data (if known); (iv) what Contractor has done or will do to mitigate the Data Breach; and (v) corrective action Contractor has taken or will take to prevent future Data Breaches. Contractor shall promptly investigate the Data Breach and shall provide daily updates, or more frequently if required by the JBE, regarding findings and actions performed by Contractor until the Data Breach has been resolved to the JBE's satisfaction, and Contractor has taken measures satisfactory to the JBE to prevent future Data Breaches. Contractor shall conduct an investigation of the Data Breach and shall share the report of the investigation with the JBE. The JBE and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the JBE, its agents and law enforcement, including with respect to taking steps to mitigate any adverse impact or harm arising from the Data Breach. After any Data Breach, Contractor shall at its expense have an independent, industry-recognized, JBE-approved Third-Party perform an information security audit. The audit results shall be shared with the JBE within seven (7) days of Contractor's receipt of such results. Upon Contractor receiving the results of the audit, Contractor shall provide the JBE with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Agreement.
- D. Security Assessments. Upon advance written notice by the JBE, Contractor agrees that the JBE shall have reasonable access to Contractor's operational documentation, records, logs, and databases that relate to data security and the Contractor's Information Security Program. Upon the JBE's request, Contractor shall, at its expense, perform, or cause to have performed an assessment of Contractor's compliance with its privacy and data security obligations. Contractor shall provide to the JBE the results, including any findings and recommendations made by Contractor's assessors, of such assessment, and, at its expense, take any corrective actions.
- E. Data Requests. Contractor shall promptly notify the JBE upon receipt of any requests which in any way might reasonably require access to the JBE Data. Contractor shall not respond to subpoenas, service of process, Public Records Act requests (or requests under California Rule of Court 10.500), and other legal requests directed at Contractor regarding this Agreement or JBE Data without first notifying the JBE. Contractor shall provide its intended responses to the

JBE with adequate time for the JBE to review, revise and, if necessary, seek a protective order in a court of competent jurisdiction. Contractor shall not respond to legal requests directed at the JBE unless authorized in writing to do so by the JBE.

F. Data Backups. If Contractor is providing Hosted Services under this Agreement, Contractor shall:

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

G. Transition Period. For ninety (90) days prior to the Expiration Date of this Agreement or Scope of Work, or upon notice of termination of this Agreement or Scope of Work, Contractor shall provide the transition services and procedures set forth in Exhibit 6 (Transition Services), upon request of the JBE, in the event of any termination of this Agreement.

1.6 Project Staff.

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

B. Contractor Key Personnel. The JBE reserves the right to interview and approve proposed Contractor Key Personnel prior to their assignment to the JBE. Contractor shall not replace or reassign any Contractor Key Personnel unless the JBE consents in advance in writing or such Contractor Key Personnel (i) voluntarily resigns or takes a leave of absence from Contractor, (ii) has his/her employment, professional or other for-hire relationship terminated by Contractor, (iii) fails to perform his or her duties and responsibilities pursuant to this Agreement, or (iv) dies or is unable to work due to his or her disability. If Contractor needs to replace a Contractor Key Personnel for any of the foregoing reasons, Contractor shall (1) notify the JBE promptly, (2) provide resumes for proposed replacement Contractor Key Personnel within two (2) Business Days after so notifying the JBE, and (3) be responsible for all costs and expenses associated with any replacement of any Contractor Key Personnel member

(including, without limitation, any costs and expenses associated with training, project orientation or knowledge transfer reasonably required for replacement personnel to provide the applicable Work).

- C. Subcontractors. Contractor shall not subcontract or delegate any of the obligations under this Agreement except as approved by the JBE in writing in advance. The JBE may withdraw its approval of a subcontractor if the JBE determines in good faith that the subcontractor is, or will be, unable to effectively perform its responsibilities. If the JBE rejects any proposed subcontractor in writing, Contractor will assume the proposed subcontractor's responsibilities. No subcontracting shall release Contractor from its responsibility for performance of its obligations under this Agreement. Contractor shall remain fully responsible for the performance of Subcontractors hereunder, including, without limitation, all work and activities of Subcontractors providing services to Contractor in connection with the Work. Contractor shall be the sole point of contact with Subcontractors under this Agreement, and Contractor shall be solely responsible for Subcontractors, including, without limitation, payment of any and all charges resulting from any subcontract. The JBE's consent to any subcontracting or delegation of Contractor's obligations will take effect only if there is a written agreement with the Subcontractor, stating that the Contractor and Subcontractor: (i) are jointly and severally liable to the JBE for performing the duties in this Agreement; (ii) affirm the rights granted in this Agreement to the JBE; (iii) make the representations and warranties made by the Contractor in this Agreement; (iv) appoint the JBE an intended Third-Party beneficiary under Contractor's written agreement with the Subcontractor; and (v) shall comply with and be subject to the terms of this Agreement, including with respect to Intellectual Property Rights, Confidential Information and Data Safeguards.
- D. Project Staff. Contractor shall appoint to the Project Staff: (i) individuals with suitable training and skills to provide the Work, and (ii) sufficient staffing to adequately provide the Work. Contractor shall make commercially reasonable efforts consistent with sound business practices to honor the specific request of the JBE with regard to assignment of its employees. The JBE may require Contractor to remove any personnel from the Project Staff that interact with any personnel of the Judicial Branch Entities or JBE Contractors (including, without limitation, the Contractor Project Manager) upon providing to Contractor a reason (permitted by law) for such removal. Contractor may, with the JBE's consent, continue to retain such member of the Project Staff in a role that does not interact with any personnel of the Judicial Branch Entities or JBE Contractors. The Contractor Project Manager and the JBE Project Manager shall work together to mitigate any impact on the schedule as set forth in a Scope of Work caused by any replacement of a Project Staff member. Contractor shall be responsible for all costs and expenses associated with any Project Staff replacement. Contractor shall assure an orderly and prompt succession for any Project Staff member who is replaced.
- E. Conduct of Project Staff.
- i. While at the JBE Work Locations, Contractor shall, and shall cause Subcontractors to: (1) comply with the requests, standard rules and regulations and policies and procedures of the Judicial Branch Entities regarding safety and health, security, personal and professional conduct generally applicable to such JBE Work Locations, and (2) otherwise conduct themselves in a businesslike manner.
 - ii. Contractor shall enter into an agreement with each of the members of the Project Staff, which assigns, transfers and conveys to Contractor all of such Project Staff member's right, title and interest in and to any Developed Materials, including all Intellectual Property Rights in and to Developed Materials.

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

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

2. Delivery and Acceptance.

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

2.2 Acceptance. All Work is subject to written acceptance by each JBE. The JBE may reject any Work that: (i) fails to meet applicable requirements, Specifications, or acceptance criteria, (ii) are not as warranted, (iii) are performed or delivered late (without prior consent by the JBE) or not provided in accordance with this Agreement; or (iv) contain Defects. Payment does not imply acceptance of Contractor's invoice or Work.

2.3 If the JBE provides Contractor a notice of rejection for any Work, Contractor shall modify such rejected Work at no expense to the JBE to correct the relevant deficiencies and shall redeliver such Work to the JBE within ten (10) Business Days after Contractor's receipt of such notice of rejection, unless otherwise agreed in writing by the JBE. Thereafter, the Parties shall repeat the process set forth in this Section until Contractor's receipt of the JBE's written acceptance of such corrected Work (each such JBE written acceptance, an "Acceptance"). The JBE may terminate the portion of the Agreement or Participating Addendum that relates to the rejected Work at no expense to the JBE if the JBE rejects that Work (i) for late performance or delivery (without prior consent by the JBE), or (ii) on at least two (2) occasions for other deficiencies.

3. Representations and Warranties. Contractor represents and warrants to the JBE as follows:

3.1 Authorization/Compliance with Laws. (i) Contractor has full power and authority to enter into this Agreement and any Participating Addendum, to grant the rights and licenses herein and to perform its obligations under this Agreement, and that Contractor's representative who signs this Agreement has the authority to bind Contractor to this Agreement and any Participating Addendum; (ii) the execution, delivery and performance of this Agreement have been duly authorized by all requisite corporate action on the part of Contractor; (iii) Contractor shall not and shall cause Subcontractors not to enter into any arrangement with any Third-Party which could reasonably be

expected to abridge any rights of the Judicial Branch Entities under this Agreement and any Participating Addendum; (iv) this Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms; (v) Contractor is qualified to do business and in good standing in the State of California; (vi) Contractor, its business, and its performance of its obligations under this Agreement comply with all Applicable Laws; and (vii) Contractor pays all undisputed debts when they come due. To the extent any work under this Agreement is subject to the payment of Prevailing Wages, such Work shall be performed in accordance with Addendum 2 to this Agreement.

- 3.2 No Gratuities or Conflict of Interest.** Contractor: (i) has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement; and (ii) has no interest that would constitute a conflict of interest under Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.
- 3.3 No Litigation.** No Claim or governmental investigation is pending or threatened against or affecting Contractor or Contractor's business, financial condition, or ability to perform its obligations under this Agreement.
- 3.4 Not an Expatriate Corporation.** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1 and is eligible to contract with the JBE.
- 3.5 No Interference.** To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest or breach under any of Contractor's other contracts.
- 3.6 Drug Free Workplace.** Contractor provides a drug-free workplace as required by California Government Code sections 8355 through 8357.
- 3.7 No Harassment / Nondiscrimination.** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring. Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of nondiscrimination.
- 3.8 National Labor Relations Board Orders.** No more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.

- 3.9 Intellectual Property.** Contractor shall perform its obligations under this Agreement in a manner that the Work (including each Deliverable) and any portion thereof, does not infringe, or constitute an infringement, misappropriation or violation of, any Intellectual Property Right. Contractor has full Intellectual Property Rights and authority to perform all of its obligations under this Agreement, and Contractor is and will be either the owner of, or authorized to use for its own and the Judicial Branch Entities' benefit, all Contractor Materials, Third-Party Materials, and Licensed Software used and to be used in connection with the Work.
- 3.10 Work.** (i) the Work will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Work; (ii) Contractor will use efficiently the resources or services necessary to provide the Work; and provide the Work in the most cost efficient manner consistent with the required level of quality and performance; (iii) the Work will be provided free and clear of all liens, claims, and encumbrances; (iv) all Work will be free from all defects in materials, workmanship and installation, and will be in accordance with Specifications, Documentation, Applicable Laws, and other requirements of this Agreement; and (v) all equipment purchased by the JBE from Contractor will be new. In the event any Work does not conform to the foregoing provisions of this Section 3.12, Contractor shall promptly correct all nonconformities.
- 3.11 Malicious Code.** No Work will contain any Malicious Code. Contractor shall immediately provide to the JBE written notice in reasonable detail upon becoming aware of the existence of any Malicious Code. Without limiting the foregoing, Contractor shall use best efforts and all necessary precautions to prevent the introduction and proliferation of any Malicious Code in the Judicial Branch Entities' IT Infrastructure or networks or in the Contractor systems used to provide Work. In the event Contractor or the JBE discovers the existence of any Malicious Code, Contractor shall use its best efforts, in cooperation with the JBE, to effect the prompt removal of the Malicious Code from the Work and the Judicial Branch Entities' IT Infrastructure and the repair of any files or data corrupted thereby, and the expenses associated with the removal of the Malicious Code and restoration of the data shall be borne by Contractor. In no event will Contractor or any Subcontractor invoke any Malicious Code.
- 3.12 Four-Digit Date Compliance.** Contractor will provide only Four-Digit Date Compliant Work to the JBEs. "Four-Digit Date Compliant" Work can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Agreement or any Participating Addendum and does not limit the generality of warranty obligations set forth elsewhere in this Agreement or any Participating Addendum.
- 3.13 Conflict Minerals.** Contractor certifies either: (i) it is not a "scrutinized company" as defined in PCC 10490(b), or (ii) the goods or services the Contractor will provide to the JBE are not related to products or services that are the reason the Contractor must comply with Section 13(p) of the Securities Exchange Act of 1934
- 3.14 Miscellaneous.** The rights and remedies of the JBE provided in this Section 3 will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement and any Participating Addendum. The representations and warranties that Contractor makes in this Section 3 shall be true and accurate as of the Effective Date and shall remain true during the Term and the Termination Assistance Period. Contractor shall promptly notify the JBEs if any representation or warranty becomes untrue.

