



MASTER AGREEMENT

AGREEMENT NUMBER
MA-201801
 TAX IDENTIFICATION NUMBER
95-4568415

1. In this Master Agreement (“Agreement”), the term “Contractor” refers to **CourtCall, LLC** and the term “Judicial Council” or the “JCC” refers to the **Judicial Council of California**. This Agreement is entered into between Contractor and the Judicial Council on behalf of itself and for the benefit of the Superior Courts of California (collectively, the “Courts,” and individually, a “Court”). Any court that enters into a Participating Agreement with Contractor pursuant to this Agreement is a “Participating Court” (collectively, “Participating Courts”).
2. This Agreement is effective as of **July 1, 2018** (“Effective Date”) and expires on **June 30, 2022** (“Expiration Date”).
3. The title of this Agreement is: **Master Agreement for Telephone Appearance Services.**

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

4. The parties agree that this Agreement, made up of this coversheet, 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.

- Appendix A – General Terms and Conditions
- Appendix B – Statement of Work
- Appendix C – Amount of the Fees, Revenue Obligations, Payments, Late Remittance Penalties, and Reporting
- Appendix D – Form of Participation Agreement

JUDICIAL COUNCIL OF CALIFORNIA SIGNATURE	CONTRACTOR'S SIGNATURE
Judicial Council of California	CourtCall, LLC
BY (Authorized Signature) <i>M. Lawson</i>	BY (Authorized Signature) <i>Robert V. Alvarado, Jr.</i>
PRINTED NAME AND TITLE OF PERSON SIGNING Mona Lawson Supervisor, Contracts	PRINTED NAME AND TITLE OF PERSON SIGNING Robert V. Alvarado, Jr. Chief Executive Officer
DATE EXECUTED <i>6/19/18</i>	DATE EXECUTED <i>6/18/18</i>
ADDRESS 2850 Gateway Oaks Drive, Suite 300, Sacramento, CA 95833-4348	ADDRESS 6383 Arizona Circle Los Angeles, CA 90045

APPENDIX A

GENERAL TERMS AND CONDITIONS

1. PARTICIPATION AGREEMENTS

- A. If a Court executes a Participation Agreement under this Agreement, Contractor shall perform its work for the Court in accordance with the terms of this Agreement and such Court's Participation Agreement.
- B. A form Participation Agreement is attached as Appendix D, although the form and substance of an actual Participation Agreement may vary from Court-to-Court. No term in a Participation Agreement shall be construed as effecting an increase in the duties of a Participating Court, a decrease in the duties of Contractor, or a change in the amount and distribution of fees provided for under this Agreement and applicable law. Without invalidating a Participation Agreement, any provision in a Participation Agreement that is inconsistent with this Agreement and applicable law shall have no force or effect.
- C. Each Participating Court shall designate in that agreement a contact person for the Court ("Project Manager"). Contractor shall contact the Project Manager if Contractor has any questions or concerns about a Participation Agreement.
- D. Promptly following the delivery of a Participation Agreement by a Court to Contractor, Contractor shall provide that Participating Court with an acknowledgement that memorializes the components of the work consistent with Statement of Work and includes contact information for Contractor.
- E. Contractor shall maintain a toll-free number, available from at least 8:00 a.m. to 5:00 p.m. California local time, for ordering, inquiries and customer service.

2. SCOPE OF WORK; ACCEPTANCE; TIME OF ESSENCE

- A. **Scope of Work and Acceptance:** Contractor shall perform and complete all work described in Appendix B in compliance with the requirements of this Agreement and to the satisfaction of the Participating Court that has executed a Participation Agreement. Each Participating Court shall have responsibility for the acceptance or rejection of Contractor's work at that Court. Each Participating Court has the absolute right to reject any work that does not meet the requirements of this Agreement, but a Court, in its sole discretion, may elect to accept work that substantially, but does not fully meet such requirements.
- B. Time is of the essence in the performance of work under this Agreement.

3. NO PAYMENTS BY COURTS

In no event shall a Participating Court have any responsibility to pay for any work under this Agreement. Contractor's sole compensation shall consist of fees lawfully collected from parties that make telephone appearances.

4. DEPOSITORY BANK ACCOUNT

A separate depository bank account shall be established for the deposit of fees collected during the term of this Agreement. The depository bank account shall be used only for the deposit of California superior court telephone appearance fees. The depository bank account to be used solely for this Agreement will be as follows:

Bank Name
Address
Bank Contact Name
Account Name
ABA Number
Account Number

Contractor shall not change or assign this depository bank account without the prior written consent of the JCC in the form of a written amendment signed by the JCC and Contractor.

