|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| JUDICIAL COUNCIL OF CALIFORNIA  **STANDARD AGREEMENT** | | | | AGREEMENT NUMBER |
| **[@Agreement number]** |
| 1. | | In this agreement, the term “Contractor” refers to **[@Contractor name]**, and the term “Judicial Council” refers to the **Judicial Council of California**. | | |
| 2. | | This Agreement is effective as of **[@Date]** (“Effective Date”) and expires on **[@Date]** (“Expiration Date”).  This Agreement includes two (2) options of consecutive three-year periods (“Option Term(s)” or “Subsequent Term(s)”), which may be exercised and administered at the Judicial Council’s sole discretion and as indicated in Appendix C (General Terms and Conditions), which are attached hereto and incorporated herein. | | |
| 3. | | The maximum amount the Judicial Council may pay Contractor under this Agreement is $**[Dollar amount]** (the “Contract Amount”). | | |
| 4. | | The purpose or title of this Agreement is: **ENERGY MANAGEMENT INFORMATION SYSTEM AND UTILITY BILL POPULATION.**  *The purpose or title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.* | | |
| 5. | | The parties agree that this Agreement, made up of this coversheet and the 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.  Appendix A – Statement of Work  Appendix B – Pricing and Payment  Appendix C – General Terms and Conditions  Appendix D – Defined Terms  Appendix E – The Licensed Software  Appendix F – Maintenance and Support Services  Appendix G – Unruh Civil Rights Act and FEHA Certification  Appendix H – Performance Scoring Detailed Methodology  Appendix I – Verification and Dispute Resolution Procedures  Appendix J – Improvement Plan Template | | |
| **JUDICIAL COUNCIL’S SIGNATURE** | | **CONTRACTOR’S SIGNATURE** | | |
| **Judicial Council of California** | | CONTRACTOR’S NAME *(if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.).* | | |
| **[@Contractor name], a [State] [Corporation]** | | |
| BY *(Authorized Signature)* | | BY *(Authorized Signature)* | | |
|  | |  | | |
| PRINTED NAME AND TITLE OF PERSON SIGNING | | PRINTED NAME AND TITLE OF PERSON SIGNING | | |
|  | |  | | |
| DATE EXECUTED | | DATE EXECUTED | | |
|  | |  | | |
| ADDRESS | | ADDRESS | | |
| Branch Accounting and Procurement  455 Golden Gate Avenue, 6th Floor  San Francisco, CA 94102 | | [@Address] | | |

**APPENDIX A: Statement of Work**

This Statement of Work is subject to the Agreement between Contractor and the Judicial Council. By executing this Statement of Work, the Parties agree to be bound by the terms and conditions set out in the Agreement with respect to the Work to be provided under this Statement of Work.

**1.** **Term of this Statement of Work.** The term of this Statement of Work will commence on *[****INSERT DATE****]* (the “SOW Effective Date”) and will continue until *[****INSERT DATE****; ADD OPTIONS TO RENEW FOR ADDITIONAL TERMS, AS APPLICABLE]*  unless terminated earlier pursuant to the Agreement. ; The Council may, at its sole option, extend the Agreement beyond the Initial Term for three (2) additional consecutive three-year option terms to extend through June 30, 2036. All applicable terms and conditions of the Agreement will continue to apply to this Statement of Work until the expiration or termination of this Statement of Work.

**2. Judicial Council’s Requirements and Description of the Work.**

***[SECTION INSTRUCTIONS: This Section of the Statement of Work will reference or include the selected Contractor’s responses to the RFP Statement of Work document and the Business and Technical Requirements.***

***For Maintenance and Support Services, see Appendix F.***

**3. Schedule and Date(s) of Delivery.** Contractor must perform the Services and deliver the Deliverables according to the following timeline:

***[SECTION INSTRUCTIONS: insert chart with dates for completion of tasks relating to goods, services and delivery dates/milestones for Deliverables]***

**BY SIGNING BELOW**, the Parties agree to be bound by the terms of this Statement of Work as of the SOW Effective Date.

|  |  |  |  |
| --- | --- | --- | --- |
| **Judicial Council** | | **[@Contractor name]** | |
| Signature: |  | Signature: |  |
| Printed Name: |  | Printed Name: |  |
| Title: |  | Title: |  |

**APPENDIX B: Pricing and Payment**

1. **Fees**

In consideration of and subject to the satisfactory performance and delivery by Contractor of the Work, the Judicial Council shall pay to Contractor the fees as set forth in this Appendix B. Except as expressly set forth in this Appendix B: (i) such fees are the entire compensation for all Work under this Agreement; and (ii) all expenses relating to the Work are included in such fees and shall not be reimbursed by the Judicial Council. 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. 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 Judicial Council shall have the right at any time to set off any amount owing from Contractor to the Judicial Council against any amount payable by the Judicial Council to Contractor under this Agreement.

1. **Expenses**
   1. Allowable Expenses. Contractor may submit for reimbursement, without mark-up, only the following categories of expense: travel.
   2. Limitation on Travel Expenses. Travel expenses may be reimbursed if Contractor is required to travel to attend an in-person meeting(s) at a Judicial Council office. Any such expenses and reimbursements are subject to the **Judicial Council Travel Expense Policy**. All travel is subject to preauthorization and approval by the Judicial Council.
   3. Limitation on Expenses. Contractor shall not invoice the Judicial Council, and the Judicial Council shall not reimburse Contractor, for expenses of any type that exceed in the aggregate during the term of any Statement of Work the amount of $20,000.
   4. Required Certification. Contractor must include with any request for reimbursement from the Judicial Council a certification that the 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 Judicial Council was sought for these costs, and Contractor will provide those records to the Attorney General upon request.
2. **Invoicing and Payment**
   1. Invoicing. Contractor’s invoices must include information and supporting documentation acceptable to the Judicial Council, including a workload report, in the form the Judicial Council may specify from time to time. Contractor shall provide invoices with the level of detail reasonably requested by the Judicial Council and shall adhere to reasonable billing guidelines issued by the Judicial Council from time to time. Contractor shall invoice the Judicial Council for the applicable fees upon Acceptance by the Judicial Council of each Deliverable or Service and in accordance with payment milestones and schedules under this Agreement. For all Work and Services other than Maintenance and Operational Support Services, Contractor shall submit invoices to the Judicial Council in arrears no more frequently than monthly. Contractor shall submit invoices for Maintenance and Operational Support Services annually following Contractor’s completion and Judicial Council’s acceptance of the Implementation Phase of the Work.
   2. Payment. The Judicial Council will not make any advance payment for the Work. The Judicial Council will pay each correct, itemized invoice received from Contractor after the Judicial Council’s Acceptance of the invoice and applicable Work, in accordance with the terms of this Agreement. 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.
   3. Payment Schedule. Following the Contractor’s completion of each Project Milestones and Judicial Council’s Acceptance of the associated invoice, and subject to the other terms of this Appendix B, Section 3 of this Agreement, the Judicial Council will pay Contractor a specific percentage of the total project payment, subject to the retentions in Appendix B and Appendix H, as specified in the table below.

| **Milestone** | **Description** | **Key Deliverables** | **Payment percentage** |
| --- | --- | --- | --- |
| 1 | Project Initiation & Planning | Approved Project Charter, Project Plan, Communication Plan | 10% |
| 2 | System Design Completion | System Design Documents, Requirements Traceability Matrix, Business Process Documents | 15% |
| 3 | Development/Configuration & Integration Design | Development Specifications, Data Migration Plan, Data Integration Strategy, IDMS Integration Plan | 15% |
| 4 | System Configuration & Technical Integration | Completed System Configuration, Implemented Data Interfaces, IDMS Integration | 20% |
| 5 | Testing Completion | Successful Functional Testing, Completed User Acceptance Testing, Security Testing Certification | 15% |
| 6 | Training & Deployment Preparation | Completed Training Sessions, Training Materials, Go-Live Plan, Release Readiness Certification | 10% |
| 7 | Data Migration & Go-Live | Successful Data Migration, System Deployment to Production, Initial Operational Capability | 10% |
| 8 | Post-Implementation & Final Acceptance | Completion of Post-Implementation Support, Resolution of P1/P2 Issues, System Final Acceptance | 5% |

Following the completion and acceptance of the Implementation Phase, payment for maintenance and operational support services will be issued within 60 calendar days of the Judicial Council’s acceptance of the associated invoice.

* 1. No Implied Acceptance. Payment does not imply acceptance of Contractor’s invoice or Work. Contractor shall immediately refund any payment made in error. The Judicial Council shall have the right at any time to set off any amount owing from Contractor to the Judicial Council against any amount payable by the Judicial Council to Contractor under this Agreement.
  2. Availability of Funds. The Judicial Council’s obligation to compensate Contractor is subject to the availability of funds. The Judicial Council shall notify Contractor if funds become unavailable or limited.

### Taxes

### Unless otherwise required by law, the Judicial Council 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 Judicial Council shall only pay for any state or local sales, service, use, or similar taxes imposed on the Work rendered or equipment, parts or software supplied to the Judicial Council pursuant to this Agreement.

### Retention Amount for Non-Maintenance & Operational Support Services

### Notwithstanding the terms of this Appendix B, and without limiting the rights of the Judicial Council under the Agreement, the Judicial Council shall have the right at the time of Acceptance, with respect to those Deliverables in each Statement of Work, on a Statement of Work-by-Statement of Work basis, to withhold fifteen percent (15%) from the amounts to be paid by the Judicial Council to Contractor therefor, until Acceptance of the final Deliverable and associated Invoice under such Statement of Work.

### Maintenance and Support Services Contractor Performance Retention Mechanism

This Section applies to Maintenance and Operational Support Services following the implementation and acceptance of the final Deliverable under the Non-Maintenance and Operational Support Services portion of the Statement of Work.

1. **Performance Retainer Structure**
   1. **Retainer Amount**

The Judicial Council shall withhold ten percent (10%) of the total contract value for each contract year as a Performance Retainer. This retainer serves as a performance incentive and shall be subject to release based on the Contractor's demonstrated performance.

* 1. **Contract Value Determination**

The "contract value" for each contract year shall be as specified in the executed contract or subsequent amendments. The contract value for each year shall include all services, deliverables, and support to be provided during that specific contract year.

* 1. **Timing of Payments**
     1. The Judicial Council shall pay ninety percent (90%) of the annual contract value to the Contractor according to the payment schedule defined in Section 5.
     2. The remaining ten percent (10%) shall be held as the Performance Retainer and shall be released within thirty (30) calendar days following the conclusion of each contract year, subject to the performance assessment provisions detailed herein.

1. **Performance Assessment and Retainer Release**
   1. **Assessment Methodology**

The Contractor's performance shall be assessed according to the Performance Assessment Framework defined in Section 8., with a comprehensive 100-point scoring system across five (5) performance dimensions. Primary performance data shall be self-reported by the Contractor as outlined in Section 12., subject to verification and validation by the Judicial Council.

* 1. **Retainer Release Calculation**

The Performance Retainer shall be released according to the following schedule:

* + 1. **Tier 1: Exceptional Performance (90-100 points)**
       1. Retention Release: 100% of withheld amount
       2. Additional Innovation Credit: 10% bonus on the retention amount
    2. **Tier 2: Meets Standards (75-89 points)**
       1. Retention Release: 75% of withheld amount
    3. **Tier 3: Needs Improvement (60-74 points)**
       1. Retention Release: 50% of withheld amount
       2. Requirement: Mandatory improvement plan as specified in Appendix C
    4. **Tier 4: Critical Performance (0-59 points)**
       1. Retention Release: 0% of withheld amount
       2. Requirement: Mandatory comprehensive improvement plan as specified in Appendix C
       3. Note: May trigger contract review or termination provisions
  1. **Assessment Frequency**
     1. Annual comprehensive assessment shall be conducted within thirty (30) days following the end of each contract year, based on the Contractor's annual self-assessment report submitted in accordance with Section 7.2.3, as verified by the Judicial Council.
     2. Quarterly preliminary assessments shall be conducted for monitoring purposes but shall not trigger retention release. These assessments shall primarily utilize the Contractor's quarterly performance reports as described in Section 14., subject to Judicial Council verification.

1. **Verification and Dispute Resolution**
   1. **Performance Verification**

All performance assessments, including the Contractor's self-reported performance data, shall be verified according to the procedures specified in Appendix I: Verification and Dispute Resolution Procedures. The Judicial Council reserves the right to adjust any self-reported performance scores based on verification findings in accordance with Appendix I and Section 7.5.

* 1. **Dispute Resolution**

Any disputes regarding performance assessment or retention release shall be addressed according to the dispute resolution process detailed in Appendix I.

* 1. **Retention During Contract Extensions**

If the Judicial Council exercises its option to extend the contract as specified in Section 3.2, the Performance Retention mechanism shall continue to apply during the extension periods under the same terms and conditions, unless otherwise specified in the extension agreement.

* 1. **Retention in Case of Early Termination**

In the event of early contract termination for any reason other than Contractor default, a pro-rated performance assessment shall be conducted for the partial year, and the applicable portion of the Performance Retainer shall be released according to the tier structure defined in Section 6.2.2.

