

**ATTACHMENT 2
CONTRACT TERMS**

**EXHIBIT A
STANDARD PROVISIONS**

1. Indemnification

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

2. Relationship of Parties

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

3. Termination for Cause

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

4. No Assignment

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

5. Time of Essence

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

6. Validity of Alterations

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

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7. Consideration

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

END OF EXHIBIT

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**EXHIBIT B
SPECIAL PROVISIONS**

1. Definitions

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

- A. “**Administrative Director**” refers to that individual, or authorized designee, empowered by the State to make final and binding executive decisions on behalf of the State.
- B. “**Amendment**” means a written document issued by the State and signed by the Contractor which alters the Contract Documents and identifies the following: (1) a change in the Work; (2) a change in Contract Amount; (3) a change in time allotted for performance; and/or (4) an adjustment to the Agreement terms.
- C. “**Confidential Information**” means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the State’s business or the business of its constituents. Confidential Information does not include (i) information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information that becomes generally available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement; (iii) information that is independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.
- D. The “**Contract**” or “**Contract Documents**” constitute the entire integrated agreement between the State and the Contractor, as attached to and incorporated by a fully executed State Standard Agreement form. The terms “Contract” or “Contract Documents” may be used interchangeably with the term “**Agreement.**”
- E. “**Contract Amount**” means the total amount encumbered under this Agreement for any payment by the State to the Contractor for performance of the Work, in accordance with the Contract Documents.
- F. The “**Contractor**” means the individual, association, partnership, firm, company, consultant, corporation, affiliates, or combination thereof, including joint ventures, contracting with the State to do the Contract Work. The Contractor is one of the parties to this Agreement.
- G. “**Data**” means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.

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

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- P. **“Stop Work Order”** means the written Notice, delivered in accordance with this Agreement, by which the State may require the Contractor to stop all, or any part, of the Work of this Agreement, for the period set forth in the Stop Work Order. The Stop Work Order shall be specifically identified as such and shall indicate that it is issued pursuant to the Stop Work provision in this Exhibit B.
- Q. **“Subcontractor”** shall mean an individual, firm, partnership, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of the Agreement. When the State refers to Subcontractor(s) in this document, for purposes of this Agreement and unless otherwise expressly stated, the term “Subcontractor” includes, at every level and/or tier, all subcontractors, sub-consultants, suppliers, and materialmen.
- R. **“Task(s)”** means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- S. **“Third Party”** refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the State or the Contractor, which is not a party to this Agreement.
- T. **“Transition Period”** means a period of time commencing (i) two months prior to the expiration of this Agreement or on an earlier date as the State may request and Contractor may agree, (ii) upon any notice of termination or non-renewal of this Agreement, or (iii) two months prior to any other ceasing of services under this Agreement, as applicable, and continuing through the effective date of expiration, termination or cessation, but for no less than two months.
- U. **“Transition Plan”** refers to the plan set forth in Exhibit B to this Agreement as necessary to allow the Work to continue without interruption or adverse effect and facilitate the orderly transfer of the Work to the State or the State’s designee.
- V. **“Trial Court(s)”** or **“Court(s)”** means one or more of the fifty-eight (58) superior courts in the California state trial court system.
- W. **“Work”** or **“Work to be Performed”** or **“Contract Work”** may be used interchangeably to refer to the service, labor, Materials, Data, and other items necessary for the execution, completion and fulfillment of the Agreement by the Contractor to the satisfaction of the State. Work may be defined to include Tasks, Deliverables, and/or Submittals, as required by the Contract.

2. Manner of Performance of Work

The Contractor shall complete all Work specified in these Contract Documents to the State's

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satisfaction and in compliance with the Nondiscrimination/No Harassment Clause, as set forth in this Exhibit B.

3. Termination Other Than for Cause

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

4. State's Obligation Subject to Availability of Funds

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

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promptly pay any previously due and unpaid amounts upon approval and adoption of the State budget.

5. Agreement Administration/Communication

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

TBD, Project Manager
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3660

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

TBD

6. Stop Work

- A. The State may, at any time, by written Notice to the Contractor, require the Contractor to stop all, or any part, of the Work of this Agreement, for a period up to ninety (90) Days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Stop Work Order during the period of Work stoppage. Within a period of ninety (90) Days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
- i. Cancel the Stop Work Order; or
 - ii. Terminate the Work covered by the Stop Work Order in accordance with any applicable termination provisions of this Agreement.
- B. If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume Work. The State shall make an equitable adjustment in the delivery schedule, the Contract Amount, or both, and the Agreement shall be modified, in writing, accordingly, if:
- i. The Stop Work Order results in an increase in the time required for, or in the

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Contractor's cost properly allocable to, the performance of any part of this Agreement; and,

- ii. The Contractor asserts its right to an equitable adjustment within thirty (30) Days after the end of the period of Work stoppage.