5. AUDIT RIGHTS

Contractor agrees to maintain records relating to all work performed and fees collected by Contractor under this Agreement and any Participation Agreement for a period of five years after the work has been performed and the fees have been collected under this Agreement. During the period of time that Contractor is required to retain records, the JCC, any Court, and any other party entitled to audit the work performed and the fees collected under this Agreement may, at Contractor's principal place of business within California, during normal business hours, inspect and make extracts or copies of such records and other materials for purposes of confirming the accuracy of information relating to the work and fees.

6. CHANGES AND AMENDMENTS

This Agreement may not be amended without the mutual execution by the JCC and Contractor of an amendment to this Agreement. Requests for changes or amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. After the JCC reviews the request, a written decision will be provided to Contractor.

7. WAIVER; SEVERABILITY

A party's waiver of enforcement of any terms or conditions of this Agreement or of a Participation Agreement will be effective only if in writing. A party's specific waiver does not constitute a waiver by that party of any earlier, concurrent, or later breach or default. If any part of this Agreement or a Participation Agreement is held unenforceable, all other parts remain enforceable.

8. TERMINATION

- A. The JCC may terminate this Agreement for convenience by providing Contractor with thirty (30) days prior written notice. The JCC may terminate this Agreement for cause immediately if the Contractor breaches any term of this Agreement and such breach is not cured within ten (10) days of written notice, or is not capable of cure, as determined by the JCC in its sole discretion. All amounts from fees and all FY 2009 - 2010 revenue amounts owed by Contractor through the termination date of this Agreement shall be remitted to the State Treasury and reported in accordance with Appendix C - Amount of the Fees, Revenue Obligations, Payments, Late Remittance Penalties, and Reporting.
- B. A Participating Court may terminate a Participation Agreement for cause immediately if (1) any work is rejected as described in paragraph 2 (General Terms and Conditions) of the Agreement, or (2) Contractor is otherwise in breach of the terms of the Participation Agreement with the Court or this Agreement and such breach is not cured within ten (10) days of written notice, or is not capable of cure, as determined by the Court in its sole discretion. A Court may terminate a Participation Agreement for convenience by providing Contractor with 30 days prior written notice.

9. GENERAL INDEMNITY

Contractor shall indemnify, defend (with counsel satisfactory to the JCC) and hold the Courts and JCC, and their respective judicial officers, judges, subordinate judicial officers, members of the Judicial Council or any committee thereof, officers, agents, and employees, harmless from any and all losses, costs (including reasonable attorneys' fees), liabilities, damages, and deficiencies, including interest, penalties and settlement amounts entered into, in each case, with respect to (i) a latent or patent defect in any equipment or goods; (ii) an act or omission of Contractor, its agents, employees, independent contractors, or subcontractors in the performance of this Agreement or any Participation Agreement; and (iii) a breach of a representation, warranty, or other provision of this Agreement or any Participation Agreement. This indemnity applies regardless of the theory of liability on which a claim is made or a loss occurs. This indemnity will survive the expiration or termination of this Agreement or any Participation Agreement, and acceptance of any Goods, Services, or Deliverables.

10. INDEMNITY FOR CLAIMS ARISING FROM FAILURE OF INTERRUPTION OF SERVICES

Contractor shall indemnify, defend (with counsel satisfactory to the JCC), and hold harmless the Courts and JCC, and their respective judicial officers, judges, subordinate judicial officers, members of the Judicial Council or any committee thereof, officers, agents, and employees, from any claims arising from a failure or interruption of telephone services provided under this Agreement or any Participation Agreement.

11. INFRINGEMENT INDEMNITY

Contractor shall indemnify, defend (with counsel satisfactory to the JCC) and hold the Courts and the JCC, and their respective judicial officers, judges, subordinate judicial officers, members of the Judicial Council or any committee thereof, officers, agents, and employees, harmless from any and all losses, costs (including reasonable attorneys' fees), liabilities, damages, and deficiencies, including interest, penalties and settlement amounts entered into, in each case, with respect to any and all third party claims that arise, out of any claim of infringement, misappropriation or unauthorized use of any patent, trade secret, copyright, or trademark in connection with any work furnished or provided by Contractor under this Agreement or any Participation Agreement.