1. **Documentation Requirements**
   1. **Assessment Documentation**

Following each annual assessment, the Judicial Council shall provide the Contractor with:

* + 1. Detailed performance score breakdown by dimension
    2. Supporting evidence and justification for scores
    3. Calculation of retention release amount
    4. Timeline for retention payment processing
    5. Improvement recommendations, if applicable
  1. **Retention Release Documentation**

Upon release of any portion of the Performance Retainer, the Judicial Council shall provide documentation that includes:

* + 1. Final performance tier determination
    2. Calculation of released amount
    3. Calculation of any withheld amount
    4. Date of expected payment

1. **Treatment of Retention Amounts**
   1. **Non-Interest Bearing**

The Performance Retainer shall not accrue interest while being held by the Judicial Council.

* 1. **Payment Method**

Retention release payments shall be made via the same payment method used for regular contract payments unless otherwise specified.

* 1. **Tax Treatment**

All released retention amounts shall be treated as taxable income to the Contractor in the year received, and appropriate tax documentation will be provided.

1. **Vendor Performance Self-Reporting Requirements**
   1. **Self-Reporting Obligation**
      1. **Mandatory Performance Reporting**

The Contractor shall be responsible for monitoring, measuring, and reporting its own performance against all dimensions outlined in this Agreement. This self-reporting is a contractual obligation and shall be conducted with the highest standards of accuracy, transparency, and integrity. Appendix H provides a detailed methodology for the scoring of performance.

* 1. **Reporting Infrastructure**

The Contractor shall establish and maintain appropriate systems, tools, and methodologies to collect, analyze, and report performance data for all specified dimensions and metrics at its own expense.

1. **Performance Reporting Requirements**
   1. **Monthly Performance Dashboard**

The Contractor shall provide a comprehensive monthly performance dashboard that:

* + 1. Displays real-time or near-real-time performance data for all metrics
    2. Includes trend analysis comparing current performance to historical data
    3. Highlights any metrics approaching or falling below minimum performance thresholds
    4. Is accessible to authorized Judicial Council personnel via secure web interface
    5. Enables data export in standard formats (CSV, Excel, PDF)

1. **Quarterly Performance Reports**

The Contractor shall submit formal quarterly performance reports that include:

* + 1. Detailed analysis of performance across all dimensions
    2. Self-assessment scores for each performance dimension
    3. Supporting evidence and documentation for all metrics
    4. Explanation of any performance variations or anomalies
    5. Improvement actions for any metrics not meeting targets
    6. Executive summary with key highlights and concerns

1. **Annual Comprehensive Assessment**

The Contractor shall prepare an annual comprehensive self-assessment that includes:

* + 1. Detailed evaluation against all performance criteria
    2. Proposed performance scores with supporting evidence
    3. Year-over-year performance comparison
    4. Value delivery assessment
    5. Strategic recommendations for performance enhancement
    6. Proposed improvement initiatives

1. **Evidence Requirements**
   1. **Mandatory Evidence Collection**

For each performance metric, the Contractor shall:

* + 1. Maintain comprehensive evidence supporting reported performance
    2. Collect data using approved measurement methodologies
    3. Document any calculation methods or algorithms used
    4. Preserve raw data for verification purposes
    5. Implement appropriate data quality controls

1. **Evidence Types**

Evidence must be objective and verifiable, including but not limited to:

* + 1. System-generated performance logs
    2. Transaction records with timestamps
    3. User feedback and survey results
    4. Incident and resolution documentation
    5. Testing results
    6. Third-party validation reports, where applicable

1. **Verification and Audit Rights**
   1. **Judicial Council Verification Rights**

While the Contractor bears primary responsibility for performance reporting, the Judicial Council retains the right to:

* + 1. Verify any reported performance metrics
    2. Conduct periodic audits of evidence and data
    3. Request additional evidence for any metric
    4. Challenge self-assessment scores with supporting rationale
  1. **Automated Verification Requirements**

The Contractor shall:

* + 1. Provide direct system access for automated metrics verification
    2. Implement API-based monitoring accessible to Judicial Council systems
    3. Allow read-only access to performance monitoring tools
    4. Enable automated data extraction for independent analysis
  1. **Independent Verification**

The Judicial Council may, at its discretion:

* + 1. Engage independent third-party verifiers
    2. Conduct user experience surveys
    3. Perform spot-checks of system performance
    4. Validate reported metrics using alternative measurement methods

1. **Discrepancy Resolution**
   1. **Performance Data Discrepancies**

If discrepancies are identified between self-reported performance and Judicial Council verification:

* + 1. The Contractor shall investigate and explain the discrepancy within five (5) business days
    2. The Joint Performance Review Committee shall review evidence from both parties
    3. In case of unresolved discrepancies, the verification procedures in Appendix I shall apply
  1. **Consistent Discrepancy Consequences**

Patterns of significant, unexplained discrepancies between self-reported and verified performance may:

* + 1. Result in additional verification requirements
    2. Affect performance scores in subsequent periods
    3. Trigger mandatory improvement planning
    4. Be considered in contract extension decisions

1. **Reporting Schedule and Submission Requirements**
   1. **Reporting Calendar**
      1. Monthly Dashboard Updates: Available by the 5th business day following month-end
      2. Quarterly Performance Reports: Due within 15 calendar days of quarter-end
      3. Annual Comprehensive Assessment: Due within 30 calendar days of contract year-end
   2. **Submission Process**
      1. All reports shall be submitted electronically via the designated contract management platform
      2. Supporting evidence shall be organized and indexed for efficient verification
      3. Executive presentation of quarterly and annual results shall be scheduled within 5 business days of submission
2. **Continuous Improvement of Reporting**
   1. **Reporting Enhancement**

The Contractor shall continuously improve its self-reporting methods by:

* + 1. Incorporating feedback from the Judicial Council
    2. Implementing enhanced data collection techniques
    3. Automating manual reporting processes
    4. Improving visualization and analytical capabilities
    5. Ensuring alignment with evolving performance requirements