4. Intellectual Property.

- 4.1 Contractor/Third-Party Materials.** Contractor shall set forth in an exhibit to each Scope of Work all Contractor Materials and Third-Party Materials that Contractor intends to use in connection with that Scope of Work. The JBE shall have the right to approve in writing the introduction of any Contractor Materials or Third-Party Materials into any Work prior to such introduction. Contractor grants to the Judicial Branch Entities, together with all JBE Contractors, without additional charge, a perpetual, irrevocable, royalty-free, fully paid-up, worldwide, nonexclusive license to use, reproduce, perform, display, transmit, distribute, modify, create derivative works of, make, have made, sell, offer for sale and import Contractor Materials and Third-Party Materials (including Source Code) and to sublicense such rights to other entities, in each case for California judicial branch business and operations.
- 4.2 Rights in Developed Materials.** Notwithstanding any provision to the contrary, upon their creation the Developed Materials (and all Intellectual Property Rights therein) will be the sole and exclusive property of the JBE. Contractor (for itself, Project Staff and Subcontractors) hereby irrevocably assigns, transfers and conveys to the JBE without further consideration all worldwide right, title and interest in and to the Developed Materials, including all Intellectual Property Rights therein. Contractor further agrees to execute, and shall cause Project Staff and Subcontractors to execute, any documents or take any other actions as may be reasonably necessary or convenient to perfect the JBE's or its designee's ownership of any Developed Materials and to obtain and enforce Intellectual Property Rights in or relating to Developed Materials. Contractor shall promptly notify the JBE upon the completion of the development, creation or reduction to practice of any and all Developed Materials.
- 4.3 Retention of Rights.** The JBE retains all rights, title and interest (including all Intellectual Property Rights) in and to the JBE Materials. Subject to rights granted herein, Contractor retains all rights, title and interest (including all Intellectual Property Rights) in and to the Contractor Materials.
- 4.4 Third-Party Rights.** Contractor hereby assigns to the Judicial Branch Entities all of Contractor's licenses and other rights (including any representations, warranties, or indemnities that inure to Contractor from third parties) to all Third-Party Materials incorporated into the Work. If such licenses and rights cannot be validly assigned to or passed through to Judicial Branch Entities by Contractor without a Third-Party's consent, then Contractor will use its best efforts to obtain such consent (at Contractor's expense) and will indemnify and hold harmless the JBE, Judicial Branch Entities and Judicial Branch Personnel against all Claims arising from Contractor's failure to obtain such consent.

5. Confidentiality.

- 5.1 General Obligations.** During the Term and at all times thereafter, Contractor will: (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement, and (c) refrain from disclosing or permitting others to disclose any Confidential Information to any Third-Party without obtaining the JBE's express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to Project Staff (including Subcontractors) with a need to know in order to provide the Work hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this section. The provisions of this section shall survive beyond the expiration or termination of this Agreement and any Participating Addendum. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than reasonable care and

industry-standard care. Each JBE owns all right, title and interest in its Confidential Information. Contractor will notify the affected JBE promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the JBE to protect such Confidential Information. Notwithstanding any provision to the contrary, Contractor will keep all Personal Information confidential, unless otherwise authorized by the JBE in writing.

- 5.2 Ownership of Deliverables.** Unless otherwise agreed in this Agreement, regarding any Deliverables or any other work product to be provided to a JBE, Contractor hereby assigns to such JBE all rights, title, and interest (and all intellectual property rights, including but not limited to copyrights) in and to such Deliverables and work product, any partially-completed Deliverables, and related materials. Contractor agrees not to assert any rights at common law, or in equity, or establish a copyright claim in any of these materials. Contractor shall not publish or reproduce any Deliverable or other work product in whole or part, in any manner or form, or authorize others to do so, without the written consent of the JBE.
- 5.3 Removal; Return.** Contractor will not remove any Confidential Information from JBEs' facilities or premises without the JBE's express prior written consent. Upon a JBE's request and upon any termination or expiration of this Agreement or a Participating Addendum, Contractor will promptly (a) return to the JBE or, if so directed by the JBE, destroy all such JBE's Confidential Information (in every form and medium), and (b) certify to the JBE in writing that Contractor has fully complied with the foregoing obligations.
- 5.4 Breach of Confidentiality.** Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations hereunder, that any such breach will likely result in irreparable harm, and therefore, that upon any breach or threatened breach of the confidentiality obligations, the JBEs shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.

6. Indemnification.

- 6.1 General Indemnity.** Contractor shall indemnify, defend (with counsel satisfactory to the JBE), and hold harmless Judicial Branch Entities and Judicial Branch Personnel against all Claims founded upon or that arise out of or in connection with: (i) Contractor's provision of, or failure to provide, the Work (ii) any other breach by Contractor under this Agreement or any Participating Addendum; or (iii) Third-Party Claims relating to infringement or misappropriation of any Intellectual Property Right by Contractor or the Work, including software, services, systems, equipment, or other materials provided by Contractor or Subcontractors to Judicial Branch Entities (collectively, the "Covered Items"). This indemnity applies regardless of the theory of liability on which a claim is made or a loss occurs. This indemnity will survive the expiration or termination of this Agreement or any Participating Addendum, and acceptance of any Goods, Services, or Deliverables. Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the JBE's prior written consent, which consent shall not be unreasonably withheld; and the JBE shall have the right, at its option and expense, to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.
- 6.2 Certain Remedies.** If any Covered Item provided under this Agreement becomes, or in Contractor's or the JBE's reasonable opinion is likely to become, the subject of any Claim arising from or alleging infringement, misappropriation or other violation of, or in the event of any adjudication that such Covered Item infringes, misappropriates or otherwise violates any Intellectual

Property Right of a Third-Party, Contractor at its own expense shall take the following actions in the listed order of preference: (a) secure for the Judicial Branch Entities the right to continue using the applicable Covered Item; or (b) if commercially reasonable efforts are unavailing, replace or modify the infringing Covered Item to make it noninfringing; provided, however, that such modification or replacement shall not degrade the operation or performance of the Covered Item.

7. **Insurance.**

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

- A. Workers Compensation and Employer's Liability.** The policy is required only if Contractor has employees. It must include workers' compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1 million per accident or disease;
- B. Commercial General Liability.** The policy must be written on an occurrence form with limits of not less than \$1 million per occurrence, and a \$1 million annual aggregate. Each policy must include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed in a contract.; and
- C. Professional Liability.** The policy must cover Contractor's acts, errors and omissions committed or alleged to have been committed which arise out of rendering or failure to render services provided under this Agreement. The policy shall provide limits of not less than \$1 million per occurrence and annual aggregate.
- D. Commercial Automobile Liability.** If an automobile is used in providing the Work, automobile liability insurance with limits of not less than \$1 million per accident. Such insurance must cover liability arising out of the operation of a motor vehicle, including owned, hired, and non-owned motor vehicles, assigned to or used in connection with providing the Work.
- E. Commercial Crime Insurance.** If Contractor handles or has regular access to the JBE's funds or property of significant value to the JBE, this policy must cover dishonest acts including loss due to theft of money, securities, and property; forgery, and alteration of documents; and fraudulent transfer of money, securities, and property. The minimum liability limit must be \$1 million.

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

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

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

- 7.5 Deductibles and Self-Insured Retentions.** Contractor shall declare to each JBE all deductibles and self-insured retentions that exceed \$100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to each JBE's approval. Deductibles and self-insured retentions do not limit Contractor's liability. Contractor is responsible for and may not recover from the JBE, including Judicial Branch Personnel, any deductible or self-insured retention that is connected to the insurance required under this Section 7.
- 7.6 Additional Insured Status.** With respect to commercial general liability, automobile liability insurance, and, if applicable, umbrella policy, the policies must be endorsed to name the following as additional insureds with respect to liabilities arising out of the performance of this Agreement: the Establishing JBE, the State of California, the Participating Entities, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, Contractors, volunteers or employees).
- 7.7 Certificates of Insurance.** Before Contractor begins providing Work, Contractor shall give the Establishing JBE (and on request, any Participating Entity) certificates of insurance attesting to the existence of coverage. Contractor shall provide prompt written notice to the Establishing JBE and any Participating Entity in the event that insurance coverage is cancelled or materially changed from the coverage set forth in the current certificate of insurance provided to the Establishing JBE and Participating Entities. Any replacement certificates of insurance are subject to the approval of the Establishing JBE, and, without prejudice to the JBE, Contractor shall not provide Work before the Establishing JBE approves the certificates.
- 7.8 Qualifying Insurers.** For insurance to satisfy the requirements of this section, all required insurance must be issued by an insurer with an A.M. Best rating of A - or better that is approved to do business in the State of California.
- 7.9 Required Policy Provisions.** Each policy must provide, as follows:
- A. Insurance Primary; Waiver of Recovery.** With respect to commercial general liability and automobile liability insurance, the policies must be endorsed to be primary and noncontributory with any insurance or self-insurance programs maintained by Judicial Branch Entities and Judicial Branch Personnel. Contractor waives any right of recovery it may have and will require that any insurer providing commercial general liability, workers compensation, and automobile liability to also waive any right of recovery it may have against Judicial Branch Entities and Judicial Branch Personnel for liability arising out of the Work; and
 - B. Separation of Insureds.** The insurance applies separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer's liability.
- 7.10 Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods: (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.
- 7.11 Consequences of Lapse.** If required insurance lapses during the Term, the JBEs are not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

8. Term / Termination.

- 8.1 Term.** This Agreement shall commence on the Effective Date and have an initial term of three (3) years, unless terminated earlier in accordance with the terms of this Section 8. The Establishing JBE may, at its sole option, extend the Term for up to two (2) consecutive one-year periods, at the end of which this Agreement shall expire. In order to extend the Term, the JBE must notify Contractor prior to the end of the initial term (or the then-current one-year extension period).
- 8.2 Participating Addenda.** The termination of this Agreement shall not result in the termination of any outstanding Participating Addendum that has not been terminated by the Participating Entity, and this Agreement shall continue to apply to any such Participating Addendum until such time as all Work under such Participating Addendum has been completed by its terms or is terminated as provided in this Section 8; provided, however, that the term of such Participating Addendum may not exceed the Expiration Date of this Agreement. Execution of any Participating Addendum by a Participating Entity and Contractor must be completed before the termination or expiration of this Agreement.
- 8.3 Termination for Convenience.** The Establishing JBE may terminate, in whole or in part, this Agreement (and a JBE may terminate, in whole or in part, a Participating Addendum) and/or any Scope of Work for convenience (without cause) upon thirty (30) days prior written notice. The JBE's notice obligations under the foregoing sentence shall not apply to any stop work orders issued by the JBE under this Agreement (or Participating Addendum). After receipt of such notice, and except as otherwise directed by the Establishing JBE (and regarding a Participating Addendum, except as otherwise directed by the JBE), Contractor shall immediately: (a) stop Work as specified in the notice; and (b) place no further subcontracts, except as necessary to complete the continued portion of this Agreement.
- 8.4 Early Termination.** The Establishing JBE may terminate this Agreement, in whole or in part, immediately "for cause" (and a JBE may terminate a Participating Addendum in whole or in part, immediately "for cause") if Contractor is in Default. The Establishing JBE may also terminate this Agreement (and a JBE may also terminate a Participating Addendum) or limit Work (and proportionately Contractor's fees) upon written notice to Contractor without prejudice to any right or remedy of the Judicial Branch Entities if: (i) expected or actual funding to compensate the Contractor is withdrawn, reduced or limited; or (ii) the JBE determines that Contractor's performance under this Agreement or Participating Addendum has become infeasible due to changes in Applicable Laws.
- 8.5 Termination upon Death.** This entire Agreement will terminate immediately without further action of the Parties upon the death of a natural person who is a Party to this Agreement, or a general partner of a partnership that is a Party to this Agreement.
- 8.6 Termination for Changes in Budget or Law.** Each JBE's payment obligations are subject to annual appropriation and the availability of funds. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement or Participating Addendum. Funding beyond the current appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement (including a Participating Addendum). The Establishing JBE may terminate this Agreement (and any JBE may terminate a Participating Addendum), and each JBE may limit Contractor's Work (and reduce proportionately Contractor's fees) upon Notice to Contractor without prejudice to any right or remedy of the JBEs if: (i) expected or actual funding to compensate Contractor is withdrawn, reduced or limited; or (ii) the Establishing JBE determines that Contractor's performance under this Agreement (or a JBE

determines that Contractor's performance under a Participating Addendum) has become infeasible due to changes in applicable laws.