12. PROVISIONS APPLICABLE TO SERVICES

- A. Qualifications.** Contractor shall assign to this project only persons who have sufficient training, education, and experience to successfully perform Contractor's duties. If a Court is dissatisfied with any of Contractor's personnel, for any or no reason, Contractor shall replace them with qualified personnel with respect to such Court.
- B. Turnover.** Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to perform Services.
- C. Background Checks.** Contractor shall cooperate with the Court if the Court wishes to perform any background checks on Contractor's personnel by obtaining, at no additional cost, all releases, waivers, and permissions the Court may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Court of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Court and performed by Contractor. Contractor shall ensure that the following persons are not assigned to perform services for the Court: (a) any person refusing to undergo such background checks, and (b) any person whose background check results are unacceptable to Contractor or that, after disclosure to the Court, the Court advises are unacceptable to the Court.

- 13. CONTRACTOR CERTIFICATION CLAUSES.** Contractor certifies to the Judicial Council and Courts that the following representations and warranties, which shall apply to this Agreement and any Participation Agreement, are true. Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly

notify the Judicial Council and Participating Courts if any representation and warranty becomes untrue. Contractor represents and warrants as follows:

- A. **Authority.** Contractor has authority to enter into and perform its obligations under this Agreement and any Participation Agreement, and Contractor's signatory has authority to bind Contractor to this Agreement and any Participation Agreement.
- B. **Not an Expatriate Corporation.** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC 10286.1, and is eligible to contract with the Courts.
- C. **No Gratuities.** Contractor 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 any Participation Agreement) or securing favorable treatment with respect to any determinations concerning the performance of this Agreement (or any Participation Agreement).
- D. **No Conflict of Interest.** Contractor has no interest that would constitute a conflict of interest under PCC 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 Courts or other judicial branch entities.
- E. **No Interference with Other Contracts.** To the best of Contractor's knowledge, this Agreement and any Participation Agreement does not create a material conflict of interest or default under any of Contractor's other contracts.
- F. **No Litigation.** No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened that may adversely affect Contractor's ability to perform its obligations.
- G. **Compliance with Laws Generally.** Contractor complies with all laws, rules, and regulations applicable to Contractor's business and its obligations under this Agreement and any Participation Agreement.
- H. **Drug Free Workplace.** Contractor provides a drug free workplace as required by California Government Code sections 8355 through 8357.
- I. **No Harassment.** 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 any Participation Agreement), and Contractor takes all reasonable steps to prevent harassment from occurring.
- J. **Noninfringement.** The Goods, Services, Deliverables, and Contractor's performance under this Agreement (and any Participation Agreement) do not infringe, or constitute an infringement, misappropriation or violation of, any third party's intellectual property right.
- K. **Nondiscrimination.** 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 will notify in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of nondiscrimination.

- L. 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.

14. INSURANCE

- A. Basic Coverage.** Contractor shall provide to the Judicial Council and each Participating Court and maintain at the Contractor's expense the following insurance during the Term:
- i. *Commercial General Liability.* The policy must be at least as broad as the Insurance Services Office (ISO) Commercial General Liability "occurrence" form, with coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. The policy must provide limits of at least \$1,000,000 per occurrence and annual aggregate.
 - ii. *Workers Compensation and Employer's Liability.* The policy is required only if Contractor has employees. The policy must include workers' compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1,000,000 per accident or disease.
 - iii. *Automobile Liability.* This policy is required only if Contractor uses an automobile or other vehicle in the performance of this Agreement. The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in Contractor's performance of this Agreement whether owned, non-owned, leased, or hired. The policy must provide combined single limits of at least \$1,000,000 per occurrence.
- B. Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.
- C. Aggregate Limits of Liability.** The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case the annual aggregate limits of liability must be at least two (2) times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.

- D. **Deductibles and Self-Insured Retentions.** Contractor shall declare to the Judicial Council and each Participating Court all deductibles and self-insured retentions that exceed \$100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to each Court's approval. Deductibles and self-insured retentions do not limit Contractor's liability.
- E. **Additional Insured Endorsements.** Contractor's commercial general liability policy, automobile liability policy, and, if applicable, umbrella policy must be endorsed to name the following as additional insureds with respect to liabilities arising out of the performance of this Agreement: the Participating Court, the State of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees).
- F. **Certificates of Insurance.** Before Contractor begins performing Services, Contractor shall give the Judicial Council and Participating Court certificates of insurance attesting to the existence of coverage, and stating that the policies will not be canceled, terminated, or amended to reduce coverage without thirty (30) days' prior written notice to the Participating Court.
- G. **Qualifying Insurers.** For insurance to satisfy the requirements of this section, all required insurance must be issued by an insurer with an A.M. Best rating of A - or better that is approved to do business in the State of California.
- H. **Required Policy Provisions.** Each policy must provide, as follows: (i) the policy is primary and noncontributory with any insurance or self-insurance maintained by Courts and Court personnel, and the basic coverage insurer waives any and all rights of subrogation against the Courts and Court Personnel; (ii) the insurance applies separately to each insured against whom a claim is made or a lawsuit is brought, to the limits of the insurer's liability; and (iii) each insurer waives any right of recovery or subrogation it may have against the Participating Court, the Judicial Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees for loss or damage.
- I. **Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.
- J. **Consequence of Lapse.** If required insurance lapses during the Term, the Courts are not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.
15. **TAX DELINQUENCY.** Contractor must provide notice to the Courts 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 Participating