### APPENDIX C: General Terms and Conditions

1. **Work.**
   1. Work. Contractor shall provide the Work described in this Agreement, including the Statement of Work and the Specifications. Except as set forth in the Statement of Work, Contractor is responsible for providing all facilities, materials and resources (including personnel, equipment and software) necessary and appropriate for delivery of the Work and to meet Contractor's obligations under this Agreement.
   2. Commencement of Performance. This Agreement is of no force and effect until signed by both parties and all Judicial Council-required approvals are secured. Any commencement of performance prior to Agreement approval shall be at Contractor's own risk.
   3. Stop Work Orders.
      1. Effect. The Judicial Council may, at any time, by written stop work order to Contractor, require Contractor to stop all, or any part, of the Work for a period of up to ninety (90) days after the stop work order is delivered to Contractor, and for any further period to which the Parties may agree. Upon receipt of a stop work order, Contractor shall promptly comply with the terms of the stop work order and take all reasonable steps to end the incurrence of any costs, expenses or liabilities allocable to the Work covered by the stop work order during the period of work stoppage. The Judicial Council 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 Judicial Council shall either: (i) cancel the stop work order; or (ii) terminate the Work covered by the stop work order.
      2. Expiration or Cancellation. If a stop work order is canceled by the Judicial Council 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 Judicial Council shall make an equitable adjustment in the delivery schedule, and the applicable Statement of Work shall be modified, in writing, accordingly, if: (i) the stop work order directly and proximately results in an increase in the time required for the performance of any part of the Statement of Work; and (ii) Contractor asserts its right to such equitable adjustment within thirty (30) days after the end of the period of work stoppage.
   4. Change Orders. From time to time during the term of this Agreement, the Parties may mutually agree on a change to the Work, which may require an extension or reduction in the schedule and/or an increase or decrease in the fees and expenses and/or the Work (each, a “Change”), including: (i) a change to the scope or functionality of the Deliverables; or (ii) a change to the scope of the Work. In the event the Parties agree on a Change, the Parties will seek to mutually agree on a change order identifying the impact and setting forth any applicable adjustments in the Statement of Work and/or payments to Contractor. An authorized representative of each Party shall promptly sign the mutually agreed upon change order to acknowledge the impact and to indicate that Party’s agreement to the adjustments.
   5. Third Party or Judicial Council Services. Notwithstanding anything in this Agreement to the contrary, the Judicial Council 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 Judicial Council Contractors. In the event the Judicial Council 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 Judicial Council. Such cooperation shall include, without limitation, providing such information as a person with reasonable commercial skills and expertise would find reasonably necessary for the Judicial Council or a Third Party to perform its services relating to the Work.
   6. Data and Security.
      1. 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 Judicial Council Work Location, Contractor shall comply with the safety and security policies and procedures in effect at such Judicial Council Work Location.
      2. Data Security.
         1. 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 Judicial Council Data, as well as privacy and data security requirements and standards set forth in the Judicial Council’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.
         2. Unauthorized access to or use or disclosure of Judicial Council 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 Judicial Council, use or access the Judicial Council Data for any purpose other than to provide the Work under this Agreement. In no event shall Contractor transfer the Judicial Council Data to third parties or provide third parties access to the Judicial Council Data, except as may be expressly authorized by Judicial Council. Contractor is responsible for the security and confidentiality of the Judicial Council Data. Judicial Council owns and retains all right and title to the Judicial Council Data, and has the exclusive right to control its use.
         3. No Work shall be provided from outside the continental United States. Remote access to Judicial Council Data from outside the continental United States is prohibited unless approved in writing in advance by the Judicial Council. The physical location of Contractor’s data center, systems, and equipment where the Judicial Council Data is stored shall be within the continental United States. Contractor shall ensure that access to the Judicial Council Data will be provided to the Judicial Council (and its authorized users) 24 hours per day, 365 days per year (excluding agreed-upon maintenance downtime). Upon the Judicial Council’s request, all Judicial Council Data in the possession of Contractor shall be provided to Judicial Council in a manner reasonably requested by Judicial Council 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.
         4. Confidential, sensitive, or personally identifiable information shall be encrypted in accordance with the highest industry standards, applicable laws, this Agreement, and Judicial Council policies and procedures.
      3. Data Incident. If there is a suspected or actual Data Incident, Contractor shall notify the Judicial Council in writing within two (2) hours of becoming aware of such occurrence. A “Data Incident” means any access, destruction, loss, theft, use, modification, or disclosure of the Judicial Council Data by an unauthorized party or any other event that could potentially compromise the confidentiality, integrity, or availability of the Judicial Council Data. Contractor’s notification shall identify: (i) the nature of the Data Incident; (ii) the data potentially compromised, accessed, used, or disclosed; (iii) the identity of the individual or entity whom attempted or successfully accessed, used, disclosed, received, or otherwise compromised data (if known); (iv) what Contractor has done or will do to address and mitigate the Data Incident; and (v) corrective action Contractor has taken or will take to prevent future Data Incidents. Contractor shall promptly investigate the Data Incident and shall provide daily updates, or more frequently if required by the Judicial Council, regarding findings and actions performed by Contractor until the Data Incident has been resolved to the Judicial Council’s satisfaction, and Contractor has taken measures satisfactory to the Judicial Council to prevent future Data Incidents. Contractor shall conduct an investigation of the Data Incident and shall share the report of the investigation with the Judicial Council. The Judicial Council 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 Judicial Council, its agents and law enforcement, including with respect to taking steps to mitigate any adverse impact or harm arising from the Data Incident. After any Data Incident, Contractor shall at its expense have an independent, industry-recognized, Judicial Council-approved third party perform an information security audit. The audit results shall be shared with the Judicial Council within seven (7) days of Contractor’s receipt of such results. Upon Contractor receiving the results of the audit, Contractor shall provide the Judicial Council 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.
      4. Security Assessments. Upon advance written notice by the Judicial Council, Contractor agrees that the Judicial Council 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 Judicial Council’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 Judicial Council the results, including any findings and recommendations made by Contractor’s assessors, of such assessment, and, at its expense, take any corrective actions.
      5. Data Requests. Contractor shall promptly notify the Judicial Council upon receipt of any requests which in any way might reasonably require access to the Judicial Council 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 Judicial Council Data without first notifying the Judicial Council. Contractor shall provide its intended responses to the Judicial Council with adequate time for the Judicial Council 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 Judicial Council unless authorized in writing to do so by the Judicial Council.
      6. Data Backups. If Contractor is providing Hosted Services under this Agreement, Contractor shall:
         1. 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;
         2. provide periodic full backup of all Judicial Council Data; The Contractor will maintain at least five (5) backups of all data, not including invoice files, incremented daily. Contractor will maintain at least two (2) backups of invoice files incremented daily. Backups of data shall be sent to JCC on a quarterly basis.
         3. provide periodic incremental backup of all Judicial Council Data;
         4. have the capability to recover data from the Judicial Council Data backup copy;
         5. have the capability to export the Judicial Council’s raw data in human readable and machine-readable format, and have the capability to promptly provide the Judicial Council Data to Judicial Council upon its request;
         6. have the capability to import the Judicial Council Data (subject to Contractor’s confidentiality and data security obligations);
         7. provide hourly snapshot backups of the Judicial Council Data (daily backups shall also be performed);
         8. maintain recoverable, secure backups of the Judicial Council Data offsite in a fire-protected, secure area, geographically separate from the primary datacenter; and
         9. maintain and implement data backup and disaster recovery processes and procedures in accordance with the highest industry standards and applicable laws.
         10. maintain Federal Risk and Authorization Management Program (FedRAMP) Moderate certification or equivalent alternative encryption and security standards for data storage and backups.
         11. guarantee Recovery Time Objective (RTO) for application availability in the event of system failure or disaster for hosted solution.
      7. Transition Period. For ninety (90) days prior to the expiration date of this Agreement or Statement of Work, or upon notice of termination of this Agreement or Statement of Work, Contractor shall assist the Judicial Council in extracting and/or transitioning all Judicial Council Data in the format determined by the Judicial Council (“Transition Period”). During the Transition Period, the Hosted Services and Judicial Council Data access shall continue to be made available without alteration.
   7. Project Staff.
      1. Judicial Council Project Manager. The Judicial Council’s project manager is: [Insert name]. The Judicial Council 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 Judicial Council, Contractor may change its project manager without need for an amendment to this Agreement.
      2. 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 Judicial Council Project Manager.
      3. Contractor Key Personnel. The Judicial Council reserves the right to interview and approve proposed Contractor Key Personnel prior to their assignment to the Judicial Council. Contractor shall not replace or reassign any Contractor Key Personnel unless the Judicial Council 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 Judicial Council promptly, (2) provide resumes for proposed replacement Contractor Key Personnel within two (2) Business Days after so notifying the Judicial Council, 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).
      4. Subcontractors. Contractor shall not subcontract or delegate any of the obligations under this Agreement except as approved by the Judicial Council in writing in advance. The Judicial Council may withdraw its approval of a subcontractor if the Judicial Council determines in good faith that the subcontractor is, or will be, unable to effectively perform its responsibilities. If the Judicial Council 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 Judicial Council’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 Judicial Council for performing the duties in this Agreement; (ii) affirm the rights granted in this Agreement to the Judicial Council; (iii) make the representations and warranties made by the Contractor in this Agreement; (iv) appoint the Judicial Council 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.
      5. 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 endeavor to minimize turnover of personnel Contractor has assigned to perform Services. Contractor shall make commercially reasonable efforts consistent with sound business practices to honor the specific request of the Judicial Council with regard to assignment of its employees. The Judicial Council may require Contractor to remove any personnel from the Project Staff that interact with any personnel of the Judicial Branch Entities or Judicial Council Contractors (including, without limitation, the Contractor Project Manager) upon providing to Contractor a reason (permitted by law) for such removal. Contractor may, with the Judicial Council’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 Judicial Council Contractors. The Contractor Project Manager and the Judicial Council Project Manager shall work together to mitigate any impact on the schedule as set forth in a Statement of Work caused by any replacement of a Project Staff member. Contractor shall be responsible for all costs and expenses associated with any Project Staff replacement. Contractor shall assure an orderly and prompt succession for any Project Staff member who is replaced. If the Contract Amount is over $200,000 (excluding Consulting Services), then Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.
      6. Conduct of Project Staff.
         1. While at the Judicial Council 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 Judicial Council Work Locations, and (2) otherwise conduct themselves in a businesslike manner.
         2. 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.
         3. Contractor shall cooperate with the Judicial Council if the Judicial Council wishes to perform any background checks on Contractor’s employees or contractors by obtaining, at no additional cost, all releases, waivers, and permissions the Judicial Council may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Judicial Council of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Judicial Council 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 Judicial Council, the Judicial Council advises are unacceptable to the Judicial Council or the Judicial Branch Entities.
   8. 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.
   9. Progress Reports. As directed by the Judicial Council, Contractor must deliver progress reports or meet with Judicial Council personnel on a regular basis to allow: (i) the Judicial Council to determine whether the Contractor is on the right track and the project is on schedule, (ii) communication of interim findings, and (iii) opportunities for airing difficulties or special problems encountered so that remedies can be developed quickly.
2. **Delivery, Acceptance, and Payment.**
   1. Delivery. Contractor shall deliver to the Judicial Council the Deliverables in accordance with this Agreement, including the Statement of Work. Unless otherwise specified by the Judicial Council, Contractor will deliver all equipment purchased by the Judicial Council “Free on Board Destination Freight Prepaid” to the Judicial Council at the address and location specified by the Judicial Council. Title to all equipment purchased by the Judicial Council vests in the Judicial Council upon payment of the applicable purchase price. Contractor will bear the risk of loss for any Work being delivered until received by the Judicial Council at the proper location.
   2. Acceptance. All Work is subject to written acceptance by the Judicial Council. The Judicial Council may reject any Work that: (i) fails to meet applicable requirements, Specifications, or acceptance criteria, (ii) are not as warranted, (iii) are performed or delivered late, or not provided in accordance with this Agreement; or (iv) contain Defects. Payment does not imply acceptance of Contractor’s invoice or Work. If the Judicial Council provides Contractor a notice of rejection for any Work, Contractor shall modify such rejected Work at no expense to the Judicial Council to correct the relevant deficiencies and shall redeliver such Work to the Judicial Council within ten Business Days after Contractor’s receipt of such notice of rejection, unless otherwise agreed in writing by the Parties. Thereafter, the Parties shall repeat the process set forth in this Section until Contractor’s receipt of the Judicial Council’s written acceptance of such corrected Work (each such Judicial Council written acceptance, an “Acceptance”); provided, however, that if the Judicial Council rejects any Work on at least two occasions, the Judicial Council may terminate that portion of this Agreement which relates to the rejected Work at no expense to the Judicial Council.
   3. Fees and Payment. Subject to the terms of this Agreement, the Contractor shall invoice the Judicial Council, and the Judicial Council shall compensate Contractor, as set forth in Appendix B. The fees to be paid to Contractor under this Agreement shall be the total and complete compensation to be paid to Contractor for its performance under this Agreement. Contractor shall bear, and the Judicial Council shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature that Contractor incurs.
3. **Representations and Warranties.** Contractor certifies that the following representations and warranties shall be true and accurate as of the Effective Date and shall remain true during the term of this Agreement and the Termination Assistance Period. Contractor shall promptly notify the Judicial Council if any representation or warranty becomes untrue. Contractor represents and warrants to the Judicial Council as follows:
   1. Authorization/Compliance with Laws. (i) Contractor has full power and authority to enter into this Agreement, to grant the rights and licenses herein and to perform its obligations under this Agreement, and that Contractor’s representative who signs this Agreement has the authority to bind Contractor to this Agreement; (ii) the execution, delivery and performance of this Agreement have been duly authorized by all requisite corporate action on the part of Contractor; (iii) Contractor shall not and shall cause Subcontractors not to enter into any arrangement with any Third Party which could reasonably be expected to abridge any rights of the Judicial Branch Entities under this Agreement; (iv) this Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms; (v) Contractor is qualified to do business and in good standing in the State of California; (vi) Contractor, its business, and its performance of its obligations under this Agreement comply with all Applicable Laws; and (vii) Contractor pays all undisputed debts when they come due.
   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. No Litigation. No Claim or governmental investigation is pending or threatened against or affecting Contractor or Contractor’s business, financial condition, or ability to perform this Agreement.
   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 Judicial Council.
   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.
   6. Drug Free Workplace. Contractor provides a drug-free workplace as required by California Government Code sections 8355 through 8357.
   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.
   8. Domestic Partners, Spouses, Gender, and Gender Identity Discrimination. If the Contract Amount is $100,000 or more, Contractor is in compliance with: (i) Public Contract Code section 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) Public Contract Code section 10295.35, which places limitations on contracts with contractors that discriminate in the provision of benefits on the basis of an employee’s or dependent’s actual or perceived gender identity.
   9. National Labor Relations Board Orders. No more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.
   10. Child Support Compliance Act. If the Contract Amount is $100,000 or more: (i) Contractor recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and (ii) Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
   11. Intellectual Property. Contractor shall perform its obligations under this Agreement in a manner that the Work (including each Deliverable) and any portion thereof, does not infringe, or constitute an infringement, misappropriation or violation of, any Intellectual Property Right. Contractor has full Intellectual Property Rights and authority to perform all of its obligations under this Agreement, and Contractor is and will be either the owner of, or authorized to use for its own and the Judicial Branch Entities’ benefit, all Contractor Materials, Third Party Materials, and Licensed Software used and to be used in connection with the Work.
   12. Work. (i) the Work will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Work; (ii) Contractor will use efficiently the resources or services necessary to provide the Work; and provide the Work in the most cost efficient manner consistent with the required level of quality and performance; (iii) the Work will be provided free and clear of all liens, claims, and encumbrances; (iv) all Work will be free from all defects in materials and workmanship, and will be in accordance with Specifications, Documentation, Applicable Laws, and other requirements of this Agreement; and (v) all equipment purchased by the Judicial Council 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.
   13. Malicious Code. No Work will contain any Malicious Code. Contractor shall immediately provide to the Judicial Council 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 Judicial Council discovers the existence of any Malicious Code, Contractor shall use its best efforts, in cooperation with the Judicial Council, 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.
   14. Four-Digit Date Compliance. Contractor will provide only Four-Digit Date Compliant Work to the Judicial Council. “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.
   15. Conflict Minerals. Contractor certifies either: (i) it is not a “scrutinized company” as defined in PCC 10490(b), or (ii) the goods or services the Contractor will provide to the Judicial Council 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
   16. Miscellaneous. The rights and remedies of the Judicial Council provided in this Section 3 will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. The representations and warranties that Contractor makes in this Section 3 shall be true and accurate as of the Effective Date and shall remain true during the term of this Agreement and the Termination Assistance Period. Contractor shall promptly notify the JBE if any representation or warranty becomes untrue.
4. **Intellectual Property.**

4.1 Contractor/Third Party Materials. Contractor shall set forth in an exhibit to each Statement of Work all Contractor Materials and Third-Party Materials that Contractor intends to use in connection with that Statement of Work. The Judicial Council 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 Judicial Council 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.

* 1. 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 Judicial Council. Contractor (for itself, Project Staff and Subcontractors) hereby irrevocably assigns, transfers and conveys to the Judicial Council 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 Judicial Council’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 Judicial Council upon the completion of the development, creation or reduction to practice of any and all Developed Materials.
  2. Retention of Rights. The Judicial Council retains all rights, title and interest (including all Intellectual Property Rights) in and to the Judicial Council Materials. Subject to rights granted herein, Contractor retains all rights, title and interest (including all Intellectual Property Rights) in and to the Contractor Materials.
  3. 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 Judicial Council, Judicial Branch Entities and Judicial Branch Personnel against all Claims arising from Contractor’s failure to obtain such consent.

1. **Confidentiality.**
   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 Judicial Council’s express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to Project Staff (including Subcontractors) with a need to know in order to provide the Work hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this Section 5. The provisions of this Section 5 shall survive beyond the expiration or termination of this Agreement. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than reasonable care and industry-standard care. The Judicial Council owns all right, title and interest in the Confidential Information. Contractor will notify the Judicial Council promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the Judicial Council to protect such Confidential Information. Notwithstanding any provision to the contrary, Contractor will keep all Personal Information confidential, unless otherwise authorized by the Judicial Council in writing.
   2. Removal; Return. Contractor will not remove any Confidential Information from Judicial Branch Entities’ facilities or premises without the Judicial Council’s express prior written consent. Upon the Judicial Council’s request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the Judicial Council or, if so directed by the Judicial Council, destroy all Confidential Information (in every form and medium), and (b) certify to the Judicial Council in writing that Contractor has fully complied with the foregoing obligations.
   3. Breach of Confidentiality. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor’s obligations hereunder, that any such breach will likely result in irreparable harm, and therefore, that upon any breach or threatened breach of the confidentiality obligations, the Judicial Council shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.
   4. Relationship Data. To the extent Contractor collects or receives Relationship Data in the course of creating or managing its relationship with the Judicial Council, such Relationship Data is Judicial Council’s Confidential Information. Without limiting the foregoing, Contractor may use or disclose Relationship Data only as permitted under this Section 5 (Confidential Information).
   5. Data Protection. Contractor shall comply with the requirements set forth in Section 1.6 (Data and Security) of this Appendix.
2. **Indemnification.**
   1. General Indemnity. Contractor shall indemnify, defend (with counsel satisfactory to the Judicial Council), and hold harmless Judicial Branch Entities and Judicial Branch Personnel against all Claims founded upon or that arise out of or in connection with: (i) Contractor’s provision of, or failure to provide, the Work (ii) any other breach by Contractor under this Agreement; or (iii) Third Party Claims relating to infringement or misappropriation of any Intellectual Property Right by Contractor or the Work, including software, services, systems, equipment, or other materials provided by Contractor or Subcontractors to Judicial Branch Entities (collectively, the “Covered Items”). Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the Judicial Council’s prior written consent, which consent shall not be unreasonably withheld; and the Judicial Council 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.
   2. Certain Remedies. If any Covered Item provided under this Agreement becomes, or in Contractor’s or the Judicial Council’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.
3. **Insurance.** 
   1. General Requirements
      1. By requiring the minimum insurance set forth in this Agreement, the Judicial Council shall not be deemed or construed to have assessed the risks that may be applicable to Contractor under this Agreement. Contractor shall assess its own risks and if it deems appropriate or prudent, maintain higher limits or broader coverage.
      2. The insurance obligations under this Agreement shall be: (1) all the insurance coverage and/or limits carried by or available to the Contractor; or (2) the minimum insurance coverage requirements and/or limits shown in this Agreement, whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits which are applicable to a given loss shall be available to the Judicial Council in compliance with the insurance requirements set forth in this Agreement. The Judicial Council may, in its sole discretion, accept self-insurance or risk-pool coverage as a substitute for any of the required insurance policies under this Agreement. No representation is made by the Judicial Council that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the Contractor under this Agreement.
      3. Contractor shall obtain and maintain the required insurance for the duration of this Agreement with an insurance company or companies acceptable to the Judicial Council, in its sole discretion, and that are rated “A-VII” or higher by A. M. Best’s key rating guide and are authorized to do business in the state of California.
      4. For all insurance policies required under this Agreement, no deductible shall exceed five (5) percent of the minimum limit of insurance required under this Agreement unless authorized in writing by the Judicial Council. Any Contractor deductible must be clearly stated on the appropriate certificate of insurance.
      5. Self-Insured retentions (SIR) must be declared to and approved in writing by the Judicial Council. The Judicial Council may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Judicial Council. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Judicial Council. Judicial Council may deduct from any amounts otherwise due Contractor to fund the SIR. Policies shall NOT contain any SIR provisions that limit the satisfaction of the SIR to the named insured. The policy must also provide that defense costs, including the allocated loss adjustment expenses, will satisfy the SIR. Judicial Council reserves the right to obtain a copy of any policies and endorsements for verification.
      6. Contractor is responsible for and may not recover from the State of California, Judicial Council, or the Court any deductible or self-insured retention that is connected to the insurance required under this Agreement. If self-insured, Contractor warrants that it will maintain funds to cover losses required to be insured against by Contractor under the terms of this Agreement.
      7. Contractor, prior to commencement of the Work, shall provide Judicial Council with certificates of insurance and signed insurance policy endorsements, on forms acceptable to Judicial Council, as evidence that the required insurance is in full force and effect. The insurance required under this Agreement, and any excess liability or umbrella liability insurance, that Contractor maintains in compliance with the terms of this “General Requirements” subsection (with the exception of Professional Liability Insurance, if required) must be endorsed to include the ; State of California; Judicial Council of California; and their respective elected and appointed officials, judicial officers, officers, employees, and agents as additional insureds. No payments will be made to Contractor until all required current and complete certificates of insurance and signed insurance policy endorsements are properly endorsed and on file with the Judicial Council.
      8. The insurance required under this Agreement, including all required additional insured coverages, must be endorsed to be primary and non-contributory to any insurance or self-insurance maintained by the State of California, Judicial Council, or the Court. Contractor’s liabilities under this Agreement shall not be limited in any manner to the insurance coverage required.
      9. Failure to provide the documentation as required prior to the commencement of Work shall not constitute or be construed as a waiver of the obligation to provide such documentation.
      10. The Certificates of Insurance must be addressed and mailed to:

Judicial Council of California

Contracts, Branch Accounting and Procurement

Attn: Certificate of Insurance, Contract Number *[insert contract number here]*

455 Golden Gate Avenue, 6th Floor

San Francisco, CA 94102

The Certificates of Insurance may also be emailed to:

[Contracts@jud.ca.gov](mailto:Contracts@jud.ca.gov)

* + 1. All insurance policies required under this Agreement must remain in force for the entire duration of this Agreement. If the insurance expires during the Term of this Agreement, Contractor shall immediately renew or replace the required insurance and provide a new current certificate of insurance and signed insurance policy endorsement(s), or Contractor will be in breach of this Agreement, and the Judicial Council may direct the Contractor to stop work or may take other remedial action. Contractor must provide renewal insurance certificates and signed policy endorsements to Judicial Council on or before the expiration date of the previous insurance certificates and signed policy endorsements. Any new insurance procured by Contractor must conform to the requirements of this Agreement.
    2. In the event Contractor fails to keep the specified insurance coverage in force at all times required under this Agreement, Judicial Council may, in addition to and without limiting any other remedies available to it, (i) order the Contractor to stop work, or (ii) terminate this Agreement upon the occurrence of such event, subject to the provisions of this Agreement.
    3. Contractor, and each insurer providing insurance required under this Agreement, expressly waives all rights of recovery and subrogation rights it may have against the State of California, Judicial Council, the Court, and their respective elected and appointed officials, judicial officers, officers, employees, and agents for direct physical loss or damage to the Work, and for any liability arising out of or in connection with the Work performed by Contractor under this Agreement or arising out of or in connection with Contractor’s breach of this Agreement. This provision does not apply to professional liability insurance policies.
    4. Contractor shall provide the Judicial Council with written notice within **TEN (10)** calendar days of becoming aware of a material change or cancellation of the insurance policies required under this Agreement. In the event of expiration or cancellation of any insurance policy, Contractor shall **immediately** notify the Judicial Council’s Project Manager.
    5. Judicial Council reserves the right to request certified copies of any of the insurance policies required under this Agreement, which must be provided by Contractor within **TEN (10)** business days following the request by Judicial Council.
    6. Contractor must require insurance from its Subcontractors in substantially the same form as required of the Contractor herein and with limits of liability that are sufficient to protect the interests of the Contractor, State of California, the Judicial Council, and the Superior Court of California in the County in which the Project is located.
  1. Individual Policy Requirements
     1. **Commercial General Liability**

Commercial General Liability Insurance shall be written on an occurrence form with limits of not less than $ $2,000,000 per occurrence for bodily injury and property damage and $4,000,000 annual aggregate. The policy shall include coverage for liabilities arising out of or in connection with premises, operations, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom a claim is made or suit is brought. The products and completed liability shall extend for not less than three (3) years past the completion of the Work or the termination of this Agreement, whichever occurs first.

* + 1. **Commercial Automobile Liability**

Commercial Automobile Liability Insurance shall have limits of not less than $1,000,000 per accident. This insurance must cover liability arising out of or in connection with the operation, use, loading, or unloading of a motor vehicle assigned to or used in connection with the Work including, without limitation, owned, hired, and non-owned motor vehicles.

* + 1. **Workers’ Compensation & Employers’ Liability Insurance**

If Contractor has employees, it shall maintain workers’ compensation insurance as required by law. Employer’s liability limits shall be not less than $1,000,000 for each accident, $1,000,000 as the aggregate disease policy limit, and $1,000,000 as the disease limit for each employee. If Contractor does not have employees, it shall provide a letter, on company letterhead, to the Judicial Council certifying, under penalty of perjury, that it does not have employees. Upon the Judicial Council’s receipt of the letter, Contractor shall not be required to maintain workers’ compensation insurance.

* + 1. **Professional Liability Insurance**

Professional Liability Insurance shall include coverage for any negligent act, error, or omission committed or alleged to have been committed which arises out of rendering or failure to render the Work provided under the terms of this Agreement. The policy shall provide limits of not less than $2,000,000 per claim or per occurrence and $5,000,000 annual aggregate. If the policy is written on a “claims made” form, Contractor shall continue such coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the Work which is the subject of this Agreement. The retroactive date or “prior acts inclusion date” of any such “claims made” policy must be no later than the date that Work commences pursuant to the Agreement.

* + 1. **Cyber Liability Insurance**

Cyber Liability Insurance, with limits not less than $2,000,000 per occurrence or claim, $4,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as are undertaken by Contractor in this Agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

* + - 1. *Technology Professional Liability Errors & Omissions*

Technology professional liability errors and omissions insurance appropriate to the Contractor profession and work hereunder, with limits not less than $2,000,000 per occurrence, and $4,000,000 per annual aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations undertaken by the Contractor pursuant to this Agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties, as well as credit monitoring expenses.

* 1. The technology professional liability errors and omissions insurance policy shall include, or be endorsed to include ***property damage liability coverage*** for damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the Judicial Council in the care, custody, or control of the Contractor. If not covered under Contractor’s technology professional liability errors and omissions insurance, such “property” coverage of the Judicial Council must be endorsed onto the Contractor’s Cyber Liability Policy.
     1. **Builders Risk/Installation**

Builders Risk/Installation Coverage Policy shall be written on an all-risk basis and that covers the work to be performed under this Agreement for direct physical loss or damage while in the course of transportation, erection, installation, and completion with limits of liability equal to the final completed value of the Project. Since the project site is located in a high-risk zone, the Builders Risk/Installation Coverage Policy shall include coverage for perils of flood and earthquakes.

* + 1. **Umbrella Policies**

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

1. **Term / Termination.**
2. 1. Term. This Agreement shall commence on the Effective Date and have an Initial Term of five year(s). The Judicial Council may, at its sole option, extend the Term for up to two consecutive three-year periods, at the end of which this Agreement shall expire. In order to extend the Term, the Judicial Council must notify Contractor prior to the end of the Initial Term (or the then-current one-year extension period).
   2. Termination for Convenience.  The Judicial Council may terminate, in whole or in part, this Agreement and/or any Statement of Work for convenience (without cause) upon thirty (30) days prior written notice. The Judicial Council’s notice obligations under the foregoing sentence shall not apply to any stop work orders issued by the Judicial Council under this Agreement or any Statement of Work. After receipt of such notice, and except as otherwise directed by the Judicial Council, 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.
   3. Early Termination. The Judicial Council may terminate, in whole or in part, this Agreement or any Statement of Work immediately “for cause” if Contractor is in Default. The Judicial Council may also terminate this Agreement or limit Work (and proportionately, Contractor’s fees) upon written notice to Contractor without prejudice to any right or remedy of the Judicial Branch Entities if: (i) expected or actual funding to compensate the Contractor is withdrawn, reduced or limited; or (ii) the Judicial Council determines that Contractor’s performance under this Agreement has become infeasible due to changes in Applicable Laws.
   4. Rights and Remedies of the Judicial Council.
      1. All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Judicial Council immediately if Contractor is in Default, or if a Third-Party claim or dispute is brought or threatened that alleges facts that would constitute a Default under this Agreement. If Contractor is in Default, the Judicial Council may do any of the following: (i) withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor; (ii) require Contractor to enter into nonbinding mediation; (iii) exercise, following notice, the Judicial Council’s right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.
      2. If the Judicial Council terminates this Agreement or any Statement of Work in whole or in part for cause, the Judicial Council may acquire from third parties, under the terms and in the manner the Judicial Council considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the Judicial Council for any excess costs for those goods or services. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Judicial Branch Entities for such goods and services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Judicial Council or Judicial Branch Entities. Contractor shall continue the Work not terminated hereunder.
      3. In the event of any expiration or termination of this Agreement or the applicable Statement of Work, Contractor shall promptly provide the Judicial Council with all originals and copies of the Deliverables (including: (i) any partially-completed Deliverables and related work product or materials; and (ii) any Contractor Materials, Third Party Materials, and Developed Materials comprising such Deliverables or partially-completed Deliverables), Confidential Information, Judicial Council Data, Judicial Council Materials, and all portions thereof, in its possession, custody, or control. In the event of any termination of this Agreement or a Statement of Work, the Judicial Council shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the Judicial Council’s termination is not based on a Default, Judicial Council shall pay any fees due under this Agreement for Deliverables completed and accepted as of the date of the Judicial Council’s termination notice.
   5. Termination Assistance. At the Judicial Council’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 Judicial Council or to its designee (collectively, “Successor”) services reasonably necessary to enable the Judicial Council 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 Judicial Council by Contractor regardless of the reason for termination or expiration. At the Judicial Council’s option and election, the Judicial Council may extend the Termination Assistance Period for an additional six (6) months.
   6. Survival. Termination of this Agreement shall not affect the rights and/or obligations of the Parties which arose prior to any such termination (unless otherwise provided herein) and such rights and/or obligations shall survive any such expiration or termination. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including Sections 3 through 10 of these General Terms and Conditions, and Appendix E.
   7. Tax Delinquency. Contractor must provide notice to the Judicial Council 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 Judicial Council may terminate this Agreement immediately “for cause” pursuant to Section 8.3 if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.
3. **Special Provisions.** 
   1. Union Activities Restrictions. *As required under Government Code sections 16645-16649, if the Contract Amount is $50,000 or more*, Contractor agrees that no Judicial Council funds received under this agreement will be used to assist, promote, or deter union organizing. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no Judicial Council funds were used for those expenditures and no reimbursement from the Judicial Council was sought for these costs. Contractor will provide those records to the Attorney General upon request.
   2. DVBE Commitment. *This section is applicable if Contractor received a disabled veteran business enterprise (“DVBE”) incentive in connection with this Agreement*. Contractor’s failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of the Agreement. If Contractor used DVBE subcontractor(s) in connection with this Agreement: (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the Judicial Council approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must complete and return to the Judicial Council a post-contract certification form[[1]](#footnote-2) promptly upon completion of the awarded contract, and by no later than the date of submission of Contractor’s final invoice to the Judicial Council. If the Contractor fails to do so, the Judicial Council will withhold $10,000 from the final payment, or withhold the full payment if it is less than $10,000, until the Contractor submits a complete and accurate post-contract certification form. The Judicial Council shall allow the Contractor to cure the deficiency after written notice of the Contractor’s failure to complete and submit an accurate post-contract certification form. Notwithstanding the foregoing and any other law, if after at least 15 calendar days, but no more than 30 calendar days, from the date of the written notice the Contractor refuses to comply with these certification requirements, the Judicial Council shall permanently deduct $10,000 from the final payment, or the full payment if less than $10,000. The post-contract certification form shall include: (1) the total amount of money Contractor received under the Agreement; (2) the total amount of money and the percentage of work Contractor committed to provide to each DVBE subcontractor; (3) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Agreement; (4) the amount of money each DVBE subcontractor actually received from Contractor in connection with the Agreement, and the corresponding percentage this payment comprises of the total amount of money Contractor received under the Agreement; and (5) that all payments under the Agreement have been made to the applicable DVBE subcontractors. Upon request by the Judicial Council, 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.
   3. Competitively Bid Contracts; Antitrust Claims. *If this Agreement resulted from a competitive bid, Contractor shall comply with the requirements of the Government Code sections set out below*.
      1. Contractor shall assign to the Judicial Council 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 Judicial Council pursuant to the bid. Such assignment shall be made and become effective at the time the Judicial Council tenders final payment to the Contractor. (GC 4552)
      2. If the Judicial Council 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 Judicial Council any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the Judicial Council as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (GC 4553)
      3. Upon demand in writing by the Contractor, the Judicial Council 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 Judicial Council has not been injured thereby, or (2) the Judicial Council declines to file a court action for the cause of action. (GC 4554)
   4. Iran Contracting Act. *If the Contract Amount is $1,000,000 or more*, Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“Iran List”) created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending $20,000,000 or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the Judicial Council to enter into this Agreement pursuant to PCC 2203(c).
   5. Loss Leader Prohibition. *If this Agreement involves the purchase of goods, this section is applicable.* Contractor shall not sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.
   6. Recycling. *If this Agreement provides for the purchase or use of goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods*. Without limiting the foregoing, if this Agreement includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable. Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible. Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.
   7. Sweatshop Labor. *If this Agreement provides for the laundering of apparel, garments or corresponding accessories, or for furnishing equipment, materials, or supplies other than for public works, this section is applicable*. Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the Judicial Council under this Agreement have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, 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 Judicial Council.
   8. Federally Funded Agreements. *If this Agreement is funded in whole or in part by the federal government*, then:
      1. It is mutually understood between the Parties that this Agreement may have been written for the mutual benefit of both Parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
      2. This Agreement is valid and enforceable only if sufficient funds are made available to the Judicial Council by the United States Government for the fiscal year in which they are due and consistent with any stated programmatic purpose. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.
      3. The Parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement is intended to be paid, this Agreement shall be deemed amended without any further action of the Parties to reflect any reduction in funds.
      4. The Parties may amend the Agreement to reflect any reduction in funds.
   9. Equipment Purchases. *If this Agreement includes the purchase of equipment, this section is applicable*. The Judicial Council 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 Judicial Council, or require Contractor to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the Judicial Council at no expense to the Judicial Council. If a theft occurs, Contractor must file a police report immediately.
   10. Small Business Preference Contract Clause. *This section is applicable if Contractor received a small business preference in connection with this Agreement*. Contractor’s failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement. Contractor must within sixty (60) days of receiving final payment under this Agreement report to the Judicial Council the actual percentage of small/micro business participation that was achieved. If Contractor is a nonprofit veteran service agency (“NVSA”), Contractor must employ veterans receiving services from the NVSA for not less than 75 percent of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement.
4. **General.**
   1. Audits. Contractor shall allow the Judicial Council and its designees to review and audit Contractor’s documents and records relating to this Agreement, and Contractor shall retain such documents and records for a period of four years following final payment under this Agreement. Contractor shall correct errors and deficiencies by the 20th day of the month following the review or audit. Contractor shall provide to the Judicial Branch Entities and Judicial Council Contractors, on Contractor’s premises (or, if the audit is being performed of an Subcontractor, Subcontractor’s premises if necessary), space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office related equipment and duplicating services as the Judicial Branch Entities or such Judicial Council Contractors may reasonably require to perform the audits described in this Section. Without limiting the foregoing, this Agreement is subject to examinations and audit by the State Auditor for a period three years after final payment.
   2. References. In this Agreement and the Appendixes: (a) the Appendixes shall be incorporated into and deemed part of this Agreement and all references to this Agreement shall include the Appendixes; (b) the Article and Section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement; (c) references to and mentions of the word “including” or the phrase “e.g.” means “including, without limitation” and (d) unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.
   3. Assignment. This Agreement will not be assignable by Contractor in whole or in part (whether by operation of law or otherwise) without the prior written consent of the Judicial Council. Any assignment made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the Parties and their permitted successors and assigns.
   4. Notices. Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: (a) delivered in person, (b) sent by registered or certified mail, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient set forth below:

|  |  |
| --- | --- |
| **If to Contractor:** | **If to the Judicial Council:** |
| [@Contractor name]  [@name]  [@title]  [@address] | Judicial Council of California  Branch Accounting and Procurement  Contracts Manager  455 Golden Gate Avenue, 6th Floor  San Francisco, CA 94102 |

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.

* 1. Independent Contractors. Contractor and Subcontractors in the performance of this Agreement shall act in an independent capacity and not as officers or employees or agents of the Judicial Branch Entities or Judicial Council Contractors. Neither the making of this Agreement nor the performance of its provisions shall be construed to constitute either of the Parties hereto as an agent, employee, partner, joint venturer, or legal representative of the other, and the relationship of the Parties under this Agreement is that of independent contractors. Neither Party shall have any right, power or authority, express or implied, to bind the other.
  2. 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.
  3. Publicity. News releases and other public disclosures pertaining to this Agreement will not be made by Contractor without prior written approval of the Judicial Council.
  4. 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.
  5. Governing Law; Jurisdiction; and Venue. This Agreement and performance under it will be exclusively governed by the laws of the State of California without regard to its conflict of law provisions. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement in accordance with the procedures set forth in Appendix I. 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.
  6. Injunctive Relief. If either party breaches Section 5 (Confidential Information), the other party may suffer irreparable harm, and monetary damages may be inadequate to compensate the non-breaching party. Accordingly, either party may, in addition to any other remedies available to it at law or in equity, seek injunctive, specific performance or other equitable relief in response to any such breach.
  7. 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.
  8. Force Majeure. Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by a force majeure. Force majeure, for purposes of this paragraph, is defined as follows: acts of war and acts of god, such as earthquakes, floods, and other natural disasters, such that performance is impossible.
  9. Order of Precedence. Any conflict among or between the documents making up this Agreement will be resolved in accordance with the following order of precedence (in descending order of precedence): (i) Appendix C - The General Terms and Conditions and Appendix D – Defined Terms; (ii) the Coversheet; (iii) Appendix B – Pricing and Payment; (iv) Appendix A – Statement of Work; (v) Appendix E – The Licensed Software; (vi) Appendix F – Maintenance and Support Services; (vii) Appendix G – Unruh Civil Rights Act and FEHA Certification; (viii) Appendix H - Performance Scoring Detailed Methodology; (ix) Appendix I - Verification and Dispute Resolution Procedures; (x) Appendix J: Improvement Plan Template; and (xi) any other exhibits to the Agreement.
  10. Miscellaneous. This Agreement has been arrived at through negotiation between the Parties. Neither Party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654. No amendment to this Agreement will be effective unless in writing. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. If any part of this Agreement is held unenforceable, all other parts remain enforceable. A Party’s waiver of enforcement of any of this Agreement’s terms or conditions is effective only if in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. Time is of the essence regarding Contractor’s performance of the Work. Unless otherwise approved by the Judicial Council in writing in advance, Work may not be performed outside of the United States. The Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but taken together, all of which shall constitute one and the same Agreement.

### APPENDIX D: Defined Terms[[2]](#footnote-3)

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

### “Acceptance” is defined in Appendix C, Section 2.2.

### “Agreement” means this Standard Agreement as defined on the Coversheet, including the following: Appendix A (Statement of Work), Appendix B (Pricing and Payment), Appendix C (General Provisions), Appendix D (Defined Terms), Appendix E (Licensed Software), Appendix F (Maintenance and Support Services), Appendix G (Unruh Civil Rights Act and FEHA Certification, Appendix H (Performance Scoring Detailed Methodology), Appendix I (Verification and Dispute Resolution Procedures), and Appendix J (Improvement Plan Template).

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

### “Business Day” means any day other than Saturday, Sunday or a scheduled Judicial Council 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 Judicial Branch Entities, including court records, and information relating to court proceedings, security practices, and business methodologies, (ii) information relating to Judicial Branch Entities’ personnel, users, contractors, or agents, including information that the Judicial Council’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 Judicial Branch Entities (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 Judicial Council Materials. Confidential Information does not include information (that Contractor demonstrates to the Judicial Council’s satisfaction, by written evidence): (a) that Contractor lawfully knew prior to the Judicial Council’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” has the meaning set forth on the Coversheet.

### “Contractor” is defined on the Coversheet.

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

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

### “Contractor Work Location(s)” means any location (except for a Judicial Council 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 Judicial Council Materials or Confidential Information.

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

### “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 Judicial Council Data or Confidential Information, and such other related safeguards that are set forth in Applicable Laws, a Statement of Work, or pursuant to Judicial Council 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 Judicial Council, 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, (y) ensure that these obligations are legal, valid, and binding, or (z) 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 Statement 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 Judicial Council 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 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.

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

“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.

### “Judicial Branch Entity” or “Judicial Branch Entities” means the Judicial Council 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.

### “Judicial Council” has the meaning defined in the coversheet of this Agreement.

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

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

### “Judicial Council Project Manager” means the individual appointed by the Judicial Council to communicate directly with the Contractor Project Manager.

### “Judicial Council Work Locations” means any Judicial Council facility at which Contractor provides Work.

### “Judicial Council Materials” means Materials owned, licensed, made, conceived, or reduced to practice by a Judicial Branch Entity or a Judicial Council 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.

### “Licensed Software” means Contractor’s software set forth in Appendix E, 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 and Support Services” means the services provided by Contractor under Appendix F.

### “Materials” means 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.

### “Option Term” or “Subsequent Term” means a period, if any, through which this Agreement may be or has been extended by the Judicial Council.

### “Parties” means the Judicial Council and Contractor, collectively.

### “Party” means either the Judicial Council 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 Staff” means the personnel of Contractor and Subcontractors who provide the Work.

### “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.

### “Statement 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 Appendix A, as agreed to by the Parties.

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

### “Term” comprises the Initial Term and any Option Terms of this Agreement.

### “Termination Assistance Period” means the period commencing upon the expiration or termination of this Agreement and each Statement 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 Judicial Council or Contractor.

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

### “Upgrades” means all new versions and releases of, and bug fixes, error corrections, Workarounds, updates, upgrades, modifications, patches for, the Licensed Software, Deliverables, Documentation, or any other portion of the Work.

“Work” means each of the following, individually and collectively: the 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 Statement of Work, and any incidental services, items, or responsibilities that are reasonable and customary in the industry and not specifically described in this Agreement (or the Statement of Work), but which are required for the performance 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 Judicial Council Work Location or Contractor Work location.

**APPENDIX E: THE LICENSED SOFTWARE**

1. **The Licensed Software. *[ description of the Licensed Software, including specifications/requirements, to be inserted based upon selected Contractor’s response to Statement of Work document and the Business and Technical Requirements.]*** Contractor will provide all on-site services necessary to install the Licensed Software. Contractor will provide the following training for the use and operation of the Licensed Software: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ***[SECTION INSTRUCTIONS: describe training, as applicable, based upon Contractor’s response and Statement of Work requirements.]***
2. **Software License.** Contractor grants to the Judicial Branch Entities a fully paid-up, perpetual, irrevocable, worldwide, royalty-free, nonexclusive license to: (i) install, use and host the Licensed Software; (ii) make a reasonable number of copies of the Licensed Software for archival and/or backup purposes, or to the extent reasonably necessary to enable access to and use of the Licensed Software; (iii) modify the Licensed Software for judicial branch purposes and use; and (iv) use the Licensed Software in conjunction with other software developed or acquired by Judicial Branch Entities. The Judicial Branch Entities’ rights hereunder shall extend to permit the installation, use, hosting and/or reproduction and copying of the Licensed Software, or portions thereof, to the extent reasonably necessary to enable access to and use of the Licensed Software by: (a) any law enforcement, judicial or other governmental entity for purposes reasonably related to the business or operations of the California judicial branch, (b) any court user or party needing the Licensed Software for the purpose of connecting to, making use of (such as lawyers, litigants, parties and the general public) or supporting the operations of the Judicial Branch Entities, and (c) Judicial Council Contractors, but only in connection with their provision of goods or services to Judicial Branch Entities. The foregoing use and access may be directly enabled or web enabled via Internet or intranet or enabled via any other communication facility. All data created and/or processed by the Licensed Software shall remain the property of the Judicial Branch Entities, nor shall Contractor have any rights in or to such data.