- C. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the Termination Other Than For Cause provision or the State's Obligation Subject to Availability of Funds provision, as set forth under Exhibit B, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- D. The State shall not be liable to the Contractor for loss of profits because of the Stop Work Order issued under this provision.

7. Services Warranty

The Contractor warrants and represents that each of its employees, independent contractors or agents assigned to perform any services or provide any technical assistance in planning, development, training, consulting or related services under the terms of this Agreement shall have the skills, training, and background reasonably commensurate with his or her level of performance or responsibility, so as to be able to perform in a competent and professional manner. The Contractor further warrants that the services provided hereunder will conform to the requirements of this Agreement. All warranties, including any special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and any other recipients of the services provided hereunder.

8. Assignments or Subcontracting

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

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9. Changes and Amendments

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

10. Accounting System Requirement

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

11. Retention of Records

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

12. Audit

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

13. Permits and Licenses

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

14. Ownership of Results

A. Any interest of the Contractor in Data in any form, or other documents and/or recordings prepared by the Contractor for performance of services under this Agreement shall become the property of the State. Upon the State's written request,

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the Contractor shall provide the State with all this Data within thirty (30) Days of the request.

- B. The Contractor agrees not to assert any rights at common law, or in equity, or establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole, or part, or any manner or form, or authorize others to do so without the written consent of the State.

15. Limitation on Publication

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

16. Limitation on State's Liability

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

17. Transition Services

- A. During the Transition Period, the Contractor shall provide to the State or the State's designee, the services set forth in the Transition Plan, and any other services reasonably necessary to enable the State to obtain from another contractor, or to provide for itself, services to substitute for or replace the services provided by Contractor under this Agreement without interruption or adverse effect and to facilitate the orderly transfer of the Services to the State or the State's designee (collectively, "Transition Services"). Contractor shall provide Transition Services to the State or the State's designee regardless of the reason for termination or expiration.
- B. Transition Services shall be provided at no cost to the State or the State's designated successor except as otherwise provided for in Exhibit C, Payment Provisions.

18. Insurance Requirements

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

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renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the Work which is the subject of this Agreement.

- B. **Minimum Scope and Limits of Insurance.** The Contractor shall maintain coverage and limits no less than the following:
- i. Workers' Compensation at statutory requirements of the State of residency.
 - ii. Employers' Liability with limits not less than **\$1,000,000.00** for each accident.
 - iii. Commercial General Liability Insurance with limits not less than **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage.
 - iv. Business Automobile Liability Insurance with limits not less than **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired automobile coverage, as applicable.
 - v. Professional Liability: Errors and Omissions; **\$1,000,000.00**.
- C. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to, and approved by, the State. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the State and shall be the sole responsibility of the Contractor.
- D. **Other Insurance Provisions.** The General Liability policy required in this Agreement is to contain, or be endorsed to contain, the following provisions:
- i. The State, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement.
 - ii. To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects the State, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the State, its officers, officials, employees or agents shall not contribute with the insurance or benefit the Contractor in any way,
 - iii. The Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- E. The Contractor shall provide the State certificates of insurance satisfactory to the

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State evidencing all required coverages before Contractor begins any Work under this Agreement, and complete copies of each policy upon the State's request.

- F. Subcontractors. The Contractor shall include all AOC-approved Subcontractors as insured under its policies, or shall furnish separate certificates of insurance and policy endorsements for each AOC-approved Subcontractor. Insurance coverages provided by Subcontractors as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.
- G. If at any time the foregoing policies shall be or become unsatisfactory to the State, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the State, the Contractor shall, upon Notice to that effect from the State, promptly obtain a new policy, and shall submit the same to the State, with the appropriate certificates and endorsements, for approval.
- H. All of the Contractor's policies shall be endorsed to provide advanced written Notice to the State of cancellation, nonrenewal, and reduction in coverage, within fifteen (15) Days, mailed to the following address: Judicial Council, Administrative Office of the Courts, Business Services Manager, 455 Golden Gate Ave., 7th Floor, San Francisco, CA 94102.