Court may terminate this Agreement immediately “for cause” (and each Court may terminate its Participation Agreement immediately “for cause”) if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.

16. **PROVISIONS APPLICABLE TO CERTAIN AGREEMENTS.** The provisions in this section are applicable to this Agreement and to any Participation Agreement, provided, however that if this Agreement or a Participation Agreement is not of the type described in the first sentence of a subsection, then that subsection does not apply to this Agreement or such Participation Agreement.
- A. **Union Activities Restrictions.** *If the Contract Amount is over \$50,000, this section is applicable.* Contractor agrees that no Court funds received under this Agreement or any Participation Agreement will be used to assist, promote or deter union organizing during the Term. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no Court funds were used for those expenditures. Contractor will provide those records to the Attorney General upon request.
 - B. **Domestic Partners, Spouses, Gender, and Gender Identity Discrimination.** *If the Contract Amount is \$100,000 or more, this section is applicable.* Contractor is in compliance with, and throughout the Term will remain in compliance with: (i) PCC 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) PCC 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.
 - C. **Child Support Compliance Act.** *If the Contract Amount is \$100,000 or more, this section is applicable.* Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the Term) all applicable state and federal laws relating to child and family support enforcement, including disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq. Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
 - D. **Priority Hiring.** *If the Contract Amount is over \$200,000 and this Agreement is for services (other than Consulting Services), this section is applicable.* 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.
 - E. **Iran Contracting Act.** *If the Contract Amount is \$1,000,000 or more and Contractor did not provide to the Participating Court an Iran Contracting Act certification as part of the solicitation process, this section is applicable.* Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“Iran List”) created by the California Department of General Services pursuant to PCC 2203(b), and

is not a financial institution extending \$20,000,000 or more in credit to another person, for forty-five (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 JCC to enter into this Agreement (and written permission from each Court to enter into the applicable Participation Agreement) pursuant to PCC 2203(c).

- F. 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 (or a Participating Agreement): (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the Participating Court approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must, within sixty (60) days of receiving final payment under each Participation Agreement, certify in a report to the applicable Court: (1) the total amount of money Contractor received under the Participation Agreement; (2) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Participation Agreement; (3) the amount each DVBE subcontractor received from Contractor in connection with the Participation Agreement; and (4) that all payments under the Participation Agreement have been made to the applicable DVBE subcontractors. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.
- G. Small Business Preference Commitment.** This section is applicable if Contractor received a small business preference in connection with this Agreement. Contractor’s failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement (and any Participation Agreement). Contractor must within sixty (60) days of receiving final payment under this Agreement (and any Participation 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 seventy-five percent (75%) of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement (and any Participation Agreement).

17. CONFIDENTIALITY

Contractor shall hold in confidence all information the Participating Courts disclose to Contractor and all information to which Contractor gains access while providing work under this Agreement or any Participation Agreement (“Confidential Information”). Contractor’s obligation of confidentiality does not, however, apply to any information that Contractor can demonstrate is available to the public (other than through a breach of this Agreement). Contractor understands that a breach of its obligation of confidentiality may result in irreparable damage to the JCC or Participating Courts for which no adequate remedy is

available and that the JCC or such Courts will be entitled to injunctive or other equitable relief. Contractor will notify the affected Participating Court promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the Court to protect such Confidential Information.

18. STATUS AS INDEPENDENT CONTRACTOR AND SUBCONTRACTS

Contractor is an independent contractor and while performing work on or off the premises of the Participating Courts, neither it nor any of its agents or employees shall be considered agents or employees of such Courts. Contractor shall not subcontract or delegate its obligations under this Agreement without the prior written consent of the JCC in its sole discretion.