**APPENDIX F: MAINTENANCE AND SUPPORT SERVICES**

1. **Services.** Contractor will provide the Data Delivery, Maintenance and Support Services and service levels set forth in this Appendix F for all Work provided under the Agreement, including all services, goods, Deliverables, and Licensed Software. The Maintenance and Support Services will commence on **October 1, 2026** and will continue until **September 30, 2031, with possible extensions to September 2037**.
2. **Definitions.**
3. “Data Delivery” includes: (i) delivery of utility invoice PDF files as well as the associated line items and invoice level information extracted into the software from same, (ii) interval data retrieved from utility vendor websites using relevant Application Programming Interfaces (APIs), (iii) local weather data for each of the Judicial Council locations in hourly or 15 minutes as well as monthly degree days with programmable heating and cooling set points, (iv) data quality control and validation, and (v) security and compliance.
   1. Invoice data shall be delivered daily within 2 days of availability with no errors or omissions. Invoice corrections shall occur automatically when presented by the vendor and flagged for review by Judicial Council staff.
   2. Interval data shall be delivered on a regular basis as available via the vendor API.
   3. Weather data shall be delivered on a regular basis as available from the appropriate weather station.
   4. Data verification and quality control mechanisms shall be in place to ensure the accuracy and integrity of data.
   5. Various security measures shall be implemented to ensure that information is protected during transmission, storage, and access while adhering to legal and regulatory requirements.
4. Support
   1. “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.
   2. “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.
   3. “Level 3 Support” means, with the use of backup engineering and technical support staff, isolating Defects and developing Defect corrections including, without limitation, Upgrades.
   4. “Reporting Date” means the date that the Judicial Council reports the Defect at issue.
   5. “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 Judicial Council to perform acceptance testing on the applicable Defect correction.
   6. “Severity Level” means the actual impact of a Defect on a user’s operational environment as further described in the table below.
   7. “Standard M&S Hours” means **[*7am to 7 pm Pacific Time on all Business Days*]**.
   8. “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.
5. **Maintenance.**  Contractor shall promptly provide the Judicial Council with all 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 Judicial Council’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.
6. **Support.**
   1. Response. Without limiting Contractor’s obligations under Section 4(b) below, with respect to each Technical Support Incident not covered in the table below, Contractor shall respond to the Judicial Council within ***four (4) hours*** after the Judicial Council 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.
   2. Services and Monthly Support Case Report. Contractor shall (i) provide the Judicial Council with Level 1 Support, Level 2 Support and Level 3 Support, and (ii) deliver to the Judicial Council 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 Judicial Council for each Defect and the table set forth below [SECTION INSTRUCTIONS: modify provisions below as appropriate to meet Judicial Council business and technical requirements].

| **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 Judicial Council 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 | 24 hours per day,  7 days per week | 30 minutes | 2 hours |
|  | (ii) data is corrupted, or data integrity issues related to security or confidentiality leads to non­compliance with legal requirements or regulations. |  |  |  |
| 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 | Standard M&S Hours | 30 minutes | One Business Day |
|  | (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. |  |  |  |
| 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 |

APPENDIX G

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| *Company Name (Printed)* | | | *Federal ID Number* |
|  | | |  |
| *By (Authorized Signature* | | | |
|  | | | |
| *Printed Name and Title of Person Signing* | | | |
|  | | | |
| *Date Executed* | *Executed in the County of* |  | |
|  | *in the State of* |  | |

**Appendix H: Performance Scoring Detailed Methodology**

**1. Introduction**

This Appendix H outlines the comprehensive methodology for evaluating the Contractor's performance in delivering the Sustainability Tracking Software Solution. The scoring framework is designed to be objective, transparent, and aligned with the Judicial Council's sustainability management objectives.

**2. Performance Dimensions**

The Contractor's performance shall be evaluated across five equally weighted dimensions, each representing a critical aspect of service delivery. These dimensions have been carefully selected to comprehensively assess the Contractor’s Software and Services effectiveness in meeting the Judicial Council's requirements.

Each dimension contributes 20 points to the overall 100-point performance score, reflecting their equal importance to the solution's success. The dimensions are measured using specific, objective criteria to ensure transparency and fairness in the evaluation process.

The following sections detail each performance dimension, including measurement criteria and scoring methodology.

**2.1 Data Accuracy and Integrity (25 points)**

**2.1.1 Measurement Criteria**

* **Bill Data Accuracy (10 points)**: Percentage of utility bills processed without data entry errors
* **Data Validation (6 points)**: Effectiveness of automated validation algorithms
* **Anomaly Detection (4 points)**: Accuracy of consumption and cost anomaly identification
* **Line-Item Accuracy (3 points)**: Percentage of line items processed completely and accurately
* **Historical Data Integrity (2 points)**: Maintenance of historical data consistency

**2.1.2 Scoring Methodology**

|  |  |  |
| --- | --- | --- |
| Performance Level | Score Range | Description |
| Exceptional | 20-25 | ≥99.5% data accuracy; advanced validation; proactive anomaly detection |
| Meets Standards | 16-19 | 97-99.4% data accuracy; standard validation; reliable anomaly detection |
| Needs Improvement | 13-15 | 94-96.9% data accuracy; basic validation; inconsistent anomaly detection |
| Critical | 0-12 | <94% data accuracy; inadequate validation; unreliable anomaly detection |

**2.2 System Availability and Performance (15 points)**

**2.2.1 Measurement Criteria**

* **Uptime Percentage (6 points)**: System availability excluding scheduled maintenance
* **Response Time (4 points)**: Average response time for core system functions
* **Transaction Processing (3 points)**: Speed and reliability of data processing operations
* **API Performance (1 point)**: Reliability and response time of integration interfaces
* **Mobile Responsiveness (1 point)**: Performance on mobile and tablet devices

**2.2.2 Scoring Methodology**

|  |  |  |
| --- | --- | --- |
| Performance Level | Score Range | Description |
| Exceptional | 13-15 | ≥99.9% uptime; <1s response time; optimal processing speed |
| Meets Standards | 10-12 | 99-99.8% uptime; 1-2s response time; standard processing speed |
| Needs Improvement | 87-9 | 97-98.9% uptime; 2-3s response time; slower processing |
| Critical | 0-6 | <97% uptime; >3s response time; inadequate processing speed |

**2.3 Utility Bill Processing Efficiency (25 points)**

**2.3.1 Measurement Criteria**

* **Processing Turnaround (9 points)**: Time from bill receipt to system availability
* **Exception Handling (6 points)**: Effectiveness of resolving bill processing exceptions
* **Multi-Utility Support (4 points)**: Capability to process diverse utility provider formats
* **Bill Format Adaptability (4 points)**: Adaptation to changing bill formats
* **Historical Bill Integration (2 points)**: Effectiveness of historical bill data integration

**2.3.2 Scoring Methodology**

|  |  |  |
| --- | --- | --- |
| Performance Level | Score Range | Description |
| Exceptional | 20-25 | <24hr turnaround; <2% exceptions; supports all required utilities |
| Meets Standards | 16-19 | 24-48hr turnaround; 2-5% exceptions; standard utility support |
| Needs Improvement | 13-15 | 48-72hr turnaround; 5-10% exceptions; limited utility support |
| Critical | 0-12 | >72hr turnaround; >10% exceptions; inadequate utility support |

**2.4 Reporting and Analytics Quality (15 points)**

**2.4.1 Measurement Criteria**

* **Dashboard Functionality (5 points)**: Effectiveness and usability of dashboards
* **Report Accuracy (5 points)**: Precision of generated reports and calculations
* **Analytics Depth (3 points)**: Sophistication of analytical capabilities
* **Customization Options (1 points)**: Flexibility for user-defined reporting
* **Regulatory Compliance (1 points)**: Alignment with reporting requirements

**2.4.2 Scoring Methodology**

|  |  |  |
| --- | --- | --- |
| Performance Level | Score Range | Description |
| Exceptional | 13-15 | Advanced analytics; highly intuitive dashboards; precise reporting |
| Meets Standards | 10-12 | Solid analytics; functional dashboards; accurate reporting |
| Needs Improvement | 7-9 | Basic analytics; adequate dashboards; generally accurate reporting |
| Critical | 0-6 | Insufficient analytics; problematic dashboards; inaccurate reporting |

**2.5 Customer Support and Responsiveness (20 points)**

**2.5.1 Measurement Criteria**

* **Support Response Time (6 points)**: Time to acknowledge and respond to support requests
* **Issue Resolution Speed (4 points)**: Time to resolve reported issues
* **Issue Resolution Comprehensiveness (4 points)**: Issues are resolved for all vendors and do not recur.
* **Training Effectiveness (2 points)**: Quality and impact of user training
* **Documentation Quality (2 points)**: Comprehensiveness and clarity of system documentation
* **User Satisfaction (2 points)**: Feedback from system users

**2.5.2 Scoring Methodology**

|  |  |  |
| --- | --- | --- |
| Performance Level | Score Range | Description |
| Exceptional | 18-20 | <1hr response; <24hr resolution; excellent user satisfaction |
| Meets Standards | 15-17 | 1-4hr response; 24-48hr resolution; good user satisfaction |
| Needs Improvement | 12-14 | 4-8hr response; 48-72hr resolution; mixed user satisfaction |
| Critical | 0-11 | >8hr response; >72hr resolution; poor user satisfaction |

**3. Assessment Methodology**

**3.1 Data Collection Process**

**3.1.1 Primary Data Collection Responsibility**

The Contractor bears primary responsibility for performance data collection, monitoring, and reporting as detailed in Section 7 of Appendix B of this Agreement. The Contractor shall:

* Implement comprehensive system-generated performance logs
* Establish automated uptime and response time tracking
* Maintain processing time verification timestamps
* Conduct exception and error rate monitoring
* Execute quarterly user satisfaction surveys
* Perform initial quality control audits

**3.1.2 Judicial Council Verification Activities**

The Judicial Council's data collection activities shall focus on verification of vendor-provided data through:

* Targeted sample verification of reported metrics
* Independent user satisfaction validation
* Periodic system performance spot-checks
* Validation of critical report accuracy
* Support ticket sampling and review

**3.2 Scoring Calculation Process**

**3.2.1 Individual Dimension Scoring**

1. Review the Contractor's self-reported metrics and proposed score for each dimension
2. Verify data accuracy through sampling and validation procedures
3. Confirm or adjust raw scores based on verified achievement against targets
4. Apply any adjustment factors based on exceptional circumstances
5. Finalize dimension score (maximum 20 points per dimension), documenting any variances from self-reported scores

**3.2.2 Composite Score Calculation**

1. Sum all five dimension scores
2. Apply any overall adjustment factors if applicable
3. Finalize composite score (maximum 100 points)
4. Determine performance tier placement based on Section 6.2.2 of the main agreement

**3.3 Assessment Frequency and Timing**

**3.3.1 Quarterly Assessments**

* Based on Contractor's quarterly performance reports per Section 7.2.2
* Conducted within 15 days of quarter end
* Preliminary retention release determination
* Improvement opportunities identification

**3.3.2 Annual Comprehensive Review**

* Based on Contractor's annual comprehensive self-assessment per Section 7.2.3
* Conducted within 30 days of contract year end
* Final annual performance determination
* Strategic improvement planning
* Total annual retention release calculation

**4. Verification and Audit**

**4.1 Performance Data Verification**

**4.1.1 Self-Reported Data Verification Process**

* Review of Contractor's evidence and supporting documentation
* Judicial Council IT verification of sample system metrics
* Independent user feedback validation to corroborate vendor surveys
* Statistical sampling and cross-checking of reported data
* Verification of dashboard accuracy and report integrity

**4.1.2 External Audit Process**

* Independent third-party verification of self-reporting systems and methodologies
* Validation of vendor's measurement and calculation approaches
* Review of vendor's evidence collection practices
* Assessment of reporting accuracy and reliability
* Compliance with industry standards

**4.2 Dispute Resolution for Scoring Disagreements**

In case of scoring disagreements, refer to Appendix I: Verification and Dispute Resolution Procedures for the detailed resolution process.

**5. Continuous Improvement**

**5.1 Performance Trending Analysis**

* Quarter-over-quarter performance tracking
* Year-over-year improvement analysis
* Identification of recurring issues

**5.2 Performance Improvement Planning**

* Targeted improvement initiatives
* Root cause analysis for underperforming areas
* Strategic enhancement planning

**6. Documentation Requirements**

**6.1 Performance Assessment Documentation**

* Detailed scoring worksheets
* Supporting evidence collection
* Performance narrative analysis
* Improvement recommendations
* Documentation of any adjustments to self-reported scores

**6.2 Reporting Cadence**

* Monthly performance indicators via vendor dashboard
* Quarterly detailed assessments
* Annual comprehensive evaluation
* Executive-level performance summaries

**Appendix I: Verification and Dispute Resolution Procedures**

**1. Introduction**

This Appendix I establishes the formal processes for verifying performance assessments and resolving any disputes between the Judicial Council and the Contractor under this Agreement.

**2. Performance Verification Framework**

To ensure that the verification of performance under this Agreement is conducted fairly, consistently, and with integrity, the Parties agree that all performance verification and dispute resolution activities shall be governed by the following core principles: Objectivity and Impartiality, Transparency in Methodology, Evidence-Based Assessment, Mutual Accountability, and a Collaborative Resolution Approach.

**2.1 Verification Principles**

**2.1.1 Core Verification Principles**

The Parties agree that any evaluation or verification of performance under this Agreement shall adhere to the following standards:

(a) **Objectivity and Impartiality.**  
 All performance assessments shall be conducted by individuals or entities with no conflict of interest, and with a duty to act independently, without bias or favoritism toward either Party.

(b) **Transparency in Methodology.**  
 The methods, procedures, criteria, and metrics used for verification shall be clearly documented, communicated to both Parties in advance, and applied consistently throughout the Project. Any modifications to the verification methodology shall require the mutual written agreement of the Parties.

(c) **Evidence-Based Assessment.**  
 All findings, conclusions, and determinations shall be based solely on verifiable facts, documented evidence, and measurable data. Anecdotal information, subjective opinions, or assumptions shall not form the basis of any performance determination.

(d) **Mutual Accountability.**  
 Both Parties commit to cooperating fully in the verification process, including timely provision of information, documents, access to personnel, and reasonable assistance necessary to enable a thorough and accurate performance review.

(e) **Collaborative Resolution Approach.**  
 In the event of any disagreement regarding performance verification results, the Parties shall first engage in good faith discussions, aiming to reach a collaborative resolution without formal proceedings. This process shall involve transparent sharing of relevant data and rationale, and an honest, cooperative effort to resolve disputes swiftly and constructively.

**2.1.2 Verification Authority Structure**

To ensure rigorous and fair assessment of Project performance, the Parties establish the following multi-tiered Verification Authority Structure:

**1. Primary Level: Contractor Self-Reporting and Evidence Collection.**  
 The Contractor shall be primarily responsible for collecting, documenting, and self-reporting performance data and evidence in accordance with the Verification Framework established under this Agreement. Reports shall be prepared in good faith, utilizing transparent and evidence-based methodologies, and shall include all information reasonably necessary for independent verification. The Contractor shall submit performance reports to the Judicial Council and the Joint Performance Review Committee on a quarterly basis, or as otherwise specified in the Project Schedule.