8.7 Rights and Remedies of the JBE.

- A. Nonexclusive Remedies.** All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Establishing JBE and the affected Participating Entities immediately if Contractor is in Default, or if a Third-Party claim or dispute is brought or threatened that alleges facts that would constitute a Default under this Agreement (or a Participating Addendum). If Contractor is in Default, (i) a JBE may withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor; (ii) a JBE may require Contractor to enter into nonbinding mediation; (iii) the Establishing JBE may exercise, following notice, the JBE's right of early termination of this Agreement (and a JBE may exercise its right of early termination of a Participating Addendum) as provided herein; and (iv) a JBE may seek any other remedy available at law or in equity.
- B. Replacement.** If the Establishing JBE terminates this Agreement (or if a JBE terminates a Participating Addendum) in whole or in part for cause, the JBE may acquire from third parties, under the terms and in the manner the JBE considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the JBE for any excess costs for those goods or services. Notwithstanding any other provision of this Agreement or Participating Addendum, in no event shall the excess cost to the JBEs for such goods and services be excluded under this Agreement or Participating Addendum as indirect, incidental, special, exemplary, punitive or consequential damages of the JBEs. Contractor shall continue any Work not terminated hereunder.
- C. Delivery of Materials.** In the event of any expiration or termination of this Agreement (or a Participating Addendum), Contractor shall promptly provide the applicable JBE or JBEs with all originals and copies of the Deliverables for such JBE (including: (i) any partially-completed Deliverables and related work product or materials; and (ii) any Contractor Materials, Third-Party Materials, and Developed Materials comprising such Deliverables or partially-completed Deliverables), Confidential Information, JBE Data, JBE Materials, and all portions thereof, in its possession, custody, or control. In the event of any termination of this Agreement (or a Participating Addendum), the JBEs shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the JBE's termination is not based on a Default, JBE shall pay any fees due under this Agreement (or a Participating Addendum) for Deliverables completed and accepted as of the date of the JBE's termination notice.
- D. Participating Addenda.** The termination of this Agreement shall not result in the termination of any outstanding Participating Addendum that has not been terminated by a JBE, and this Agreement shall continue to apply to any such Participating Addendum until such time as all Work under such Participating Addendum has been completed by its terms or is terminated as provided in this Section 8; provided, however, that the term of such Participating Addendum may not exceed the Expiration Date of this Agreement. Issuance and acknowledgement of any Participating Addendum (as evidenced by the JBE's and Contractor's signature on the Participating Addendum) must be completed before the termination or expiration of this Agreement.

- 8.8 Termination Assistance.** At the JBE's request and option, during the Termination Assistance Period, Contractor shall provide, at the same rates charged immediately before the start of the

Termination Assistance Period, to the JBE or to its designee (collectively, “Successor”) services reasonably necessary to enable the JBE to obtain from another contractor, or to provide for itself, services to substitute for or replace the Work, together with all other services to allow the Work to continue without interruption or adverse effect and to facilitate the orderly transfer of the Work to the Successor (collectively, the “Termination Assistance Services”). Termination Assistance Services will be provided to the JBE by Contractor regardless of the reason for termination or expiration. At the JBE’s option and election, the JBE may extend the Termination Assistance Period for an additional six (6) months.

8.9 Survival. Termination of this Agreement or any Participating Addendum shall not affect the rights and/or obligations of the Contractor, Establishing JBE, and the Participating Entities which arose prior to any such termination or expiration (unless otherwise provided herein) and such rights and/or obligations shall survive any such termination or expiration. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement or Participating Addendum, including any section of this Agreement or Participating Addendum that states it shall survive termination or expiration.

8.10 Tax Delinquency. Contractor must provide notice to the JBEs immediately if Contractor has reason to believe it may be placed on either (i) the California Franchise Tax Board’s list of 500 largest state income tax delinquencies, or (ii) the California Board of Equalization’s list of 500 largest delinquent sales and use tax accounts. The Establishing JBE may terminate this Agreement immediately “for cause” pursuant to Section 8.4 (and each JBE may terminate its Participating Addendum immediately “for cause” pursuant to Section 8.4) if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.

9. Special Provisions Applicable to Certain Agreements. The provisions in this Section are applicable to this Agreement and to any Participating Addendum, provided however that if this Agreement or a Participating Addendum is not of the type described in the first sentence of a subsection, then that subsection does not apply to this Agreement or such Participating Addendum.

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

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

9.3 Child Support Compliance Act. If the Contract Amount is \$100,000 or more: (i) Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the Term) all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part

5 of Division 9 of the Family Code; and (ii) Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

- 9.4 Priority Hiring.** If the Contract Amount is over \$200,000 (excluding Consulting Services), Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.
- 9.5 Iran Contracting Act.** If the Contract Amount is \$1,000,000 or more and Contractor did not provide to the Establishing JBE an Iran Contracting Act certification as part of the solicitation process, this section is applicable. Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“Iran List”) created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending \$20,000,000 or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the Establishing JBE to enter into this Agreement (and written permission from the from each JBE to enter into the applicable Participating Addendum) pursuant to PCC 2203(c).
- 9.6 Loss Leader Prohibition.** If this Agreement (including any Participating Addendum) involves the purchase of goods, this section is applicable. Contractor shall not sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.
- 9.7 Recycling.** If this Agreement (including any Participating Addendum) provides for the purchase or use of goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods. Without limiting the foregoing, if this Agreement (including any Participating Addendum) includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable. Contractor shall use recycled products in the performance of this Agreement (including any Participating Addendum) to the maximum extent doing so is economically feasible. Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.
- 9.8 Sweatshop Labor.** If this Agreement (including any Participating Addendum) provides for the laundering of apparel, garments or corresponding accessories, or for furnishing equipment, materials, or supplies other than for public works, this section is applicable. Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the JBEs under this Agreement (including any Participating Addendum) have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and PCC 6108. Contractor agrees to cooperate fully in providing reasonable access to Contractor’s records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Contractor’s compliance with the requirements under this section and shall provide the same rights of access to the JBEs.

9.9 Federal Funding Requirements. If this Agreement (or a Participating Addendum) is funded in whole or in part by the federal government, then this section is applicable.

- A.** It is mutually understood between the Parties that this Agreement (or a Participating Addendum) may have been written for the mutual benefit of both Parties (or Participating Entities) before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the Agreement (or a Participating Addendum) were executed after that determination was made.
- B.** This Agreement (or a Participating Addendum) is valid and enforceable only if sufficient funds are made available to the Establishing JBE (or the applicable Participating Entity) by the United States Government for the fiscal year in which they are due and consistent with any stated programmatic purpose. In addition, this Agreement (or a Participating Addendum) is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement (or a Participating Addendum) in any manner.
- C.** The Parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement (or a Participating Addendum) is intended to be paid, this Agreement (or a Participating Addendum) shall be deemed amended without any further action of the Parties to reflect any reduction in funds.
- D.** The Establishing JBE may invalidate this Agreement (and a JBE may invalidate a Participating Addendum) under the termination for convenience or cancellation clause (providing for no more than thirty (30) days' Notice of termination or cancellation) or amend this Agreement (or Participating Addendum) to reflect any reduction in funds.

9.10 DVBE Commitment. This section is applicable if Contractor received a disabled veteran business enterprise ("DVBE") incentive in connection with this Agreement. Contractor's failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of this Agreement. If Contractor used DVBE subcontractor(s) in connection with this Agreement (or a Participating Addendum): (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the JBE approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must within sixty (60) days of receiving final payment under this Agreement or each Participating Addendum, certify in a report to the applicable JBE: (1) the total amount of money and percentage of work Contractor committed to provide to each DVBE subcontractor and the amount each DVBE subcontractor received under this Agreement or Participating Addendum; (2) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with this Agreement or Participating Addendum; (3) the amount each DVBE subcontractor received from Contractor in connection with this Agreement or Participating Addendum; and (4) that all payments under this Agreement or Participating Addendum have been made to the applicable DVBE subcontractors. Upon request by the JBE, Contractor shall provide proof of payment for the work. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. Contractor will comply with all rules, regulations, ordinances and statutes that govern the DVBE program, including, without limitation, Military and Veterans Code section 999.5.

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

- A.** Contractor shall assign to the JBE all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act

(Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the JBE. Such assignment shall be made and become effective at the time the JBE tenders final payment to the Contractor. (GC 4552)

- B. If the JBE receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the JBE any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the JBE as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (GC 4553)
- C. Upon demand in writing by the Contractor, the JBE shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (1) the JBE has not been injured thereby, or (2) the JBE declines to file a court action for the cause of action. (GC 4554)

9.12 Good Standing. If Contractor is a corporation, limited liability company, or limited partnership, and this Agreement (and any Participating Addendum) is performed in whole or in part in California, this section is applicable. Contractor is, and will remain for the Term, qualified to do business and in good standing in California.

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

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

10. General.

10.1 Audits. Contractor shall allow the JBEs or their designees to review and audit Contractor's (and any subcontractors') documents and records relating to this Agreement (including any Participating Addendum), and Contractor (and its subcontractors) shall retain such documents and records for a period of four years following final payment under this Agreement. If an audit determines that Contractor (or any subcontractor) is not in compliance with this Agreement (including any Participating Addendum), Contractor shall correct errors and deficiencies by the 20th day of the month following the review or audit. Contractor shall provide to the JBEs and JBE Contractors, on Contractor's premises (or, if the audit is being performed of an Subcontractor, Subcontractor's premises if necessary), space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office-related equipment and duplicating services as the JBEs or such JBE Contractors may reasonably require to perform the audits described in this Section. If an

audit determines that Contractor has overcharged the JBE five percent (5%) or more during the time period subject to audit, Contractor must reimburse the JBE in an amount equal to the cost of such audit. Without limiting the foregoing, this Agreement is subject to examinations and audit by the State Auditor for a period three years after final payment.

- 10.2 Licenses and Approvals.** Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by Applicable Laws to provide the Work. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any Applicable Law.
- 10.3 References.** In this Agreement and the Exhibits and Appendixes: (a) the Exhibits and Appendixes shall be incorporated into and deemed part of this Agreement and all references to this Agreement shall include the Exhibits and Appendixes; (b) the Article and Section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement; (c) references to and mentions of the word “including” or the phrase “e.g.” means “including, without limitation” and (d) unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.
- 10.4 Assignment and Subcontracting.** Contractor may not assign or subcontract its rights or duties under this Agreement (including any Participating Addendum) in whole or in part (whether by operation of law or otherwise) without the prior written consent of the Establishing JBE. Consent may be withheld for any reason or no reason. Any assignment or subcontract made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the Parties and their permitted successors and assigns.
- 10.5 Notices.** Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: (a) delivered in person, (b) sent by registered or certified mail, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient set forth below:

If to Contractor:	If to the Establishing JBE:
<u>[name, title, address]</u>	Branch Accounting and Procurement Attn: Facilities, Contracts Manager 455 Golden Gate Avenue, 6th Floor San Francisco, CA 94102
<u>With a copy to:</u>	<u>With a copy to:</u>

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

- 10.6 Independent Contractor.** Contractor is an independent contractor to the JBEs. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the JBEs. Contractor has no authority to bind or incur any obligation on behalf of the JBEs. If any governmental entity concludes that Contractor is not an independent Contractor, the Establishing JBE may terminate this Agreement (and a JBE may terminate a Participating Addendum) immediately upon notice.

- 10.7 GAAP Compliance.** The Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP.
- 10.8 Covenant of Further Assurances.** Contractor covenants and agrees that, subsequent to the execution and delivery of this Agreement and without any additional consideration, Contractor shall execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Agreement.
- 10.9 Publicity.** News releases and other public disclosures pertaining to this Agreement (or any Participating Addendum) will not be made by Contractor without prior written approval of the Establishing JBE (and with respect to any Participating Addendum, the prior written approval of the applicable JBE).
- 10.10 Third-Party Beneficiaries.** Except for the Judicial Branch Entities, each Party intends that this Agreement shall not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Parties.
- 10.11 Governing Law; Jurisdiction; and Venue.** This Agreement (including any Participating Addendum) and performance of the Work will be exclusively governed by the laws of the State of California without regard to its conflict of law provisions. The Contractor and the applicable JBEs shall attempt in good faith to resolve informally and promptly any dispute that arises. Contractor hereby irrevocably submits to the exclusive jurisdiction and venue of the state and federal district courts located in California in any legal action concerning or relating to this Agreement or Participating Addendum.
- 10.12 Follow-On Contracting.** Subject to certain exceptions, no person, firm, or subsidiary thereof who has been awarded a Consulting Services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the Consulting Services contract.
- 10.13 Order of Precedence.** Any conflict among or between the documents making up this Agreement will be resolved in accordance with the following order of precedence (in descending order of precedence): (i) Exhibit 5 - General Terms and Conditions and Exhibit 1 – Defined Terms; (ii) the Coversheet; (iii) Exhibit 8 – Pricing and Payment Provisions; (iv) Exhibit 4 – Scope of Work and Specifications; (v) Exhibit 7 – Maintenance and Support Services; (vi) Exhibit 11 – Unruh Civil Rights Act and FEHA Certification; and (vii) any appendixes or attachments to the Agreement.
- 10.14 Negotiated Agreement.** This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654.
- 10.15 Amendment and Waiver.** Except as otherwise specified in this Agreement, no amendment or change to this Agreement will be effective unless expressly agreed in writing by a duly authorized officer of the Establishing JBE. A waiver of enforcement of any of this Agreement’s terms or conditions by the Establishing JBE is effective only if expressly agreed in writing by a duly authorized officer of the Establishing JBE. Any waiver or failure by a JBE to enforce any provision of this Agreement or Participating Addendum on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- 10.16 Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.