19. REQUESTS; COMMUNICATIONS; NOTICES

- A. All requests, communications and notices concerning this Agreement must be made through the JCC Contracts Supervisor. Notice to the JCC must be in writing and be delivered to the JCC Contracts Supervisor at the following address by depositing in the U.S. Mail or commercial express mail, first-class and pre-paid with return receipt requested:

Judicial Council of California
Attn: Procurement – Contracts Supervisor
2850 Gateway Oaks Drive, Suite 300
Sacramento, CA 95833-4348

- B. Notice to Contractor concerning this Agreement must be in writing and be delivered to the following address by depositing in the U.S. Mail or commercial express mail, first-class and pre-paid with return receipt requested:

CourtCall, LLC
6383 Arizona Circle
Los Angeles, CA 90045

Attn: Robert V. Alvarado, Jr.
Chief Executive Officer

Attn: Mark S. Wapnick
President

- C. Notice concerning this Agreement or any Participation Agreement is effective on receipt, three (3) days after depositing the mail as set forth above, or one (1) day after delivery to an overnight air courier service; however, any correctly addressed written notice that is refused, unclaimed, or undeliverable because of an act or omission of the party notified will be deemed effective as of the first date that the notice was refused, unclaimed, or deemed undeliverable.

- D.** All requests, communications, and notices concerning a Participation Agreement between Contractor and a Participating Court must be made through the Project Manager for the Court.

20. ASSIGNMENT

Contractor may not assign this Agreement (including any Participation Agreement), either in whole or in part, without the prior written consent of the JCC. Consent may be withheld for any reason or no reason. The JCC may determine that any assignment or subcontract made in contravention of the foregoing shall be void and of no effect. This Agreement shall be binding upon and inure to the benefit of successors and assigns of the parties.

21. PUBLICITY AND INFORMATION

Following execution of this Agreement, Contractor shall not issue a press release concerning the parties' relationship under this Agreement or any Participation Agreement without the prior written consent of the JCC. Following the execution of this Agreement, Contractor may notify the superior courts that it is a party to this Agreement and may provide courts with information relevant to whether the courts may want to engage Contractor to provide telephone appearance services under this Agreement by executing a Participation Agreement with Contractor.

22. GOVERNING LAW

The formation, interpretation and performance of this Agreement and any Participation Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provision.

23. MASTER AGREEMENT CONSTRUCTION

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of the Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement or any Participation Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement or the Participation Agreement.

24. SURVIVAL

The following terms herein survive expiration or any earlier termination of this Agreement and any Participation Agreement: General Indemnity, Infringement Indemnity, Warranties, Confidentiality, Audit Rights, Assignment, and Governing Law.

APPENDIX B

STATEMENT OF WORK

1. Background and Purpose

Government Code section 72010 directs the JCC to enter into one or more master agreements to provide for telephone appearances in civil cases under Code of Civil Procedure section 367.5 or as otherwise provided by law. Government Code section 72011 requires vendors under each master agreement to collect and deposit specified sums into the Trial Court Trust Fund established under Government Code section 68085.

This Agreement provides the terms and conditions under which Contractor may provide telephone appearances services to the Courts that elect to engage Contractor for such services. This Agreement also provides the process and procedure by which a Contractor will remit the sums referenced in Government Code section 72011.

2. Goods and Services

- A. Contractor will provide telephone appearances services to the Courts that elect to engage Contractor for such services.
- B. Since the nature of the services may require installation of wiring or cabling, the work performed under this Agreement may be considered a “public works” project subject to the requirements set forth in California Labor Code sections 1720 et seq., which includes compliance monitoring and enforcement by the Department of Industrial Relations.
- C. A Court that wants to engage a Contractor for telephone court appearance services may do so by executing a Participation Agreement with the Contractor, which agreement will incorporate the terms and conditions of this Agreement and include any additional or specific terms and conditions. A Court that enters into a Participation Agreement with a Contractor pursuant to this Agreement is hereafter referred to as a “Participating Court.” Any trial court may, at its own election, become a Participating Court under this Agreement. Contractor may not refuse to enter into a Participation Agreement if a trial court elects to enter into such an agreement.
- D. Contractor will provide equipment and administer services in accordance with this Agreement to enable attorneys and self-represented litigants to appear by telephone at court conferences, hearings, and proceedings in civil cases under Code of Civil Procedure section 367.5, rule 3.670 of the California Rules of Court, and as otherwise provided by law.

- E. This Agreement is non-exclusive. Judicial Council may also enter into additional agreements with other contractors as it deems appropriate.
- F. Notwithstanding any other provision of this Agreement, Courts may permit parties to appear by telephone without the requirement of using Contractor, or any services that may be contracted for under this solicitation. Trial courts may also provide telephone appearance services directly and charge fees as authorized by Government Code section 72010(c)(3) and rule 3.670.