**2. Secondary Level: Joint Performance Review Committee (Verification and Validation).**  
A Joint Performance Review Committee ("Committee") shall be formed, comprising an equal number of representatives designated by each Party.  
 The Committee shall:

* Review and validate the Contractor's self-reported performance data;
* Conduct supplementary analysis, sampling, or field verification as deemed necessary;
* Resolve minor discrepancies or information gaps through collaborative discussion;
* Issue Verification Findings Reports detailing verified performance results, recommendations, and any identified non-conformities.

The Committee shall operate under rules of procedure mutually agreed upon in writing and shall strive for consensus in all determinations. Where consensus cannot be achieved, disputed items shall be documented and escalated in accordance with Section 3 below.

**3. Tertiary Level: Independent Third-Party Verifier (Audits and Methodology Review).**  
 At the request of either Party, or as mandated by the Agreement, an Independent Third-Party Verifier ("Verifier") shall be engaged to conduct targeted audits, spot-checks, or methodology reviews to ensure the integrity and reliability of the Contractor’s performance reporting and the Committee’s validation processes.  
 The Verifier shall:

* Be mutually selected and appointed by the Parties;
* Possess recognized expertise relevant to the Project’s subject matter;
* Operate under agreed-upon Terms of Reference specifying audit scope, criteria, and deliverables;
* Provide objective, written reports outlining audit findings, including confirmation or correction of prior verification results.

Costs for third-party verification shall be shared equally between the Parties.

**4. Final Level: Dispute Resolution.**  
Should disputes concerning performance verification or validation remain unresolved following the processes above, the matter shall follow the dispute escalation and resolution provisions set forth in Section 3 below.

**5. Good Faith Participation.**  
 Each Party agrees to participate diligently and in good faith at each level of the Verification Authority Structure, with the aim of ensuring transparent, accurate, and fair resolution of all performance matters.

**2.2 Joint Performance Review Committee**

**2.2.1 Committee Composition**

* A Joint Performance Review Committee (“Committee”) shall be appointed within six (6) months of the execution of this Agreement. The Committee shall be comprised of (i) two (2) Judicial Council representatives, (ii) two (2) Contractor representatives, and (iii) one (1) neutral pro-bono sustainability technology expert who shall be part of the Committee on a rotating basis every two (2) contract years.

**2.2.2 Committee Responsibilities**

The Joint Performance Review Committee shall be responsible for conducting a structured, impartial review of the Contractor’s self-reported performance data and proposed performance scores. The Committee shall validate the methodologies and supporting evidence used by the Contractor to measure performance, ensuring consistency with the agreed Verification Framework. To confirm the accuracy and integrity of reported metrics, the Committee shall undertake sampling, testing, and comparative analysis as appropriate. Where discrepancies arise between the Contractor’s reported data and the Committee’s findings, the Committee shall identify the variance, investigate root causes, and seek to resolve such discrepancies collaboratively. Upon completion of its review, the Committee shall either approve the Contractor’s proposed performance scores or adjust them, providing documented rationale for any modifications. In addition, the Committee shall serve as the first level of dispute resolution for performance-related disagreements, working in good faith to mediate and resolve issues before escalation to third-party verification, in accordance with the procedures set forth below in Section 3.

**2.2.3 Meeting Frequency**

The Joint Performance Review Committee shall convene quarterly performance review sessions to evaluate the Contractor’s submitted data and assess ongoing performance against the agreed metrics. In addition to regular meetings, the Committee may hold ad-hoc sessions as needed to address time-sensitive issues, discrepancies, or disputes requiring immediate attention. At least once per year, the Committee shall conduct an annual comprehensive review session to assess cumulative performance, validate long-term trends, and recommend any necessary adjustments to verification methodologies or performance criteria.

**2.3 Independent Third-Party Verification**

**2.3.1 Verifier Selection**

The Independent Third-Party Verifier (“Verifier”) shall be an individual or firm with recognized expertise in sustainability technology and performance measurement, and must be mutually agreed upon by the Parties prior to engagement. To preserve independence and objectivity, the Verifier shall have no prior financial or contractual relationship with either Party that could reasonably give rise to a conflict of interest or perception of bias. The Verifier must demonstrate relevant qualifications and experience in the verification of sustainability-related performance data, including technical familiarity with methodologies used in this Project. The Verifier’s appointment shall be for a term not to exceed three (3) consecutive years, after which a new Verifier must be selected, subject to the same qualifications and approval process.

**2.3.2 Verification Scope**

The Verifier shall perform a targeted, objective assessment of the Contractor’s performance reporting practices to ensure reliability, transparency, and compliance with the agreed Verification Framework. The Verifier’s scope of work shall include the assessment of the Contractor’s self-reporting systems and measurement methodologies, with specific attention to design integrity, methodological soundness, and alignment with project standards. The Verifier shall conduct random sample verification of self-reported metrics across all performance dimensions, applying statistically valid sampling techniques where appropriate. Additionally, the Verifier shall perform statistical validation of automated metrics and calculation methods used by the Contractor to ensure the accuracy of derived results. The Verifier shall evaluate the quality, completeness, and sufficiency of supporting evidence, assess compliance with defined performance reporting processes, and perform independent reviews of documentation to verify consistency and traceability. Where feasible, the Verifier shall also conduct independent user experience evaluations to compare reported service quality against actual stakeholder experience. Finally, the Verifier shall confirm data integrity and reporting accuracy, identifying any material discrepancies and issuing formal findings reports for consideration by the Joint Performance Review Committee and the Parties.

**2.3.3 Verification Methodology**

The Verifier shall employ a rigorous and transparent verification methodology designed to ensure accuracy, objectivity, and consistency in evaluating the Contractor’s reported performance. At a minimum, the Verifier shall apply statistical sampling techniques to verify no less than ten percent (10%) of reported performance data across each major performance dimension. To facilitate in-depth analysis, the Contractor shall provide the Verifier with direct access to relevant systems, tools, and platforms necessary for real-time testing, data extraction, and audit trail validation.

The verification process shall also include interviews and surveys with end users and relevant stakeholders, where appropriate, to gather independent feedback on service quality and user experience. The Verifier shall compare documentation and reported results against actual observed performance, ensuring alignment between claims and operational evidence. Additionally, the Verifier shall assess compliance with applicable industry standards, best practices, and any regulatory benchmarks specified in the Agreement or referenced frameworks. All findings and conclusions shall be documented in a Verification Report and presented to both Parties and the Joint Performance Review Committee.

**2.3.4 Verification Timing**

To maintain timely and effective oversight, all third-party verification activities shall adhere to the following schedule. The Verifier shall complete a quarterly verification review within twenty-one (21) calendar days following the end of each performance quarter. In addition, the Verifier shall conduct a comprehensive annual verification of cumulative performance data and system processes, to be completed within forty-five (45) calendar days of the end of each contract year. In the event of a formally disputed performance assessment or unresolved discrepancy escalated by the Joint Performance Review Committee or either Party, the Verifier shall conduct an immediate, targeted verification of the contested metrics or issues. Such expedited reviews shall commence within five (5) business days of notice and be completed as promptly as practicable, but no later than fifteen (15) calendar days from initiation, unless otherwise agreed in writing by the Parties.

**3. Dispute Escalation and Resolution**

**3.1 Disputes**

If there is any controversy, dispute, or claim arising out of or relating to this Agreement (“Dispute”), then either party may submit the Dispute for resolution under this Section 3.1 (Disputes) by providing prior written notice (a “Dispute Notice”) to the other party of the nature of the Dispute with as much detail as is practicable and any documentation reasonably necessary to evaluate such Dispute; provided that this Section shall not apply to controversies, disputes, or Claims relating to or affecting in any way the ownership of or the validity of any Intellectual Property Rights, or fraud by either party. Disputes regarding a performance assessment, score, or verification finding must follow the requirements and procedures detailed in Section 4 below.

During any Dispute, Contractor agrees to continue performance relating to items not in dispute. Each of the parties shall appoint an individual at the Director level to whom Disputes will be escalated (“Escalation Officer”). The Escalation Officers for each party shall meet (in person or by telephone) within seven (7) days of the date of receipt of the Dispute Notice to attempt to resolve the dispute. The Escalation Officers shall produce a report regarding the Dispute for the Judicial Council’s Chief Administrative Officer and the Contractor’s \_\_\_\_\_\_\_[Executive Vice President or equivalent within the Contractor’s management structure] of each of the parties (each, a “Management Representative”). If the Escalation Officers are unable to agree upon action to resolve the Dispute, the Management Representatives shall meet (in person or by telephone) to attempt to resolve the Dispute. If the Management Representatives cannot resolve the Dispute or agree upon a written plan of action to do so within thirty days following the date of receipt of the Dispute Notice, or if any agreed-upon completion dates in a written plan of action are exceeded without extension, subject to Appendix C, Section 10.9 (Governing Law; Jurisdiction) and Appendix C, Section 10.10 (Injunctive Relief) the parties may pursue any rights they have at law or equity.

Notwithstanding any of the foregoing, either party may, without inconsistency with this Section 3.1 (Disputes), apply to any court having jurisdiction hereof and seek interim provisional, injunctive, or other equitable relief for a party’s breach of Section 5 (Confidential Information) in accordance with Section 10.10 (Injunctive Relief).

**4. Performance Assessment and Verification Disputes**

**4.1 Dispute Initiation Process**

**4.1.1 Formal Dispute Notification Requirements**

In the event either Party disputes a performance assessment, score, or verification finding, that Party must initiate the dispute process through a Formal Dispute Notification that complies with the following requirements:

1. **Timeliness.** The disputing Party shall deliver written notice of dispute within fourteen (14) calendar days following receipt of the relevant performance assessment or verification report.
2. **Specific Identification.** The notice must clearly identify the specific performance element(s), score(s), data point(s), or findings being disputed.
3. **Quantification.** The notice must include a quantitative statement of the points, values, or performance metrics the disputing Party contests, and the basis for any alternative values proposed.
4. **Supporting Evidence.** The notice must be accompanied by or reference documented evidence supporting the disputing Party’s position, including relevant data, analysis, system outputs, or communications.
5. **Proposed Resolution Pathway.** The notice must include a proposed resolution pathway, which may include recommended corrective actions, alternative interpretations, or referral to the Joint Performance Review Committee or Independent Third-Party Verifier, as appropriate.

Failure to meet the requirements of this clause may result in waiver of the dispute, unless the non-disputing Party consents in writing to an extension or procedural exception. Disputes submitted in compliance with this section shall proceed in accordance with the Dispute escalation procedure set forth in Section 3 above.

**4.1.2 Dispute Classification**

All formal disputes submitted in accordance with the Formal Dispute Notification Requirements shall be classified by the initiating Party into one or more of the following categories:

* **Category 1: Methodology Application Dispute –** Disagreement concerning the correct application of the agreed performance measurement methodology.
* **Category 2: Data Accuracy or Integrity Dispute –** Alleged errors, inconsistencies, or manipulation in the reported data or data sources.
* **Category 3: Performance Threshold Interpretation Dispute –** Conflicting interpretations of defined performance targets or thresholds.
* **Category 4: Extenuating Circumstances Consideration Dispute –** Claims that external or unforeseen events affected performance and should be considered in evaluation.
* **Category 5: Self-Reporting Verification Dispute –** Discrepancies between self-reported performance and findings from independent verification.
* **Category 6: Score Adjustment Dispute –** Challenges to performance scores issued by the Joint Performance Review Committee.
* **Category 7: Comprehensive Assessment Dispute –** Disputes involving cumulative or year-end performance assessments affecting major project outcomes or compensation.

**4.2 Dispute Escalation and Resolution Procedures**

Once classified, disputes shall proceed through the following escalation process:

**4.2.1 Initial Review by Joint Performance Review Committee**

All disputes shall first be reviewed by the Joint Performance Review Committee. A review session shall be scheduled within **seven (7) calendar days** of receipt of a compliant dispute notification. During the session, both Parties shall have the opportunity to present evidence, clarify positions, and respond to questions. The Committee shall facilitate a collaborative problem-solving approach, encouraging open dialogue and aiming for consensus-based resolution. All proceedings, discussions, and outcomes shall be formally documented, including the classification of the dispute, evidence presented, and the Committee’s findings or recommendations. If the dispute is resolved, the Committee shall issue a jointly signed resolution summary. If unresolved, the matter shall be escalated pursuant to the steps outlined below.

**4.2.2 Referral to Independent Third-Party Verifier (if applicable)**

For disputes involving data integrity (Category 2), verification challenges (Category 5), or complex methodological questions (Category 1), the Committee may refer the dispute to the Independent Third-Party Verifier. The Verifier shall complete its review and issue a findings report within **fifteen (15) calendar days** of referral, unless extended by mutual agreement.

**4.2.3 Senior Management Escalation**

If unresolved after Committee and/or Verifier review, the matter shall be escalated to designated senior management representatives of each Party, who shall meet (virtually or in person) and attempt to resolve the dispute within **ten (10) business days**.

**4.2.4 Final Resolution – Further Action**

If no resolution is reached following the exhaustion of the above escalations and attempts, the parties may pursue any rights they have at law or in equity.