10.17 Time of the Essence. Time is of the essence in Contractor's performance under this Agreement.

10.18 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed original.

10.19 Miscellaneous. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. Unless otherwise approved by the JBE in writing in advance, Work may not be performed outside of the United States.

EXHIBIT 6 – Transition Services

1. **Termination Procedures.** For ninety (90) days prior to the Expiration Date of this Agreement or Scope of Work, or upon notice of termination of this Agreement or Scope of Work, Contractor shall (i) provide all information and assistance necessary to ensure the smooth substitution of the Licensed Software to another suitable replacement software program (the “Substitute Product”) if requested by the JBE, and (ii) provide all assistance necessary to ensure the smooth transition of the Maintenance and Support Services performed by Contractor or Contractor’s subcontractor to the JBE or its designee. Such continuing services and assistance shall be provided to the JBE for a period up to thirty-six (36) months after the effective date of the termination (the “Transition Period”), and may include, upon the JBE’s request, the following services: (i) assign as specifically requested by the JBE all of the rights, title, and interest of Contractor in all orders and subcontracts relating to Contractor’s obligations under this Agreement; (ii) take such action as may be necessary or as directed by the JBE to preserve and protect the work previously performed by Contractor, and any property related to this Agreement in the possession of Contractor in which the JBE has an interest; (iii) continue performance of any work as directed by the JBE in writing, and (iv) take any other steps reasonably required by the JBE with respect to this Contract.
2. **Software Support.** Contractor understands and agrees that, during the Transition Period, the JBE will be entitled to receive continuing Maintenance and Support Services from Contractor for the Licensed Software, in accordance with the provisions of Exhibit 7 (Maintenance and Support Services).
3. **Transition Fees.** Any termination or transition assistance provided by Contractor shall be subject to payment by the JBE at Contractor’s hourly rates as set forth in Contractor’s then- standard rates and charges table. Except as provided in this Exhibit 6, no termination fees of any kind, including but not limited to unrecovered costs or other transition fees shall be payable by the JBE upon or subsequent to the termination of this Agreement.
4. **Transition Personnel Requirements.** Contractor will make Contractor personnel available on a commercially reasonable basis to assist in the transition from the Licensed Software supported by Contractor’s Maintenance and Support Services, to the Substitute Product, supported by the JBE or the JBE’s designee.

END OF EXHIBIT

EXHIBIT 7 – Maintenance and Support Services

1. **Services.** Contractor will provide the maintenance and support services and service levels set forth in this Exhibit 7 for all Work provided under the Agreement, including all services, goods, Deliverables, and Licensed Software. The Maintenance and Support Services will commence on the Effective Date of this Agreement (or a Participating Addendum) and will continue until the Expiration Date of this Agreement (or a Participating Addendum).
2. **Definitions.**
 - A. “Level 1 Support” means qualifying and logging all Technical Support Incidents, answering technical inquiries via telephone support and email regarding the Work and performing limited diagnostic services.
 - B. “Level 2 Support” means, with the use of technical support specialists: (i) performing Defect isolation, Defect replication and interoperability testing; (ii) performing remote diagnostic services and on-site troubleshooting, if required; (iii) identifying the source of Defects; (iv) developing a reproducible test case for any Defect and documenting the details of such Defect for escalation to Level 3 Support; and (v) developing and implementing Workarounds where reasonably possible.
 - C. “Level 3 Support” means, with the use of backup engineering and technical support staff, isolating Defects and developing Defect corrections including, without limitation, Upgrades.
 - D. “Reporting Date” means the date that the JBE reports the Defect at issue.
 - E. “Resolution Period” means the period of time elapsed from Contractor’s receipt of a report of a Defect until the time such Defect is resolved and normal production functionality has been achieved, excluding any time of the JBE to perform acceptance testing on the applicable Defect correction.
 - F. “Severity Level” means the actual impact of a Defect on a user’s operational environment as further described in the table below.
 - G. “Standard M&S Hours” means 7am to 6 pm Pacific Time on all Business Days.
 - H. “Technical Support Incident” means a single, indivisible problem reported or technical inquiry made regarding the Deliverable, service, Licensed Software or any other part of the Work, including without limitation user questions or Defect reports. A Technical Support Incident is only closed when mutually agreed by the parties.
3. **Maintenance.** Contractor shall promptly provide the JBE with all maintenance, repairs and Upgrades, including without limitation: (i) all Upgrades generally made available by Contractor to its other customers; (ii) Upgrades as necessary so that the Work complies with the Specifications and applicable laws (including changes in applicable laws); (iii) Upgrades as necessary so that the Work operates under new versions or releases of the JBE’s operating system or database platform; and (iv) all on-site services necessary for installation of Upgrades. Without limiting any other obligation of Contractor under this Agreement, Contractor represents and warrants that it will maintain services, equipment, software or any other part of the Work so that they operate in accordance with their Specifications and Documentation. Without limiting any other obligation of Contractor under this Agreement, Contractor represents and warrants that it will maintain services, equipment, software or any other part of the Work so that they operate in accordance with their Specifications and Documentation.

4. Support.

- A. Response.** Without limiting Contractor’s obligations under Section 5(b) below, with respect to each Technical Support Incident not covered in the table below, Contractor shall respond to the JBE within two (2) hours after the JBE reports a Technical Support Incident (such hours all occurring during Standard M&S Hours) to Contractor or within the applicable Response Periods, whichever is shorter.
- B. Services and Monthly Support Case Report.** Contractor shall (i) provide the JBE with Level 1 Support, Level 2 Support and Level 3 Support, and (ii) deliver to the JBE Project Manager a monthly report summarizing Technical Support Incidents opened, continuing, or closed during the preceding calendar month. Without limiting the foregoing, Contractor shall respond to and resolve all Defects in accordance with the Severity Levels determined by the JBE for each Defect and the table set forth below.

Severity Level	Description	Resolution Hours	Response Period	Resolution Period
Severity Level 1	A Severity Level 1 Defect exists if: (i) a critical component of a service, Deliverable, Licensed Software or other item of Work has stopped, or is so severely impacted that the Work or component cannot reasonably continue to operate, or the JBE or user is prevented from performing a task critical to the normal operation of the Judicial Branch Entities, and there is no Workaround available for the foregoing; or (ii) data is corrupted, or data integrity issues related to security or confidentiality leads to noncompliance with legal requirements or regulations.	24 hours per day, 7 days per week	30 minutes	2 hours
Severity Level 2	A Severity Level 2 Defect exists if: (i) a critical component of a service, Deliverable, Licensed Software, or other item of Work is unavailable or will not work but a Workaround is available; or (ii) a noncritical component of a service, Deliverable, Licensed Software or other item of Work is unavailable or will not work and there is no Workaround.	Standard M&S Hours	30 minutes	One Business Day
Severity Level 3	A Severity Level 3 Defect exists if: the noncritical component result is not as expected but a Workaround for the item of Work is available and there is no significant impact to the end user.	Standard M&S Hours	2 hours	120 hours
Severity Level 4	All Defects other than Severity Level 1 Defects, Severity Level 2 Defects and Severity Level 3 Defects (e.g., minor or cosmetic Defects). Workarounds are available.	Standard M&S Hours	2 hours	30 days

END OF EXHIBIT

EXHIBIT 8 – Pricing and Payment Provisions

1. General.

- 1.1** In consideration of and subject to the satisfactory performance and delivery by Contractor of the Work, Contractor shall invoice the JBE and the JBE shall compensate Contractor the fees set forth in this Exhibit 8. Except as expressly set forth in this Exhibit 8: (i) such fees and the amounts specified in this Exhibit shall be the total and complete compensation to be paid to Contractor for its performance under this Agreement; and (ii) all expenses relating to the Work are included in such fees and shall not be reimbursed by the JBE. Contractor shall bear, and the JBE shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature that Contractor incurs.
- 1.2** The maximum amount payable to Contractor under this Agreement will not exceed the Contract Amount. The Contract Amount may be changed only by Amendment to this Agreement.
- 1.3** Notwithstanding any provision in this Agreement to the contrary, payments to Contractor are contingent upon the timely and satisfactory performance of Contractor’s obligations under this Agreement. Contractor shall immediately refund any payment made in error. The JBE shall have the right at any time to set off any amount owing from Contractor to the JBE against any amount payable by the JBE to Contractor under this Agreement.

2. Compensation for Goods. Contractor will invoice the following amounts for Goods that the JBE has accepted:

Description of Goods	Discount Offered	Pricing Type
[TBD]	[TBD]	[TBD]
[TBD]	[TBD]	[TBD]
All materials to be provided at DGS / GSA pricing or better.		

3. Compensation for Services.

3.1 Amount. Contractor will invoice the following amounts for Services or Deliverables that the JBE has accepted:

Description of Service	Price	Unit of Measure
Training	[TBD]	[TBD]
Repair & Maintenance work	[TBD]	[TBD]
Installation	[TBD]	[TBD]
System design/engineering	[TBD]	[TBD]
Project Management	[TBD]	[TBD]

- 3.2** During subsequent terms, if any, rates may be adjusted based on the California Bureau of Labor Statistics’ Consumer Price Index increase for the preceding twelve (12) months prior to the increase becoming effective.
- 3.3 Withholding.** When making a payment tied to the acceptance of Deliverables, the JBE shall have the right to withhold ten percent (10%) of each such payment until the JBE accepts the final Deliverable.
- 3.4 No Advance Payment.** The JBEs will not make any advance payments.

4. Expenses. Except as set forth in this section, no expenses relating to the Work shall be reimbursed by the JBEs.

4.1 Allowable Expenses. Contractor may submit for reimbursement, without mark-up, only the following categories of expense:

A. Travel-related expenses preauthorized and approved by the JBE

4.2 Limit on Travel Expenses. If travel expenses are allowed under Section 4.1 above: (i) all travel is subject to written preauthorization and approval by the JBE, and (ii) all travel expenses are limited to any maximum amounts set forth in the Judicial Council's Expense and Travel Reimbursement Guidelines, Exhibit 9.

4.3 Required Certification. Contractor must include with any request for reimbursement from the JBE a certification that Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Contractor incurs costs or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the JBE was sought for these costs, and Contractor will provide those records to the Attorney General upon request.

5. Invoicing and Payment

5.1 Invoicing. Contractor shall submit invoices to the JBE in arrears no more frequently than monthly. Contractor's invoices must include information and supporting documentation acceptable to the JBE. Contractor shall adhere to reasonable billing guidelines issued by the JBE from time to time.

5.2 Payment. The JBE will pay each correct, itemized invoice received from Contractor after acceptance of the applicable Goods, Services, or Deliverables, in accordance with the terms of this Agreement and the applicable Participating Addendum. Notwithstanding any provision to the contrary, payments to Contractor are contingent upon the timely and satisfactory performance of Contractor's obligations.

5.3 No Implied Acceptance. Payment does not imply acceptance of Contractor's invoice, Goods, Services, or Deliverables. Contractor shall immediately refund any payment made in error. The JBE shall have the right at any time to set off any amount owing from Contractor to the JBE against any amount payable by the JBE to Contractor under this Agreement.

6. Taxes. Unless otherwise required by law, the JBE is exempt from federal excise taxes and no payment will be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The JBE shall only pay for any state or local sales, service, use, or similar taxes imposed on the Services rendered or equipment, parts or software supplied to the JBE pursuant to this Agreement.

7. Liquidated Damages to JBE for Failure to Meet Maintenance and Support Services Requirements. The parties agree that Contractor's failure to meet the Maintenance and Support requirements under this Agreement will cause the JBE to incur substantial economic and reputational harm.

In such cases, the losses and amounts may be impossible to compute and ascertain with certainty. Therefore, liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in addition to other available remedies, the Contractor agrees that liquidated damages may be assessed and recovered by the JBE against Contractor for such failure(s) and without the JBE being required to present any evidence of the amount or character of actual damages sustained by reason thereof.