3. **Equipment and Connectivity**

- A. Within thirty (30) days of executing a Participation Agreement with a trial court and throughout the term of the Participation Agreement, Contractor will, at no cost to the Participating Court provide, install, connect, activate, support and maintain all equipment and means of connectivity necessary to enable parties to appear by telephone at hearings, conferences, and proceedings in a Participating Court (the "Equipment"). Where a Contractor has already provided, installed, connected, and activated such Equipment, Contractor will, at no cost to the Participating Court, support and maintain all equipment and means of connectivity necessary to enable parties to appear by telephone at hearings, conferences, and proceedings in a Participating Court.

The Equipment to be provided in each courtroom or judicial officer's chambers where the Equipment is located will include, but is not limited to:

- a) A dedicated phone line (analog or broadband where available) and phone "jack";
- b) A full-duplex, bi-directional audio teleconference unit that has at minimum the following features:
 - 1) At least two extended microphones with cords not less than twenty-five feet in length;
 - 2) The ability to permit each person participating in the hearing, whether in person or by telephone, to hear all other persons;
 - 3) The ability to handle at least three incoming calls at one time and place those calls in to a conference call in simple and quick manner;
 - 4) The ability to allow multiple conference calls simultaneously;
 - 5) The ability for a Participating Court to mute and un-mute any and all conference lines;

- 6) A silent (visible ringer);
 - 7) Be simple to learn and use; and
- c) Peripheral accessories (e.g., specialty length cables, etc.).
- B.** Contractor will install, connect, and activate the Equipment in each courtroom or judicial officer's chambers, as specified by the Participating Court, without damaging court premises.
 - C.** The Participating Court will allow reasonable access during normal court operating hours, but without disrupting court proceedings, for Equipment installation, maintenance, repair and replacement.
 - D.** The Participating Court may not alter or modify the Equipment provided by Contractor without Contractor's prior written consent.
 - E.** The Equipment will remain the sole and exclusive property of Contractor; however, Contractor hereby grants a Participating Court an exclusive, nontransferable, royalty free license to use the Equipment during the term of a Participation Agreement. The Contractor will remove the Equipment upon expiration or earlier termination of the Agreement or a Participation Agreement. If removing the Equipment may result in damages to court premises, Contractor must obtain a Participating Court's permission to remove the Equipment. If a Participating Court consents to the removal, Contractor will remove the Equipment and fully restore, at Contractor's cost, any damages to the Participating Court's premises.
 - F.** At no cost to a Participating Court, Contractor will provide necessary and appropriate training and instructional manuals for the Equipment to judicial officers and court staff.
 - G.** Contractor will ensure the Equipment meets specifications required to satisfy California Rules of Court, Standards of Judicial Administration, standard 3.1 - Appearance by telephone.
 - H.** At no cost to a Participating Court, Contractor will provide for each courtroom or chambers designated by a Participating Court as one where telephone appearances must be available the use of a reserved toll-free teleconference telephone number. The toll-free number will have a sufficient number of permanently reserved connections (ports) to ensure that an adequate number of ports are regularly available to handle the volume requirements of the Participating Court. Contractor is responsible for and will pay all costs associated with the toll-free telephone numbers and no telephone charges will be assessed against the Participating Court.

The toll-free telephone numbers will remain the sole and exclusive property of Contractor and may not be used by the Participating Court after termination of its Participation Agreement.

- I. Within three days of a Participating Court's request, Contractor will install, connect, and activate additional ports.
- J. Contractor will repair or replace within one court day of notice from the Participating Court any defective Equipment and Equipment that through use or otherwise no longer meets applicable specifications.
- K. Contractor licenses and installs its equipment at the Participating Court's premises at its own risk, and will insure the Equipment at its own expense and without contribution by the Participating Court.

4. Administration and Coordination of Telephone Appearances

- A. Within 30 days of executing a Participation Agreement and throughout the term of the Participation Agreement, Contractor will provide, at no cost to the Participating Court, administration, coordination and all other necessary services to enable parties to appear by telephone in any courtroom or judge's chambers that a Participating Court may identify as one where telephone appearances must be made available. These services, which must be available Monday through Friday, except for court holidays, from at least 8:00 a.m. to 5:00 p.m. California local time, include, but are not limited, to the following:
 - 1) Receiving and processing requests and payments from attorneys and other users desiring to make telephone appearances;
 - 2) Providing confirmation, notices, and updates to attorneys and other users of their calendar status;
 - 3) Preparing and distributing free of charge to attorneys and other telephone appearance users all forms, instructional aids, and other materials necessary and/or reasonably required by such parties to avail themselves of Contractor's telephone appearance services;
 - 4) Delivering calendars to participating courtrooms at least two court days before telephone appearances are scheduled in the participating courtroom; and
 - 5) Providing fully trained teleconference operators to assist with the telephone connections and provide other technical assistance during telephone appearances.