19. Confidentiality

In the performance of the Work under this Agreement or contemplation of this Agreement, the Contractor may gain access to private or confidential information of the State that if disclosed to Third Parties may be damaging to the State. All information disclosed by the State to the Contractor shall be held in confidence and used only in performance of this Agreement.

20. Conflict of Interest

- A. The Contractor and employees of the Contractor shall not participate in proceedings that involve the use of State funds or that are sponsored by the State if the person's partner, family, or organization has a financial interest in the outcome of the proceedings. The Contractor and employees of the Contractor shall also avoid actions resulting in or creating the appearance of (1) use of an official position with the government for private gain; (2) preferential treatment to any particular person associated with this Agreement or the Work of this Agreement; (3) loss of independence or impartiality; (4) a decision made outside official channels; or (5) adverse effects on the confidence of the public in the integrity of the government or this Agreement.
- B. The Contractor certifies and shall require any Subcontractor to certify to the following:

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Former State employees will not be awarded a contract for two (2) years from the date of separation if that employee had any part of the decision making process relevant to the contract, or for one (1) year from the date of separation if that employee was in a policy making position in the same general subject area as the proposed contract within the twelve (12) month period of his or her separation from state service.

21. Covenant Against Gratuities

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

22. National Labor Relations Board

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

23. Drug-Free Workplace

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

24. Nondiscrimination/No Harassment Clause

- A. During the performance of this Agreement, the Contractor and its Subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. The Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- B. During the performance of this Agreement, the Contractor and its Subcontractors shall not engage in unlawful harassment, including sexual harassment, with respect to

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any persons with whom the Contractor or its Subcontractors interact in the performance of this Agreement. The Contractor and its Subcontractors shall take all reasonable steps to prevent harassment from occurring.

- C. The Contractor shall comply with applicable provisions of the Fair Employment and Housing Act, California Government Code, Sections 12990 *et seq.*, and the applicable regulations promulgated under California Code of Regulations, title 2, Sections 7285 *et seq.* The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code, Section 12990, set forth in chapter 5 of division 4 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full.
- D. The Contractor and any of its Subcontractors shall give written Notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- E. The Contractor shall include the nondiscrimination/no harassment and compliance provisions of this clause in any and all subcontracts issued to perform Work under the Agreement.

25. Americans with Disabilities Act

By signing this Agreement, Contractor assures the State that it complies with applicable provisions of the Americans with Disabilities Act (“ADA”) of 1990 (42 U.S.C. Sections 012101 *et seq.*), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.

26. California Law

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

27. Severability

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

28. Waiver

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

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of the party to enforce those provisions later.

29. Signature Authority

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

30. Survival

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

31. Agreement Term and Options to Renew

A. The initial term of the Agreement shall commence on October 1, 2010 and shall expire on September 30, 2011 ("Initial Term"). The State, in its sole discretion, has the option to extend the term of the Agreement, on the same terms and conditions applicable during the Initial Term, for up to two consecutive, additional one-year periods defined below:

First Option Term: October 1, 2011 to September 30, 2012

Second Option Term: October 1, 2012 to September 30, 2013

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

32. Evaluation of Contractor

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

33. Entire Agreement

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

END OF EXHIBIT

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**EXHIBIT C
PAYMENT PROVISIONS**

1. Contract Amount

The total amount the State may pay to the Contractor under this Agreement for performing the Work set forth in Exhibit D, Work to be Performed, and any allowable expenses, shall be the actual costs not to exceed the Contract Amount of **\$TBD**, as set forth in this Exhibit C.

2. Compensation for Contract Work

- A. For performing the Work of this Agreement, the State shall compensate the Contractor for the actual cost, at the rate of **\$TBD** per hour.
- B. The hourly rate set forth above is inclusive of all costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for services rendered to the State.
- C. The Contractor shall not charge nor shall the State pay any overtime rate.
- D. The Contractor shall not request nor shall the State consider any reimbursement for non-production work including but not limited to time spent traveling to and from the job site or any living expenses.
- E. The total actual cost which the State may reimburse the Contractor, pursuant to this provision, shall not exceed **\$TBD**.

3. Compensation for Allowable Expenses

- A. The State shall reimburse the Contractor as follows:
 - i. For necessary private vehicle ground transportation usage, the State will reimburse the Contractor at the applicable IRS approved rate per mile.
- B. The Contractor shall keep and maintain original invoices and receipts for reimbursement of mileage and photograph expenses, and provide them for review if requested by the Project Manager.
- C. The total amount the State may pay the Contractor for allowable expenses sought under this paragraph shall be deducted from the Contract Amount as set forth in paragraph 1 of this Exhibit C.