Contractor shall be liable to the JBE for payment of liquidated damages in the amounts set forth in this Agreement. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor shall pay them to JBE without limiting the JBE's other contractual rights and remedies provided in this Agreement.

In the event Contractor fails to meet the Maintenance and Support requirements of this Agreement, Contractor shall pay to the JBE the amounts set forth in Exhibit 7 (Maintenance and Support Services).

END OF EXHIBIT

EXHIBIT 9 – Judicial Council’s Expense and Travel Reimbursement Guidelines

1. Contractor Travel and Living Expenses. At the JBE’s sole discretion, and only if expressly specified by the JBE and so agreed to by Contractor prior to performance of the Work, the JBE shall reimburse Contractor for actual and reasonable transportation, meals, and lodging expenses actually incurred by Contractor’s and its Subcontractors’ employees when actually incurred in the course of their performance of the Work, but subject to the following:

1.1 If transportation is authorized, the JBE will reimburse Contractor only at the actual cost incurred for tickets for air, rail, bus, rental car, or other forms of public transportation. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler’s itinerary may be submitted in lieu of a receipt.

- A. All air transportation is limited to coach fares and must be booked a minimum of fourteen (14) Business Days prior to travel, unless the Project Manager agrees in writing to a shorter period.
- B. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of \$3.50 or more.
- C. If private vehicle ground transportation expense is authorized, the JBE will reimburse Contractor at the then published Federal mileage cents per mile, pursuant to <https://www.irs.gov/tax-professionals/standard-mileage-rates>.

1.2 If overnight lodging is authorized, the JBE will reimburse Contractor only at the actual cost incurred, up to the maximum daily amounts listed below. Receipts are required and each day of lodging claimed must be listed separately.

- A. In-State - The JBE will reimburse Contractor only for hotel room rental at the actual cost, but not to exceed:
 - (1) \$250.00/day in San Francisco County, plus occupancy tax and/or energy surcharge;
 - (2) \$125.00/day in Monterrey and San Diego Counties, plus occupancy tax and/or energy surcharge;
 - (3) \$120.00/day in Los Angeles, Orange, and Ventura Counties, plus occupancy tax and/or energy surcharge;
 - (4) \$140.00/day in Alameda, San Mateo, and Santa Clara Counties, plus tax and energy surcharge; or
 - (5) \$110.00/day in all other California counties, plus tax and energy surcharge.
- B. Out-of-State – The JBE will reimburse Contractor only for hotel room rental at the actual cost, plus occupancy tax and/or energy surcharge;
- C. Meals and Incidentals – The JBE will reimburse Contractor only for the actual cost for continuous travel of more than 24 hours, but not to exceed the following maximum amounts per person per day:
 - (1) Breakfast up to \$8.00/day;
 - (2) Lunch up to \$12.00/day;
 - (3) Dinner up to \$20.00/day;
 - (4) Incidentals up to \$6.00/day.

For continuous travel of less than 24 hours, actual expenses up to the above limits are reimbursable as follows:

- (1) Travel begins one hour before normal work hours – Breakfast may be claimed.
- (2) Travel ends one hour after normal work hours – Dinner may be claimed.
- (3) Lunch may not be claimed on trips of less than 24 hours.
- (4) Incidentals may not be claimed on trips of less than 24 hours.

- B. Reimbursement for Travel and Living Expenses is subject to the provisions of and must be charged in accordance with the JBE's Guidelines for Travel and Living Expenses.
 - C. The JBE is not obligated to pay for, and Contractor shall not invoice for any hours of non-production Work expended by the Contractor or its Subcontractors' employees that are spent traveling to or from the location where the Service(s) are performed.
 - D. Travel and Living Expenses shall be billed to the JBE at Contractor's actual cost, including any discounts or rebates accorded to Contractor or its Subcontractors, and are not subject to any markup, fee, or other charge.
 - E. Notwithstanding the preceding, Contractor shall be required to ensure its workers are paid, and JBE shall reimburse Contractor to the extent applicable for, all travel and/or subsistence payments pursuant to Labor Code sections 1773.1 and 1773.9 or as otherwise required by the Prevailing Wage laws.
2. **Other Business Expenses.** At the JBE's sole discretion, and only if expressly specified by the JBE and so agreed to by Contractor prior to performance of the Work, the JBE shall reimburse Contractor for other business expenses actually incurred by Contractor's and its Subcontractors' employees when actually incurred in the course of their performance of the Work. Receipts or documentation are required for all other business expenses, regardless of the amount claimed.

END OF EXHIBIT

EXHIBIT 10 - Participating Addendum

- (1) This Participating Addendum is made and entered into as of **[month/day/year]** (“Participating Addendum Effective Date”) by and between the **[full name of the JBE]** (“JBE”) and **[name of Contractor]** (“Contractor”) pursuant to the Master Agreement #**[Master Agreement # - see cover page]** (“Master Agreement”) dated **[Effective Date of the Master Agreement]** between the Judicial Council (“Establishing JBE”) and Contractor. Unless otherwise specifically defined in this Participating Addendum, each capitalized term used in this Participating Addendum shall have the meaning set forth in the Master Agreement.
- (2) This Participating Addendum constitutes and shall be construed as a separate, independent contract between Contractor and the JBE, subject to the following: (i) this Participating Addendum shall be governed by the Master Agreement, and the terms in the Master Agreement are hereby incorporated into this Participating Addendum; (ii) the Participating Addendum (including any Scope of Work, or purchase order or service work order document pursuant to the Participating Addendum) may not alter or conflict with the terms of the Master Agreement, or exceed the scope of the Work provided for in the Master Agreement; and (iii) the term of the Participating Addendum may not extend beyond the Expiration Date of the Master Agreement. The Participating Addendum and the Master Agreement shall take precedence over any terms and conditions included on Contractor’s invoice or similar document.
- (3) Under this Participating Addendum, the JBE may at its option place orders for Work using a purchase order or service work order document, subject to the following: such purchase order or service work order document is subject to and governed by the terms of the Master Agreement and the Participating Addendum, and any term in the purchase order or service work order document that conflicts with or alters any term of the Master Agreement (or the Participating Addendum) or exceeds the scope of the Work provided for in this Agreement, will not be deemed part of the contract between Contractor and JBE. Subject to the foregoing, this Participating Addendum shall be deemed to include such purchase order or service work order documents.
- (4) The JBE is solely responsible for the acceptance of and payment for the Work under this Participating Addendum. The JBE shall be solely responsible for its obligations and any breach of its obligations. Any breach of obligations by the JBE shall not be deemed a breach by the Establishing JBE or any other Participating Entity. The Establishing JBE shall have no liability or responsibility of any type related to: (i) the JBE’s use of or procurement through the Master Agreement (including this Participating Addendum), or (ii) the JBE’s business relationship with Contractor. The Establishing JBE makes no guarantees, representations, or warranties to any Participating Entity.
- (5) Pricing for the Work shall be in accordance with the prices set forth in the Master Agreement.
- (6) The term of this Participating Addendum shall be from the Effective Date until: **[month/day/year]**. **[May not exceed the term of the Master Agreement]**.
- (7) The JBE hereby orders, and Contractor hereby agrees to provide, the Work set forth in the attached Scope of Work.

[Instructions to the JBE establishing the Master Agreement: add provisions as appropriate, and in accordance with the terms of the Master Agreement. For example:

- **Options for ordering, including description of the Goods, Services and/or Deliverables.**
- **Options for: service levels, quantity, model #s, delivery dates, pricing, etc.**



(8) Any notices must be sent to the following address and recipient:

If to Contractor:	If to the JBE:
<u>[name, title, address]</u>	<u>[name, title, address]</u>
<u>With a copy to:</u>	<u>With a copy to:</u>

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

(9) This Participating Addendum and the incorporated documents and provisions (including the terms of the Master Agreement) constitute the entire agreement between the parties and supersede any and all prior understandings and agreements, oral or written, relating to the subject matter of this Participating Addendum.

IN WITNESS WHEREOF, JBE and Contractor have caused this Participating Addendum to be executed on the Participating Addendum Effective Date.

JBE'S SIGNATURE	CONTRACTOR'S SIGNATURE
[@JBE]	[@Contractor name]
BY <i>(Authorized Signature)</i> 	BY <i>(Authorized Signature)</i> 
PRINTED NAME AND TITLE OF PERSON SIGNING [@Name and title]	PRINTED NAME AND TITLE OF PERSON SIGNING [@Name and title]
DATE EXECUTED [@Date]	DATE EXECUTED [@Date]
ADDRESS [@Address]	ADDRESS [@Address]

END OF EXHIBIT

**EXHIBIT 11 - UNRUH Civil Rights Act and
California Fair Employment and Housing Act Certification**

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

CERTIFICATIONS:

1. Contractor is in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);
2. Contractor is in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of the Title 2 of the Government Code);
3. Contractor does not have any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, that is used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code); **and**
4. Any policy adopted by a person or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

The certifications made in this document are made under penalty of perjury under the laws of the State of California. I, the official named below, certify that I am duly authorized to legally bind the Contractor to the certifications made in this document. The certifications made in this document shall be deemed to be made for, and apply to, the Agreement and each Participating Addendum of \$100,000 or more.

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

END OF EXHIBIT

EXHIBIT 12 – LABOR COMPLIANCE REQUIREMENTS

1. Labor Code Provisions

1.1. Prevailing Wage:

- 1.1.1. To the extent applicable, the Contractor and all Subcontractors under the Contractor shall pay all workers on Work performed pursuant to this Agreement not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed, pursuant to sections 1770 et seq. of the California Labor Code. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Agreement, as determined by Director of the State of California Department of Industrial Relations, are on file at the Court's principal office. Prevailing wage rates are also available from the Court or on the internet at (<http://www.dir.ca.gov>).
- 1.1.2. Contractor shall ensure that Contractor and all of Contractor's Subcontractors execute the Prevailing Wage and Related Labor Requirements Certification attached to the Agreement and incorporated herein.
- 1.1.3. The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall post job site notices, as prescribed by regulation. Contractor shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempted by the Labor Commissioner for the Project.

1.2. Registration:

- 1.2.1. Contractor shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its certified payroll records (“**CPR(s)**”) to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations (“**DIR**”). Labor Code section 1771.1(a) states the following:

“A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.”

1.2.2. Contractor shall, and shall ensure that all “subcontractors” (as defined by Labor Code section 1722.1), comply with Labor Code section 1725.5, including without limitation the registration requirements with the Department of Industrial Relations that are set forth in Labor Code section 1725.5. Contractor represents to the Court that all “subcontractors” (as defined by Labor Code section 1722.1) are registered pursuant to Labor Code section 1725.5. Contractor shall not permit any Subcontractor to perform Work on the Project, without first verifying the Subcontractor is properly registered with the DIR as required by law, and providing this information in writing to the Court. Contractor acknowledges that, for purposes of Labor Code section 1725.5, this Work is public work to which Labor Code section 1771 applies.

1.3. Hours of Work:

1.3.1. Notwithstanding the timing and duration of the Work under the Agreement which is subject to court activities and other coordination required for occupied facilities, as provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code, eight (8) hours of labor shall constitute a legal day’s work. The time of service of any worker employed at any time by Contractor or by any Subcontractor on any subcontract under this Agreement upon the Work or upon any part of the Work contemplated by this Agreement shall be limited and restricted by Contractor to eight (8) hours per day, and forty (40) hours during any one week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, Work performed by employees of Contractor in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

1.3.2. Contractor shall keep and shall cause each Subcontractor to keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by Contractor in connection with the Work or any part of the Work contemplated by this Agreement. The record shall be kept open at all reasonable hours to the inspection of Judicial Council and to the Division of Labor Standards Enforcement of the DIR.

1.3.3. Pursuant to Labor Code section 1813, Contractor shall as a penalty to the Court forfeit the statutory amount (believed by the Court to be currently twenty five dollars (\$25)) for each worker employed in the execution of this Agreement by Contractor or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code.

1.3.4. Any Work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to the Court.

- 1.3.5. Project Work will typically take place in an occupied court facility; therefore, work hours may be restricted depending upon the Project. The individual Service Work Order will include any restrictions on hours of work. If the Service Work Order does not include a restriction on hours of work, then the work must take place during business hours.