- B.** To the extent permitted by the availability of court resources, a Participating Court will make calendar and appearance information electronically available to Contractor for the purpose of assisting Contractor in scheduling appearances and promoting telephone appearance services. Contractor will not use this information for any other purposes and will not share the information with any other entity, subject only to Terms and Conditions of the Agreement.
- C.** Contractor will cooperate with the Participating Court to design procedures acceptable to the Participating Court for readily and easily delivering on a daily basis to each courtroom Contractor's calendar information regarding the parties that intend to appear by telephone. The procedures must describe how Contractor will timely notify the courtroom's staff of any late updates to the calendar. Contractor will confirm telephone appearances through an e-mail message to courtroom staff and will provide access to calendar information through the internet.
- D.** Contractor will have, and will provide to the Participating Court a copy of written policies and procedures to ensure reservation of adequate port capacity, including a system of checks and balances to ensure that the correct number of ports has been reserved for each participating courtroom each day.
- E.** Contractor will provide and staff a toll-free "help line" to assist court personnel, attorneys, and other telephone appearance users who have questions regarding procedures for using telephone appearances. Contractor will have written policies and procedures covering the availability of the "help line." Days of operation for "help line" service must be Monday through Friday, and access hours, at a minimum, must be 8:00 a.m. to 5:00 p.m. California local time.
- F.** Within the context and time constraints of regularly scheduled hearings, Contractor will ensure full privacy for those matters designated by the Participating Court to not be heard in a public hearing: Contractor will design and implement a system that ensures that only those parties that are authorized by the Participating Court are included in confidential telephone conferences.
- G.** In accordance with Appendix C, section 3, Contractor will collect and distribute all payments from attorneys and other users for telephone appearances services, and Contractor will maintain all records, accounting, and other information pertaining thereto.
- H.** Contractor will prepare and submit in a timely manner all reports listed in and required by Appendix C, section 5.

5. Training, Information and Marketing Materials

- A. At no cost to a Participating Court, Contractor will provide training and instructional manuals for judicial officers and court staff for the initial implementation of the telephone appearances and also for expanding the use of telephone appearances to additional courtrooms on an on-going basis as necessary or appropriate. At a minimum, such training will include use of the telephone appearance procedures and use of the speaker telephones.
- B. At no cost to a Participating Court, Contractor will provide appropriate training and instructional manuals on an on-going and as-needed basis to attorneys and other users of telephone appearance services.
- C. On an on-going basis, Contractor will promote telephone appearance availability to potential customers. Such promotion may include, but is not limited to, producing or procuring, and disseminating printed advertising, direct contact materials, outdoor advertising, handouts, trade show participation, and speaking engagements at law firm or bar association functions. Promotional services must further the goal of increasing the awareness in the potential target marketplace of the availability and cost-effectiveness of telephone appearances. A Participating Court must approve all marketing efforts, including any promotional material that references that Participating Court, prior to Contractor implementing such efforts. A Participating Court may also publicly promote the services offered by Contractor, which may include publishing information in the Participating Court's fee schedules, publishing notices in legal publications, posting notices, and noting availability of the services on the Participating Court's website.