**4.2.5 Post-Resolution Documentation and Implementation**

When a dispute is resolved at any stage of the escalation process—whether by agreement of the Parties, findings of the Joint Performance Review Committee, or recommendations of the Independent Third-Party Verifier—the outcome shall be formally recorded in a written resolution agreement signed by both Parties. If the resolution results in changes to performance data or outcomes, a revised performance assessment shall be issued to reflect the corrected metrics and scores. Where applicable, any associated adjustments to retention release calculations or other performance-based payments shall be calculated and documented in accordance with the revised assessment. The resolution agreement shall also specify an implementation timeline for any agreed-upon corrective actions, remedial steps, or procedural changes. Both Parties shall comply with the resolution terms in good faith, and the documentation shall be incorporated into the official project record.

**4.3. Expedited Dispute Resolution**

**4.3.1 Expedited Process Criteria**

An expedited dispute resolution process (“Expedited Resolution”) shall apply when any of the following criteria are met:

* The Dispute materially impacts critical system functionality necessary for performance under this Agreement;
* Delay in resolution would result in significant disruption to operations of either Party;
* The financial impact of the Dispute exceeds fifty thousand dollars ($50,000); or
* Both Parties mutually agree in writing to apply the Expedited Resolution process.

**4.3.2 Expedited Timeline**

When a Dispute qualifies for Expedited Resolution:

* The initiating Party shall issue a Dispute Notice within three (3) business days of becoming aware of the triggering condition;
* The Parties’ Escalation Officers shall convene a joint meeting within two (2) business days of the Dispute Notice to attempt immediate resolution;
* If unresolved, pursuant to Section 4.4 below, the Parties shall jointly schedule a mediation with an agreed-upon mediator within five (5) business days of the initial meeting.

All other applicable provisions of this Appendix remain in effect, except that the standard timeframes shall be deemed modified as necessary to accommodate the above expedited process.

**4.4 Mediation Facilitation and Neutral Selection**

**4.4.1** **Mediation Facilitation**  
 If an expedited mediation is required under Section 4.3, the Parties shall jointly select a qualified mediator to facilitate resolution. The mediation session shall be scheduled and conducted remotely or in-person, depending on the urgency and availability, and shall:

* Be held within seven (7) business days of the joint scheduling effort unless otherwise agreed;
* Follow a collaborative, non-adversarial format focused on practical, time-sensitive resolution;
* Result in a written summary of any agreements or narrowed issues, signed by both Parties.

**4.4.2 Neutral Mediator Qualifications**  
 The mediator shall:

* Be mutually agreed upon by both Parties;
* Have no current or prior financial relationship with either Party;
* Possess experience mediating commercial technology or service delivery disputes;
* Be available to initiate the process within the timeline required under this Section.

**4.4.3** **Failure to Agree on Mediator**  
 If the Parties are unable to mutually agree upon a mediator within two (2) business days of identifying the need, they shall request a list of five (5) neutrals from a recognized mediation service (e.g., JAMS, AAA), and each Party shall strike one name alternately until a single mediator remains.

**4.4.4 Mediation Costs**  
The costs of mediation shall be shared equally by the Parties, unless otherwise agreed in writing. Each Party shall bear its own legal and preparation expenses.

**Appendix J: Improvement Plan Template**

1. **Improvement Plan Overview**
   1. **Purpose and Scope**

This template establishes the standard format and required elements for Performance Improvement Plans when the Contractor's performance falls within Tier 3 (Needs Improvement) or Tier 4 (Critical Performance). The Improvement Plan serves as a structured pathway to remediate performance issues, restore service quality, and ensure alignment with the Judicial Council's sustainability tracking objectives.

* 1. **Triggering Conditions**

An Improvement Plan is mandatory when:

* The Contractor's quarterly performance score falls within Tier 3 (60-74 points)
* The Contractor's quarterly performance score falls within Tier 4 (0-59 points)
* Any single performance dimension scores below 12 points (60%)
* The Judicial Council formally requests a plan for specific performance concerns
* The Contractor proactively identifies significant performance risks
  1. **Implementation Timeline**
* Tier 3 Performance: Plan due within 14 calendar days of assessment notification
* Tier 4 Performance: Plan due within 7 calendar days of assessment notification
* Dimension-Specific Issues: Plan due within 10 calendar days of notification
* Judicial Council Request: Timeline specified in the formal request
* Proactive Identification: Timeline proposed by Contractor

1. **Improvement Plan Template**
   1. **Executive Summary**
      1. **Required Components**

* Performance assessment summary
* Key performance gaps identified
* Improvement plan objectives
* Critical success factors
* Expected outcomes and timeline
* Executive commitment statement

**[TEMPLATE SECTION - LIMITED TO 2 PAGES]**

* 1. **Performance Gap Analysis**
     1. **Comprehensive Root Cause Analysis**
* [TEMPLATE: Complete for each performance dimension below target]

Performance Dimension: [Dimension Name]  
Current Score: [X/20]  
Target Score: [X/20]

Root Causes:

1. [Primary root cause]
   * Contributing factors:
     + [Factor 1]
     + [Factor 2]
   * Supporting evidence:
     + [Evidence 1]
     + [Evidence 2]
2. [Secondary root cause]
   * Contributing factors:
     + [Factor 1]
     + [Factor 2]
   * Supporting evidence:
     + [Evidence 1]
     + [Evidence 2]
     1. **Performance Impact Analysis:**

* Operational impact: [Description]
* User experience impact: [Description]
* Sustainability tracking impact: [Description]
* Strategic objective impact: [Description]
  + 1. **Interdependencies with Other Dimensions:**
* [Dimension 1]: [Relationship description]
* [Dimension 2]: [Relationship description]
  1. **Corrective Action Plan**
     1. **Detailed Action Items**
* [TEMPLATE: Complete for each performance gap identified]

**Performance Gap: [Gap description]**

**Corrective Actions:**

1. **Action Item: [Action description]** 
   * Responsibility: [Primary owner name and role]
   * Resources Required: [Staff, technology, budget]
   * Start Date: [MM/DD/YYYY]
   * Target Completion: [MM/DD/YYYY]
   * Success Metrics: [Specific, measurable outcomes]
   * Dependencies: [Any prerequisite actions]
   * Risk Factors: [Potential obstacles]
   * Mitigation Strategies: [How risks will be addressed]
2. **Action Item: [Action description]** 
   * Responsibility: [Primary owner name and role]
   * Resources Required: [Staff, technology, budget]
   * Start Date: [MM/DD/YYYY]
   * Target Completion: [MM/DD/YYYY]
   * Success Metrics: [Specific, measurable outcomes]
   * Dependencies: [Any prerequisite actions]
   * Risk Factors: [Potential obstacles]
   * Mitigation Strategies: [How risks will be addressed]

[Add additional action items as needed]

* 1. **Implementation Timeline**

**2.4.1 Comprehensive Timeline**

* [TEMPLATE: Complete with all action items in chronological sequence]

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Week | Action Items | Milestones | Responsible Party | Status |
| 1 | **[Actions]** | **[Milestone]** | **[Name/Role]** | **[Status]** |
| 2 | **[Actions]** | **[Milestone]** | **[Name/Role]** | **[Status]** |
| 3 | **[Actions]** | **[Milestone]** | **[Name/Role]** | **[Status]** |
| [Continue as needed] |  |  |  |  |

**2.4.2 Critical Path Analysis**

* Key Dependencies: [List critical dependencies]
* Bottlenecks: [Identify potential bottlenecks]
* Acceleration Opportunities: [Areas where timeline might be compressed]
* Contingency Time Allocations: [Buffer periods for critical path items]
  1. **Resource Allocation**
     1. **Team Allocation**
* [TEMPLATE: Complete for key personnel assigned to improvement activities]

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Role | Name | Responsibilities | Time Commitment | Start Date | End Date |
| [Role] | **[Name]** | **[Key responsibilities]** | **[Hours/week]** | **[Date]** | **[Date]** |
| [Role] | **[Name]** | **[Key responsibilities]** | **[Hours/week]** | **[Date]** | **[Date]** |
| [Continue as needed] |  |  |  |  |  |

* + 1. **Technology Resources**
* Hardware Requirements: [Specify]
* Software Requirements: [Specify]
* Development Environment Needs: [Specify]
* Testing Resources: [Specify]
  + 1. **Budget Allocation**
* Personnel Costs: [Amount]
* Technology Costs: [Amount]
* External Services: [Amount]
* Contingency Fund: [Amount]
* Total Improvement Budget: [Total Amount]
  1. **Monitoring and Reporting Framework**
     1. **Progress Tracking Methodology**
* Self-Monitoring Approach: [Define how vendor will monitor improvement progress]
* Key Performance Indicators: [List specific KPIs]
* Tracking Frequency: [Daily/Weekly/Bi-weekly]
* Self-Verification Methods: [How vendor will verify progress internally]
* Evidence Collection Requirements: [Specific evidence to be maintained]
* Status Classification System: [Define status categories]
  + 1. **Self-Reporting Schedule**
* [TEMPLATE: Define self-reporting commitments]

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Report Type | Frequency | Recipients | Format | Owner | Verification Method |
| [Report name] | **[Frequency]** | **[Audience]** | **[Format]** | **[Owner]** | **[How Judicial Council will verify]** |
| [Report name] | **[Frequency]** | **[Audience]** | **[Format]** | **[Owner]** | **[How Judicial Council will verify]** |
| [Continue as needed] |  |  |  |  |  |

* + 1. **Reporting Quality Requirements**
* Accuracy Standards: [Define expected level of reporting accuracy]
* Evidence Requirements: [Specify supporting documentation standards]
* Transparency Obligations: [Define expectations for full disclosure]
* Self-Assessment Criteria: [How vendor should evaluate their own improvement progress]
  1. **Communication Plan**
     1. **Stakeholder Communication Matrix**
* [TEMPLATE: Define communication strategy for each stakeholder group]

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Stakeholder Group | Key Concerns | Communication Method | Frequency | Responsible Party |
| [Group] | **[Concerns]** | **[Method]** | **[Frequency]** | **[Owner]** |
| [Group] | **[Concerns]** | **[Method]** | **[Frequency]** | **[Owner]** |
| [Continue as needed] |  |  |  |  |

* + 1. **Escalation Protocol**
* Level 1 Escalation: [Define trigger, recipients, and timeframe]
* Level 2 Escalation: [Define trigger, recipients, and timeframe]
* Level 3 Escalation: [Define trigger, recipients, and timeframe]
* Emergency Protocol: [Define emergency communication process]
  1. **Success Criteria and Exit Strategy**
     1. **Improvement Plan Completion Criteria**
* Minimum Performance Threshold: [Define minimum acceptable performance]
* Target Performance Level: [Define target performance level]
* Sustained Performance Period: [Define required period of sustained performance]
* Documentation Requirements: [Define required evidence of completion]
  + 1. **Transition Strategy**
* Transition to Normal Operations: [Define process]
* Ongoing Monitoring Requirements: [Define long-term monitoring]
* Knowledge Transfer Activities: [Define knowledge transfer requirements]
* Lessons Learned Documentation: [Define documentation requirements]
  1. **Risk Management**
     1. **Risk Register**
* [TEMPLATE: Complete for each identified risk]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Risk Description | Probability | Impact | Risk Score | Owner | Mitigation Strategy | Contingency Plan |
| [Risk] | **[H/M/L]** | **[H/M/L]** | **[Score]** | **[Name]** | **[Strategy]** | **[Plan]** |
| [Risk] | **[H/M/L]** | **[H/M/L]** | **[Score]** | **[Name]** | **[Strategy]** | **[Plan]** |
| [Continue as needed] |  |  |  |  |  |  |

* + 1. **Risk Monitoring Process**
* Review Frequency: [Define review schedule]
* Update Process: [Define update methodology]
* Trigger Events: [Define events requiring immediate review]

1. **Approval Process**
   1. **Required Approvals**
      1. **Contractor Approvals**

* Technical Lead: [Name, Signature, Date]
* Project Manager: [Name, Signature, Date]
* Executive Sponsor: [Name, Signature, Date]
  + 1. **Judicial Council Approvals**
* Contract Manager: [Name, Signature, Date]
* Sustainability Program Manager: [Name, Signature, Date]
* IT Representative: [Name, Signature, Date]
  1. **Review Process**
* Initial submission
* Judicial Council review (5 business days)
* Revision period (if required)
* Final approval

1. **Implementation Verification**
   1. **Progress Review Meetings**
      1. **Meeting Schedule**

* Tier 3 Performance: Bi-weekly progress reviews
* Tier 4 Performance: Weekly progress reviews
* Executive Review: Monthly executive oversight meeting
  + 1. **Meeting Participants**
* Contractor technical team
* Contractor management
* Judicial Council contract manager
* Judicial Council technical representative
* Independent verifier (quarterly)
  1. **Success Verification**
* Independent verification of performance improvements
* User feedback collection
* System performance testing
* Documentation review

1. **Document History**

|  |  |  |  |
| --- | --- | --- | --- |
| Version | Date | Author | Description of Changes |
| 1.0 | **[Date]** | **[Author]** | **Initial template creation** |
| [Version] | **[Date]** | **[Author]** | **[Description]** |
| [Continue as needed] |  |  |  |

1. **Attachments**
   1. **Supporting Documentation**

* Performance assessment reports
* Technical diagnosis reports
* User feedback summaries
* Benchmark comparison data
  1. **Reference Materials**
* Industry best practices
* Technical standards
* Regulatory requirements
* Contract obligations

1. The form is located at https://www.courts.ca.gov/documents/JBCM-Post-Contract-Certification-Form.docx [↑](#footnote-ref-2)
2. Additional capitalized terms may be defined in the other Appendices to this Agreement. [↑](#footnote-ref-3)