1.4. Payroll Records:

- 1.4.1. In addition to submitting CPR(s) to the Labor Commissioner of California pursuant to Labor Code section 1771.4 or any other applicable law, if requested by the Court, Contractor shall provide to the Court and shall cause each Subcontractor performing any portion of the Work to provide the Court CPR(s), showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor and/or each Subcontractor in connection with the Work.
- 1.4.2. All CPRs shall be available for inspection at all reasonable hours at the principal office of Contractor on the following basis:
 - 1.4.2.1. A certified copy of an employee's CPR shall be made available for inspection or furnished to the employee or his/her authorized representative on request.
 - 1.4.2.2. CPRs shall be made available for inspection or furnished upon request to a representative of the Court, Division of Labor Standards Enforcement, Division of Apprenticeship Standards, and/or the Department of Industrial Relations.
 - 1.4.2.3. CPRs shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the Court, Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested CPRs have not been provided pursuant to the provisions herein, the requesting party shall, prior to being provided the records reimburse the costs of preparation by Contractor, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of Contractor.

1.4.3. The form of certification for the CPRs shall be as follows:

*I, _____ (Name-Print), the undersigned, am the
_____ (Position in business) with the authority
to act for and on behalf of _____ (Name of business and/or
Contractor), certify under penalty of perjury that the records or copies thereof
submitted and consisting of _____ (Description, number of
pages) are the originals or true, full, and correct copies of the originals which
depict the payroll record(s) of actual disbursements by way of cash, check, or
whatever form to the individual or individual named, and (b) we have complied
with the requirements of sections 1771, 1811, and 1815 of the Labor Code for
any work performed by our employees on the Project.*

*Date: _____ Signature: _____
(Section 16401 of Title 8 of the California Code of Regulations)*

1.4.4. Each Contractor shall file a certified copy of the CPRs with the entity that requested the records within ten (10) days after receipt of a written request.

1.4.5. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the Court, Division of Apprenticeship Standards, or Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Contractor awarded Agreement or performing Agreement shall not be marked or obliterated.

1.4.6. Contractor shall inform the Court of the location of the records enumerated hereunder, including the street address, city, and county, and shall, within five (5) Business Days, provide a notice of change of location and address.

1.4.7. In the event of noncompliance with the requirements of this section, Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Contractor must comply with this section. Should noncompliance still be evident after the ten (10) day period, Contractor shall, as a penalty to the Court, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of Division of Apprenticeship Standards or Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

1.4.8. It shall be the responsibility of Contractor to ensure compliance with the provisions of Labor Code section 1776.

1.5. Apprentices:

1.5.1. Contractor acknowledges and agrees that, if this Agreement involves a dollar amount greater than or a number of working days greater than that specified in Labor Code section 1777.5, then this Agreement is governed by the provisions

of Labor Code Section 1777.5. It shall be the responsibility of Contractor to ensure compliance with this Article and with Labor Code section 1777.5 for all apprenticeship occupations.

- 1.5.2. Apprentices of any crafts or trades may be employed and, when required by Labor Code section 1777.5, shall be employed provided they are properly registered in full compliance with the provisions of the Labor Code.
- 1.5.3. Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he/she is employed, and shall be employed only at the work of the craft or trade to which she/he is registered.
- 1.5.4. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards and written apprentice agreements under chapter 4 (commencing at section 3070), division 3, of the Labor Code, are eligible to be employed. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he/she is training.
- 1.5.5. Pursuant to Labor Code section 1777.5, if that section applies to this Agreement as indicated above, Contractor and any Subcontractors employing workers in any apprenticeable craft or trade in performing any Work under this Agreement shall apply to the applicable joint apprenticeship committee for a certificate approving the Contractor or Subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the Work.
- 1.5.6. Pursuant to Labor Code section 1777.5, if that section applies to this Agreement as indicated above, Contractor and any Subcontractor may be required to make contributions to the apprenticeship program.
- 1.5.7. If Contractor or Subcontractor willfully fails to comply with Labor Code section 1777.5, then, upon a determination of noncompliance by the Administrator of Apprenticeship, it shall:
 - 1.5.7.1. Be denied the right to bid or propose on any subsequent project for one (1) year from the date of such determination; and
 - 1.5.7.2. Forfeit as a penalty to the Court the full amount as stated in Labor Code section 1777.7. Interpretation and enforcement of these provisions shall be in accordance with the rules and procedures of the California Apprenticeship Council and under the authority of the Chief of the Division of Apprenticeship Standards.
- 1.5.8. Contractor and all Subcontractors shall comply with Labor Code section 1777.6, which section forbids certain discriminatory practices in the employment of apprentices.

- 1.5.9. Contractor shall become fully acquainted with the law regarding apprentices prior to commencement of the Work. Special attention is directed to sections 1777.5, 1777.6, and 1777.7 of the Labor Code, and title 8, California Code of Regulations, section 200 et seq. Questions may be directed to the State Division of Apprenticeship Standards, 455 Golden Gate Avenue, San Francisco, California 94102.
- 1.5.10 Contractor shall ensure compliance with all certification requirements for all workers on the Project including, without limitation, the requirements for electrician certification in Labor Code sections 108 et seq.

END OF EXHIBIT

APPENDIX A

**JUDICIAL COUNCIL
SERVICE WORK ORDER AUTHORIZATION PROCESS
(for Judicial Council Utilization Only)**

**INVOICING
AND
PAYMENT PROVISIONS**

This Appendix A is intended for utilization by the Judicial Council only for authorization and spending of funds. This process is not required by, nor does it modify, any Participating Entity's Participating Addendum or ordering process.

- 1. Definitions.** Terms defined in the Contract Documents shall apply to this Agreement and to all authorized Judicial Council Service Work Orders ("SWO"). Term(s) defined in an authorized Service Work Order shall apply only to that particular Service Work Order.
 - 1.1. "Business Day" means days of the week excluding Saturday and Sunday, and State holidays.
 - 1.2. "Expenses" means any costs actually incurred or expected to be incurred by Contractor or Contractor's Sub-Contractors for travel and living, reimbursable items, or hour(s) of employee travel, when and as allowed under the provisions of this Agreement.
 - 1.3. "Fixed Price" means the set price to be charged for a Service.
 - 1.4. "Hourly Rate(s)" means the applicable rate(s) per hour identified in and designated by Exhibit 8 of the Master Agreement.
 - 1.5. "Lump Sum Based Service(s)" mean pre-described Service(s) that is/are priced at a Lump Sum. The Service(s) must fall into a category listed in Exhibit 8 and shall be approved by the Judicial Council's Project Manager for the SWO to be authorized.
 - 1.6. "Prevailing Wage" means the prevailing wage for applicable craft and classification of a worker as determined by the California Department of Industrial Relations pursuant to Labor Code section 1770 and 1773. This amount includes the basic hourly rate for a worker along with any applicable "employer payments" including (i) health and welfare, (ii) pension, (iii) vacation/holiday, (iv) training, and (v) other payments. If applicable, this amount will include overtime and recognized holidays. Prevailing Wage as used herein does not include any costs associated with travel and/or subsistence payments pursuant to Labor Code sections 1773.1 and 1773.9, as such costs are governed by this Appendix A, Section 6 ("Travel and Living Expenses Guidelines"). Notwithstanding anything in this Agreement to the contrary, the Contractor shall be required to ensure its workers are paid all travel and/or subsistence payments as required under Labor Code sections 1773.1 and 1773.9 to the extent applicable.
 - 1.7. "Pricing Methodology" means a methodology that will be utilized by Contractor to provide pricing for Service Work Orders. There are two (2) types of Pricing Methodologies that may be used for Service Work Orders: Lump Sum Based and Time and Materials Based.
 - 1.8. "Priority 1" is defined in Appendix A, Section 3.4.
 - 1.9. "Priority 2" is defined in Appendix A, Section 3.4.
 - 1.10. "Project" refers to the totality of Work encompassed or contemplated under an individual authorized Service Work Order.
 - 1.11. "Reimbursable Expense" means expense(s) incurred or to be incurred by Contractor and/or its Sub-Contractor(s) for Reimbursable Item(s).

- 1.12. “Reimbursable Item(s)” or “Reimbursable(s)” means tangible item(s) utilized by Contractor or Sub-Contractors’ employees in the performance of Service(s) or otherwise purchased for the Judicial Council’s use. The cost of any permits obtained by Contractor shall be considered Reimbursable Items.
- 1.13. “Schedule of Values” or “SOV” means a table of information jointly developed and approved by Contractor and the Judicial Council in an authorized Service Work Order establishing when certain payments of defined amounts for that Service Work Order are to be made.
- 1.14. “Section” means a particular part of the text of this Agreement, as described in the Agreement.
- 1.15. “Service(s)” means and includes Contractor and its Sub-Contractors’ action(s) that are performed or contemplated in authorized Service Work Orders. Such Services may be unplanned or planned in advance and scheduled during business hours. Such Services may be reimbursed at a Fixed Price or an Hourly Rate.
- 1.16. “Service Work Order” or “SWO” refers to a unique entry within Judicial Council’s CAFM system. Issuance of a SWO constitutes Work Authorization. The Contractor must respond to the Judicial Council’s Project Manager via email to “accept” the SWO issued prior to beginning Work. The Judicial Council’s Project Manager will then login to Judicial Council’s CAFM system and “accept” the SWO on behalf of the Contractor. The SWO references and incorporates other documents such as the Services Request Form and Service Work Order Proposal Form as well as the Contract Documents.
- 1.17. “Service Work Order Proposal” means a written document, substantially in the format of Attachment 2 hereto, that Contractor submits to the Judicial Council in response to a Services Request Form in accordance with the provisions of the Service Work Order process detailed in Appendix A. The written document includes, but is not limited to, at least: (1) Contractor Proposal Form, (2) dates of performance, (3) a list of proposed Sub-Contractors, (4) payment schedule, (5) sketches, Drawings, and or layouts, and technical data or information.
- 1.18. “Service Work Order Sum” means the total or maximum price authorized for the services specified in the Service Work Order issued in accordance with the SWO process detailed in Appendix A.
- 1.19. “Services Request Form” refers to the form provided in this Agreement as Attachment 1. Once a SWO is issued, this form serves as a summary of Services to be provided by the Contractor in the Project.
- 1.20. “State” refers to the State of California.
- 1.21. “Travel and Living Expense(s)” means expense(s) for travel and living costs that are actually incurred or that are expected to be incurred by Contractor’s or its Sub-Contractor’s employees in the course of performing the Work specified in an authorized Service Work Order.
- 1.22. “Travel Time Cost(s)” means amounts to be paid for Contractor or Sub-Contractors hours of time travelling to and from a Project location or incurred for the purposes specified in Attachment 1.
- 1.23. “Work to be Performed” or “Contract Work” or “Scope of Work” refers to all “Work” as defined in the Master Agreement.
- 1.24. “Work Authorization” means permission to begin Work for a particular SWO.

2. Maximum Service Work Order Amount and Contract Amount

- 2.1. The maximum amount the Judicial Council shall be obligated to pay to Contractor under any individual Service Work Order authorized under this Agreement for performing all Work, as well as payment for all allowable Travel and Living Expense and/or any allowable Reimbursable Expenses incurred, shall not at any time exceed the Total Amount specified on the face of the most recently authorized Service Work Order applicable. No verbal agreements will be honored.
- 2.2. The maximum amount the Judicial Council shall be obligated to pay to Contractor under this Agreement (“Contract Amount”) shall not at any time exceed the total of all Total Amount(s) Encumbered to Date. The total amount that the Judicial Council may pay the Contractor under this Agreement shall not at any time exceed the total of the Service Work Order Sums of all Service Work Orders authorized for the performance through the current date.

3. Service Work Order Authorization

- 3.1. The Judicial Council will authorize the performance of Work and spending of Judicial Council funds under this Agreement only via Service Work Orders issued through the Judicial Council’s Computer Aided Facility Management (“CAFM”) system. Service Work Orders must be “accepted” by the Contractor within the CAFM system. This involves the Judicial Council’s Project Manager receiving the Contractor’s acceptance of the SWO via e-mail. Acceptance of a Service Work Order authorizes the commencement of Services or Work. A written document will be provided by the Judicial Council via CAFM software system that summarizes the Project details and references all other documents incorporated within the Project. CAFM or Computer Aided Facility Management – In the context of this Agreement and wherever used herein, the CAFM system is, and shall be construed to mean, the system currently used by the Judicial Council to issue Service Work Orders and track work progress, or any other such system subsequently implemented for those or similar purposes by the Judicial Council at the Judicial Council’s sole discretion.
- 3.2. Service Work Orders may only be authorized during the Initial Term of this Agreement or any Subsequent Terms. Service Work Orders must be authorized prior to the expiration date of this Agreement. The end date for Services authorized in a Service Work Order may exceed the expiration date of this Agreement; provided, however, that the terms and conditions of this Agreement shall remain in full force and effect with regard to any outstanding Service Work Order(s) after the expiration of this Agreement until the Work of said Service Work Order(s) is complete.
- 3.3. Service Work Orders may only be authorized for the specific Service Types and Services described in Attachments 1 and 2.
- 3.4. The Contractor will respond to two (2) types of events at locations throughout the state: unplanned/emergency events (Priority 1 (“P1”)) or planned/scheduled work events (Priority 2 (“P2”)). P1s can occur at any point in time, on a 24/7 basis.
- 3.5. Both P1 and P2 events will be requested, authorized, and paid through the Judicial Council Service Work Order process (see Appendix A, Section 4).
- 3.6. Both P1 and P2 activities will be subject to their respective Service Work Orders.