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4. Direct Expenses

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

5. Other Expenses

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

6. Taxes

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

7. Method of Payment

- A. The Contractor shall submit an invoice for Work provided upon completion of the Work, as set forth in Exhibit D, Work to be Performed, but no more often than once a month. After receipt of invoice, the State will either approve the invoice for payment or give the Contractor specific written reasons why part or all of the payment is being withheld and what remedial actions the Contractor must take to receive the withheld amount.
- B. The State will make payment in arrears after receipt of the Contractor's properly completed invoice. Invoices shall clearly indicate
- i. The Contract number;
 - ii. A unique invoice number;
 - iii. The Contractor's name and address;
 - iv. Taxpayer identification number (the Contractor's federal employer identification number);
 - v. Description of the completed Work, including services rendered, Task(s) performed, and/or Deliverable(s) made, as appropriate;
 - vi. The appropriate receipts for reimbursement of allowable expenses, if this Agreement provides for reimbursement;
 - vii. The dates and hours worked;
 - viii. The contractual charges, including the appropriate cost, price, rate, or expenses, if allowable under this Contract; and,
 - ix. Preferred remittance address, if different from the mailing address.

**ATTACHMENT 2
CONTRACT TERMS**

- C. The Contractor shall submit one (1) original and two (2) copies of invoices to:

Judicial Council of California
Administrative Office of the Courts
c/o Finance Division, Accounts Payable
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102-3688

With a copy to:

Judicial Council of California
Administrative Office of the Courts
c/o Office of the General Counsel
Attention: TBD
455 Golden Gate Avenue, 5th Floor
San Francisco, CA 94102-3688

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

8. Disallowance

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

END OF EXHIBIT

**ATTACHMENT 2
CONTRACT TERMS**

**EXHIBIT D
WORK TO BE PERFORMED**

1. Background

The Judicial Council of California, chaired by the Chief Justice of California, is the chief policy making agency of the California judicial system. The California Constitution directs the Council to improve the administration of justice by surveying judicial business, recommending improvements to the courts, and making recommendations annually to the Governor and the Legislature. The Council also adopts rules for court administration, practice, and procedure, and performs other functions prescribed by law. The Administrative Office of the Courts (AOC) is the staff agency for the Council and assists both the Council and its chair in performing their duties.

2. Background of the Judicial Council Litigation Management Program

- A. The Litigation Management Program was established by the Judicial Council in the fall of 1999, and was initially implemented in January 2000. On January 1, 2001, section 811.9 of the Government Code took effect. That section codifies the responsibility of the Judicial Council to provide for representation, defense, and indemnification of judges, subordinate judicial officers, executive officers, and employees of the trial courts, in accordance with sections 811 through 995 of the code.
- B. On January 1, 2003, amendments to the Government Claims Act took effect. The Act now explicitly identifies the Judicial Council as the “board” for purposes of claims against judicial officers and “judicial branch entities.” By rule of court, the council has authorized the AOC’s Office of General Counsel (OGC) to act for the council on claims that affect the trial and appellate courts, judicial officers, and employees of those entities.

3. Work Requirements

- A. When services are requested, the service provider will provide the following services within the timeframes noted:
 - i. Conduct an investigation of each claim to the extent requested by the responsible OGC attorney.
 - ii. Within 30 days of receipt of a claim, send to the OGC attorney a report containing any updated evaluation of liability and damages and describing the nature and timing of any remaining work necessary to resolve the claim.
 - iii. Provide any additional report as requested by the OGC attorney.

**ATTACHMENT 2
CONTRACT TERMS**

- iv. If the OGC attorney agrees that settlement should be attempted, communicate with the claimant, as necessary, to achieve settlement within the given authority.
- v. If settlement is reached, obtain the claimant's signature on the AOC-approved release document and, if necessary, a completed W-9.
- vi. For each claim, maintain a file containing documentation of any investigation and all telephone conversations, discussions, or meetings, which shall be available for review by the AOC at any reasonable time.

4. Transition Plan

Contractor shall develop and maintain a Transition Plan that provides for Transition Services, as set forth in paragraph 17 of Exhibit B, that will allow the Work to continue without interruption or adverse effect and will facilitate an orderly transfer of the Work to the State or the State's designee, when and if Transition Services become necessary. Contractor shall make such Transition Plan available for review by the State upon request by the Project Manager.

END OF EXHIBIT