4. Service Work Order Process

- 4.1. For P1 events only, the Judicial Council and/or the Court(s) will create Service Work Orders for time and materials service calls in Judicial Council's CAFM system. P1 events will be compensated on a Time and Materials Basis not to exceed \$1,500.00 without prior Judicial Council authorization.
- 4.2. P1 activities will be requested and authorized as outlined in this Section 4.2:
 - 4.2.1. The Judicial Council Customer Service Center ("CSC") will request service call dispatches from the Contractor via email or other electronic system.
 - 4.2.2. The Contractor will send the dispatch request to the Judicial Council Facilities Emergency Planning and Security Coordination Unit ("EPSCU") via email requesting approval to respond to the dispatch request. The Judicial Council's Project Manager will reply via email to the Contractor with approval and authorization to proceed.
 - 4.2.3. The Contractor will reply to the Judicial Council's Project Manager's email accepting the Work. The Judicial Council Project Manager will create a Service Work Order in Judicial Council's CAFM system with a unique SWO number. The Judicial Council and/or the Court(s) Project Manager will upload electronic approvals to the SWO in Judicial Council's CAFM system and will change the SWO status to "IN WORK".
 - 4.2.4. The Contractor will provide an estimate of the Time and Materials required to perform the services by completing a detailed technician report of work performed and cost itemization. The detailed technician report of work will be submitted to the Judicial Council's Project Manager for approval prior to invoicing.
 - 4.2.5. The Judicial Council Project Manager will upload electronic estimates to the SWO in Judicial Council's CAFM system.
 - 4.2.6. Work will be subject to the specific authorization and funding under the Service Work Order for P1 activities.
- 4.3. For P2 events, services will be requested and authorized as further elucidated below.
- 4.4. The Judicial Council's Project Manager will provide Contractor with an unsigned Services Request Form (Attachment 1), describing the Work the Judicial Council wants performed. The Judicial Council's Project Manager will complete the Services Request Form and send to Contractor electronically. The Judicial Council's Project Manager will inform the Contractor of the appropriate Pricing Methodology to be used in the Service Work Order.
- 4.5. Pricing Methodologies. Two Pricing Methodologies are allowable under this Agreement. Pricing Methodology sets both the total amount of compensation that will be made under a Service Work Order, as well as terms and conditions that will apply to the Services to be provided. Only one type of Pricing Methodology may be used in any individual Service Work Order and that methodology will apply to all Services provided under that Service Work Order. If more than one methodology is necessary, the Services must be segregated into separate Service Work Orders.

4.5.1. Lump Sum Based Pricing

4.5.1.1. When a Service Work Order is authorized for performance on a lump sum basis (“Lump Sum Basis”), the prices for all expected Hourly and Fixed Price Services, the cost of any expected Travel and Living Expenses, and the cost of any expected Reimbursables will be added to calculate a lump sum price (“Lump Sum Price”) applicable to that Service Work Order. The applicable price(s) and costs and method to be used to calculate the Lump Sum Price are specified below.

4.5.1.2. Contractor will be compensated for Lump Sum Basis Service Work Orders according to deliverables or schedule of fixed milestone amounts with each milestone amount associated with the provision and acceptance of individual designated Deliverable(s) as agreed to between the Judicial Council’s Project Manager and Contractor’s Project Manager. The total of the price(s) for all Deliverables must be equal the Lump Sum Price applicable to the Service Work Order.

4.5.1.3. In Service Work Orders authorized on Lump Sum Basis, Contractor is responsible for the provision in full of all of the Services and Materials specified in the Service Work Order as well as bearing all costs and expenses for any Travel and Living Expenses, any Reimbursables expenses, and any other costs and expenses incurred to provide the Services and Materials, regardless of the amount of Contractor’s actual costs and expenses incurred. Contractor shall be compensated solely by payment of a Lump Sum Price.

4.5.2. Time and Materials Based Pricing

4.5.2.1. When performing Services on a time and materials basis (“Time and Materials Basis”), the prices will be subject to Judicial Council agreement on a Service Work Order-by-Service Work Order basis and shall only apply to the Service Work Order in which authorized. When a Service Work Order is authorized for performance on a Time and Materials Basis, the prices for all expected Hourly and Fixed Price Services, the cost of any expected allowable Travel and Living Expenses, and expected allowable Reimbursables will be added to calculate a time and materials price (“Time and Materials Price”) applicable to that Service Work Order. The applicable price(s) and costs and method to be used to calculate the Time and Materials Price are specified below. The Judicial Council may, in its discretion, include a not-to-exceed amount in any Service Work Order on a Time and Materials Basis and Contractor shall not exceed said not-to-exceed amount without prior authorization.

4.5.2.2. Contractor will be compensated for Time and Materials Basis Service Work Orders in the form of payments based upon: the hours of work actually expended in performing the Hourly Services; the price for any Fixed Price Service(s) actually performed; the actual cost for any allowable Travel and Living Expenses actually incurred (when incurred in accordance with, and in amounts not to exceed the maximum amounts specified as allowable in, the Judicial Council’s Travel and Living Expense Rules and Rates); and the actual cost of any allowable Reimbursables (in amounts at or below the Reimbursable(s) prices specified in the Service Work Order).

- 4.5.2.3. In Service Work Orders authorized on a Time and Materials Basis, Contractor is, subject to the limitation of the Time and Materials Price as further elucidated below, responsible for the provision of Services and Materials specified in a Service Work Order if authorized in accordance with the provisions of the Service Work Order, for paying for any Travel and Living Expenses and Reimbursable(s) necessary to provide those Services and Materials if authorized by the Judicial Council's Project Manager. Contractor shall be compensated solely in the form of payments for the Services, Materials, and allowable Travel and Living Expenses and Reimbursables which shall be made as specified above, however, Contractor shall not provide Services and/or Materials, incur allowable Travel and Living Expenses, or purchase allowable Reimbursable(s) past the point at which the total of such charges, if invoiced to the Judicial Council in accordance with this Agreement, would exceed the Time and Materials Price applicable to that Service Work Order.
- 4.6. Upon receipt, Contractor will, in coordination with the Judicial Council's Project Manager, edit the Services Request Form (Attachment 1) if necessary so that it appropriately describes, to the satisfaction of both parties, the various elements of the Work and Materials to be provided, and submit the revised version.
- 4.7. Contractor will fill out and submit electronically the Service Work Order Proposal, substantially in the format of the Contractor Proposal Form (Attachment 2), based upon the description of the Services requested by the Services Request Form, providing the following:
- 4.7.1. Service Work Order Subtotals and Service Work Order Grand Total: List the Service Types and the corresponding subtotals as applicable to the Project. If the Service is to be performed by a Sub-Contractor, include the name of the Sub-Contractor.
- 4.7.2. Schedule of Deliverables and Milestone Payments: After consultation with the Judicial Council's Project Manager, provide a list of designated Deliverable(s) and the amount to be paid upon acceptance of each such Deliverable that has been agreed to by both Parties. The Judicial Council does not pay for Services in advance and no milestone payment will be tied to initiation of the Work. The individual Milestone Payments to be used shall be proportioned to correspond to the portion of the Project Services necessary to provide the Deliverable. Invoicing and Payments may only be made according to this Schedule of Deliverables and Milestone Payments. Deliverables must be tangible.
- 4.7.3. Hourly Services: Provide the corresponding hourly rate (from Exhibit 8 of the Master Agreement), number of hours, and subtotal for the utilized job title. Note: Public Works registration requirements and prevailing wage rates will apply to the Contractor to the extent applicable.
- 4.7.4. Fixed Price Services: If Fixed Price Services are to be provided, describe the service, the category of service it falls into (consult Exhibit 8 of the Master Agreement for approved Service Types), the price, quantity, and subtotal. Fixed Price Services are approved on a Project by Project basis by the Judicial Council's Project Manager.

- 4.7.5. Travel and Living Expenses: If performance of a Service will necessitate the expenditure of allowable Travel and Living Expenses, describe the Travel and Living Expenses that are necessary to perform the Service. Provide the titles (and names if available) of individuals for whom the Travel and Living Expenses will be expended. Provide an explanation of the purpose for the expenditure(s) and the expected dates of the expenditure(s). All Travel and Living Expenditures must be costed out in accordance with the Judicial Council's Travel and Living Expense Rules and Guidelines, given in this Appendix A (except in those instances subject to and governed by the Prevailing Wage laws). Provide the information requested on the form, along with a subtotal for all Travel and Living Expenses. If no allowable Travel and/or Living Expenses are to be incurred, leave this section blank.
- 4.7.6. Reimbursable Items: If performance of a Service will necessitate Contractor's use of allowable Reimbursable Items, provide a listing of the Reimbursable Items necessary to perform the Service, along with quantities necessary, price, extended price, and a subtotal for all Reimbursable Items. If no allowable Reimbursable Items are to be purchased, leave this section blank. Reimbursable Items must be priced at Contractor's actual acquisition cost, net of any discounts or rebates allowed and are not subject to any markup, charge, add on, or pass through charge or fee of any type. Reimbursable Items are not services. The amounts listed here are allowances only and the individual Reimbursable Items to be invoiced may exceed the amounts listed in this section provided the total amount invoiced does not exceed the subtotal of all Reimbursable Items.
- 4.8. Upon completion of the above, Contractor's Project Manager shall submit Contractor's Service Work Order Proposal to the Judicial Council's Project Manager via e-mail in the form of a file in modifiable MS-Word processing format.
- 4.9. The Judicial Council's Project Manager shall review separately or with the Contractor and may request changes to the Proposal submitted, in which event Contractor shall modify and resubmit the Proposal, again in accordance with the provisions of this Appendix A.
- 4.10. Service Work Order Proposals so submitted are available for acceptance and may not expire or be revoked for a period of twenty (20) Business Days following the date submitted to the Judicial Council's Project Manager, or until the date scheduled for the start of the Work in the applicable Service Work Order passes, whichever event occurs sooner.
- 4.11. If the Judicial Council intends to accept Contractor's Service Work Order Proposal and proceed with the Project, the Judicial Council's Project Manager will create a Service Work Order in Judicial Council's CAFM system and populate the Contractor Proposal Form (Attachment 2) with a unique SWO number. The Services Request Form (Attachment 1) and accepted Contractor Proposal Form (Attachment 2) will be uploaded to CAFM.
- 4.12. The Judicial Council's Project Manager will then notify the Contractor of its Service Work Order Proposal acceptance. The Judicial Council shall provide, via e-mail, a Service Work Order consisting of a unique Service Work Order number, the accepted Service Request Form (Attachment 1) and Contractor Proposal Form (Attachment 2).

- 4.13. Contractor shall review all documents and, upon acceptance, respond to the Judicial Council's email accepting the work in the SWO. By responding and accepting, Contractor agrees to all the provisions of this Agreement and the corresponding SWO.
- 4.14. Upon notification of Service Work Order acceptance by the Contractor via e-mail, the Judicial Council's Project Manager shall direct the Contractor to begin Work in writing, in addition to a Purchase Order for the Services, in conjunction with Section 4.15 below. Within five (5) Business Days of the Judicial Council's direction to Contractor to begin Work on the SWO, Contractor shall submit to the Judicial Council Contractor's Project Schedule.
- 4.15. Following authorization of a Service Work Order, but before the initiation of Work on a Project, Judicial Council may furnish additional detailed written and/or graphic instructions to explain the Work more fully, and such instructions become a part of the requirements of the authorized Service Work Order applicable to a Project. Should such Additional Detailed Instructions, in the opinion of Contractor, constitute Work in excess of the requirements of the authorized Service Work Order, Contractor must submit written Notice of the same to the Judicial Council within seven (7) Days following receipt of such instructions, and in any event no later than prior to commencement of the Work of the Project. If in the Judicial Council's judgment, the Additional Detailed Instructions do in fact constitute Work in excess of the requirements of the authorized Service Work Order, the Judicial Council may, at Judicial Council's option, either close the authorized Service Work Order and create a new Service Work Order or issue a Supplementary Service Work Order to account for the excess Work.
- 4.16. If the Parties agree to cancel an already authorized Service Work Order, the existing SWO must be closed within Judicial Council's CAFM system and a new SWO process started.
- 4.17. Only the following Judicial Council's personnel are approved to authorize a SWO(s): Senior Manager for Facility Management; Regional Manager for Facilities Operations; Project Managers; Supervising Facilities Management Administrators; Facilities Management Administrators; Judicial Council Customer Service Center Personnel.
- 4.18. Judicial Council shall from time to time provide Contractor with the names and contact information of persons filling primary positions. This letter will be updated from time to time as personnel change and is effective upon receipt. These changes will not require that this Agreement be amended.
- 4.19. The Judicial Council reserves the right to modify the forms provided in Attachments 1 and 2, as it deems necessary or appropriate, in its sole discretion, and will notify Contractor of any modification to said form prior to implementing the modified form(s). Modified forms will be substantially similar to Attachments 1 and 2 in this Agreement.
- 4.20. There is no limit on the number of Service Work Orders the Judicial Council may request or authorize under this Agreement.
- 4.21. The Judicial Council does not guarantee that Contractor will receive any authorized Service Work Order(s) under this Agreement.

5. Invoicing Instructions

- 5.1. All invoices are to be provided to Judicial Council's Project Manager. All invoices must contain:
 - 5.1.1. The Agreement Title and Agreement Number from the Standard Agreement Coversheet to this Agreement;
 - 5.1.2. The Service Work Order Number provided on the Service Work Order;
 - 5.1.3. A unique invoice number;
 - 5.1.4. Contractor's name and address;
 - 5.1.5. Contractor's Taxpayer identification number (FEIN);
 - 5.1.6. The Pricing Methodology applicable to the Service Work Order (i.e. "Pricing Methodology – Lump Sum Price");
 - 5.1.7. Preferred remittance address if this address has changed at the time this Agreement was signed. In addition, Judicial Council must be notified of this change immediately. Changes to the remittance address made on an invoice without the Judicial Council being specifically notified will result in processing and payment delays;
 - 5.1.8. Date Range of Work performed; and
 - 5.1.9. Date of invoice.
- 5.2. In addition, Contractor shall provide invoices in formats that correspond to the Pricing Methodology specified in the authorized Service Work Order, as follows:
 - 5.2.1. Lump Sum Based Service Work Orders:

Contractor shall, upon receipt by the Judicial Council of a Deliverable associated with a Payment Milestone, submit an invoice for each SWO's Milestone Payment associated with any Deliverable(s) accepted by the Judicial Council. Deliverables shall not be invoiced in advance of receipt by the Judicial Council.

 - 5.2.1.1. Contractor's invoice for such Service Work Orders must specify the following:
 - 5.2.1.1.1. Name of the Deliverable, using the same words as specified in the Service Work Order description;
 - 5.2.1.1.2. Amount of the milestone payment designated for the accepted Deliverable, as specified in the Service Work Order;
 - 5.2.1.1.3. Lines specifying Non-Taxable Subtotal, Taxable Subtotal, Sales Tax Rate, and Tax Amount; and
 - 5.2.1.1.4. A line specifying the Service Work Order Grand Total (i.e. "Service Work Order Grand Total = \$") applicable to the Service Work Order.
 - 5.2.2. Time and Materials Based Service Work Orders:

Contractor shall, upon receipt by the Judicial Council of a Deliverable associated with time and materials Services, submit an invoice for each SWO associated with any Deliverable(s) accepted by the Judicial Council. Deliverables shall not be invoiced in advance of receipt by the Judicial Council and/or Court(s).

5.2.2.1. Contractor's invoice for such Service Work Orders must specify the following:

- 5.2.2.1.1. Schedule of Values (listing appropriate phases or milestones) and extended subtotals; OR
- 5.2.2.1.2. Hourly Rates: A section with the applicable job title, number of hours invoiced, applicable hourly rate as specified in Exhibit 8 of the Master Agreement, and subtotal;
- 5.2.2.1.3. Fixed Price Services (if applicable) with the description, price, quantity, and subtotal using the same language as provided in the Service Work Order;
- 5.2.2.1.4. Allowable Travel and Living Expenses (if applicable) actually incurred with the name and job title of the individual claiming expenses, date, purpose, and subtotal. Cost of travel or living expense must not exceed the allowance specified in the Judicial Council Travel and Living Expense Guideline;
- 5.2.2.1.5. Allowable Reimbursable Items (if applicable) with the description, actual cost incurred, quantity, and subtotal using the same language as provided in the Service Work Order. Receipts must be provided as backup documentation;
- 5.2.2.1.6. Lines specifying Non-Taxable Subtotal, Taxable Subtotal, Sales Tax Rate, and Tax Amount;
- 5.2.2.1.7. Amount of retention (not to exceed 10% of amount invoiced), if applicable;
- 5.2.2.1.8. Total invoice amount (minus retention, if applicable).

6. Taxes

The Judicial Council is exempt from federal excise taxes and no payment will be made for any taxes levied on Contractor's or any Sub-Contractors' employees' wages. The Judicial Council will pay for any applicable State of California or local sales or use taxes on any Materials provided or Services rendered pursuant to this Agreement.

7. Invoice Submission

7.1. Contractor shall submit one (1) original of invoices to the Judicial Council's Project Manager via email for processing.

8. Retention

8.1. The Judicial Council may withhold payment of an amount equal to ten percent (10%) from payments made for invoices submitted. Upon successful completion of all Work under an individual Service Work Order, Contractor shall separately invoice, for the amounts retained, if applicable.

9. Payment

9.1. The Judicial Council will endeavor to pay invoices within sixty (60) days after receipt of a correct, itemized invoice. In no event shall the Judicial Council be liable for interest or late charges for any late payments.

- 9.2. Payment shall be made by the Judicial Council to the Contractor at the address specified when this Agreement was signed. Changes to this address can be made by notifying the Judicial Council in writing of the new remittance address but should be done prior to invoice submission to avoid processing delays.
- 9.3. The Judicial Council may withhold full or partial payment to the Contractor in any instance in which the Contractor has failed or refused to satisfy any material obligation provided for under this Agreement or the Service Work Order.

10. Disallowance

If the Contractor claims or receives payment from the Judicial Council 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.

11. Payment Does Not Imply Acceptance of Work

The granting of any payment by the Judicial Council, or the receipt thereof by the Contractor, shall in no way lessen the liability of the Contractor to correct unsatisfactory work in connection with this Agreement.

12. Release of Claims

- 12.1. The acceptance by Contractor of its final payment due under an authorized Service Work Order shall be and shall operate as a release of the Judicial Council, the Court(s) and the State from all claims and all liability to the Contractor for everything done or furnished in connection with said Service Work Order, including every act and neglect of the Judicial Council and or the Court(s).
- 12.2. Contractor shall, on the face of Contractor's final invoice submitted for payment, expressly identify as outstanding any claim that it has. Contractor's failure to identify any such claims shall operate as a release of all claims.

END OF APPENDIX A



JUDICIAL COUNCIL
OF CALIFORNIA

ADMINISTRATIVE DIVISION
REAL ESTATE AND FACILITIES MANAGEMENT

Appendix A - Attachment 1
Services Request Form

Date: [Date]
From: [Project Manager Name] _____
[Address] _____
[Phone/Fax] _____
[Email] _____
Project: [Project Title] _____
FM/SWO: [FM / SWO Numbers] _____

The Judicial Council of California requests that you provide a Proposal Package for the above referenced project as per the services requested below.

The work was discussed on [Date] with the following individuals:

[List contact name, company, and email/phone number here]
[List contact name, company, and email/phone number here]
[List contact name, company, and email/phone number here]

Your proposal is due on or before: [Time and Date]

Proposed Work Schedule: [Start/End Dates]

Instructions: Services Requested should be detailed below in collaboration with Contractor(s). In your description, specify the location(s) at which the Services will be provided and what documents (i.e. drawings, spec sheets, photos, etc.), if any, are being provided by the Judicial Council. Include all applicable phasing and schedule constraints. If detailed schedules and/or progress reports are required, include frequency, type(s) of information needed and, if applicable, any particular format to be used. Attach additional pages as needed.

Services Requested:

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JUDICIAL COUNCIL
OF CALIFORNIA
ADMINISTRATIVE DIVISION
REAL ESTATE AND FACILITIES MANAGEMENT

**Appendix A - Attachment 2
Contractor Proposal Form**

Date: [Date]

Judicial Council PM: [Project Manager Name]	Contractor PM: [Project Manager Name]
[Address]	[Company]
[Address]	[Address]
[Phone/Fax]	[Phone/Fax]
[Email]	[Email]

Project: [Project Title]

FM/SWO: [FM / SWO Numbers] **SWO Start/End Dates:** [Start/End Dates]

Master Contract: [Master Agreement Number] **MA Expiration Date:** [MA# Expiration Date]

This Service Work Order will be priced according to the following Pricing Methodology (check ONE):

Lump Sum Basis Time and Materials Basis

Does the Contractor agree to provide services as detailed in Attachment 1, Services Request Form? Yes No

Service Work Order Subtotals and Service Work Order Grand Total:

Service Type <i>Consult Exhibit 8 of the Master Agreement to determine what Services are available under this Agreement.</i>	Subtotal (breakout below)
General Systems and Maintenance Services	\$
[Service Type and name of Sub-Contractor]	\$
[Travel and Living Expenditures – if applicable, allowable, and approved by Judicial Council PM]	\$
[Reimbursables – if applicable, allowable, and approved by Judicial Council PM]	\$
Non-Taxable Subtotal:	\$
Taxable Subtotal:	\$
Tax Amount (Sales Tax Rate _____ %):	\$
SERVICE WORK ORDER GRAND TOTAL:	\$

Schedule of Deliverables and Milestone Payments: (if applicable)

Description of Deliverable	Milestone Payment Amount
[Description]	\$
[Description]	\$
[Description]	\$
[Description]	\$
Service Work Order Grand Total	\$

ATTACHMENT 2 (continued)

Hourly Services	Job Title	Hourly Rate	# of Hours	Subtotal
General Systems and Maintenance Services	Training			
	Repair & Maintenance			
	Installation			
	System Design/Engineering			
	Project Management			
Fixed Price Services		Price	Quantity	Subtotal
[Description]				
[Description]				
Travel and Living Expenditures		Purpose		Subtotal
[Job Title]	[Name, if known]			
[Job Title]	[Name, if known]			
Reimbursable Items (estimated)		Price	Quantity	Subtotal
[Description]				
[Description]				
Non-Taxable Subtotal:				
Taxable Subtotal:				
Tax Amount (Sales Tax Rate _____%):				
SERVICE WORK ORDER GRAND TOTAL:				\$

END OF ATTACHMENT 2

ATTACHMENT 1 - Acceptance and Signoff Form

Project Information:

Court Name: _____

Site Address: _____

Brief Description of work performed: _____

Date of Sign Off: _____

System is operational and the Court/Court Control is satisfied with the functionality, camera views, (if applicable) and training.

Yes No. If no, please note reasons: _____

Work appears to be complete and the Contractor has left a clean work environment.

Yes No. If no, please explain: _____

The Contractor has provided clear and timely communication in the process of initiating and completing this project.

Yes No. If no, please explain: _____

Arrangements for disposal of existing equipment has been addressed or the equipment has been removed.

Yes No.

Please provide your level of satisfaction:

Poor Fair Good Very Good Excellent

Your comments would be appreciated, if any: _____

Acceptance status:

Unacceptable, as noted above.

Substantial Completion is granted; issues to be addressed in Punch List.

Acceptance is granted.

Name: _____

Title: _____ Date: _____

END OF ATTACHMENT

ATTACHMENT 2

**PREVAILING WAGE AND
RELATED LABOR REQUIREMENTS CERTIFICATION**

PROJECT/CONTRACT NO.: [PROJECT NUMBER] between Judicial Council of California (the “Judicial Council”) and _____ (the “Contractor”) (the “Contract” or the “Project”).

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours’ notice, payroll records, and apprentice and trainee employment requirements, for all Work on the Project including, without limitation, the requirement that it and all of its Subcontractors are registered pursuant to Labor Code section 1771, et seq.

Date: _____

Proper Name of Contractor: _____
/ Subcontractor

Signature: _____

Print Name: _____

Title: _____

**THIS FORM MUST BE COMPLETED BY THE CONTRACTOR AND ALL
SUBCONTRACTORS**

END OF ATTACHMENT

END OF AGREEMENT