APPENDIX C

AMOUNT OF THE FEES, REVENUE OBLIGATIONS, PAYMENTS, LATE REMITTANCE PENALTIES, AND REPORTING

1. **Fees to be Charged by Contractor; Effect of Fee Waivers**
 - A. Contractor shall charge each person appearing by telephone at a court conference, hearing, or proceedings through that Contractor the statewide, uniform fees prescribed in rule 3.670(k) of the California Rules of Court, except as provided under sections 1.B and 1.C below.
 - B. If a party has received a waiver of court fees and costs, Contractor shall not charge that party any of the fees provided for in rule 3.670, subject to the following:
 - a) Contractor that provides the telephone appearance service shall have a lien on any judgment, including a judgment for costs, that the party may receive, in the amount of the fee that the party would have paid for the telephone appearance; and
 - b) If Contractor later receives a fee or a portion of a fee for appearance by telephone that was previously waived, that fee shall be distributed consistent with section 72011 of the Government Code.
 - C. Contractor may charge and collect a fee for telephone appearance services in proceedings for child or family support under Title IV-D of the Social Security Act that are brought by or otherwise involve a local child support agency. The fee in such a proceeding shall be twenty dollars (\$20) less than the fee for a telephone appearance provided for in rule 3.670(k); the reason for the \$20 difference is that no portion of the fee collected by Contractor in a Title IV-D proceeding shall be remitted to the State Treasury pursuant to section 1.D. However, a request for a telephone appearance in a Title IV-D proceeding is eligible for a fee waiver, subject to a lien by Contractor on any judgment, including a judgment for costs, that the party may receive, in the amount of the fee that the party would have paid for the telephone appearance.
 - D. For each fee that Contractor has received for providing telephone appearance services, except for a fee received in a Title IV-D proceeding, Contractor shall pay to the State twenty dollars (\$20). The twenty-dollar amount shall be deducted only from each telephone appearance fee provided for under Code of Civil Procedure section 367.6(a)(1) and California Rules of Court, rule 3.670, and not from each late request or cancellation fee provided for under Code of Civil Procedure section 367.6(a)(2)–(3) and California Rules of Court, rule 3.670.

- E. If a party making a telephonic appearance has received a waiver of fees under Government Code section 68511.3 and Contractor has not charged that party any fee for a telephone appearance as provided in Code of Civil Procedure section 367.6(b), Contractor shall have a lien on any judgment, including a judgment of costs, in the amount of the fee that the party would have paid for the telephone appearance. If Contractor later receives the amount previously waived, for each appearance for which Contractor receives payment, except for any payment relating to a Title IV-D proceeding, Contractor shall transmit twenty dollars (\$20) to the State Treasury in the manner prescribed in section 3 below. If the charge has been waived in part, or the amount recovered by Contractor is not the full amount earned, the amount transmitted to the State Treasury shall be reduced proportionate to the amount of fees received divided by the amount of fees earned had there been no waiver.
- F. The full amount of twenty dollars (\$20) from each telephone appearance fee received by Contractor under section 1.D above, or a reduced amount as allowed for in section 1.E above, shall be transmitted to the State Treasury, with no deductions for merchant fees related to credit or debit cards or any other costs or expenses that may have been incurred by Contractor. Contractor shall remit the amounts owed under this section to the State Treasury using the required process described in section 3 below.
- G. Notwithstanding the specific twenty-dollar (\$20) amount set forth in sections 1.C - 1.F above as the amount that Contractor shall transmit to the State Treasury, the parties hereby acknowledge that the twenty dollars (\$20) per telephone appearance fee provided under Government Code section 72011(a) is subject to change by the Legislature. During the term of the Agreement, Contractor shall be responsible for the collection and transmittal to the State Treasurer of the \$20 per fee provided under section 72011(a) or any other amount that the Legislature may prescribe.

2. FY 2009-2010 Revenue Obligation

- A. In addition to the amounts to be transmitted under section 1 above, Government Code section 72011(c) requires contractors that sign master agreements for telephone appearance services to transmit an amount equal to the total amount of telephone appearance revenue received by all courts from all contractors for providing telephone appearances services for the 2009–2010 fiscal year. As reported by contractors, the revenues received by all courts from all contractors in FY 2009–2010 was \$943,840.00 (the FY 2009–2010 amount).
- B. As provided in Government Code section 72011(d), each contractor's share of the FY 2009–2010 amount shall be apportioned by the Judicial Council among all contractors that sign master agreements for telephone appearance services. The following method for apportioning the FY 2009–2010 amount of revenue applies

to contractors under a master agreement:

(1) For the quarter of the fiscal year that commences on July 1, 2018 and for each quarter thereafter, all contractors that sign master agreements for telephone appearance services shall contribute from the telephone appearance fees that they collect a total amount equal to one a quarter of the FY 2009–2010 amount.

(2) The amount owed by each contractor quarterly under section 2.A shall be based on that contractor's proportionate share of the total revenue collected under section 1 by all contractors during the previous quarter. After the end of each quarter and based on the quarterly reports described in section 5 below, the Judicial Council shall notify each contractor of the amount of the total quarterly FY 2009–2010 amount that it is obligated to pay for that quarter. Within 15 days of receiving notice from the Judicial Council of its apportioned amount, contractor shall transmit that amount to the State Treasury for deposit in the Trial Court Trust Fund.

The method of apportionment in this paragraph is subject to the approval of the Judicial Council.

C. Contractor shall remit its apportioned amount under this section to the State Treasury using the required process described in section 3 below.

3. Payments

Using the form provided by the State Controller's Office (CA 25; Report to State Controller of Remittance to Treasurer TC-31), the contractor number assigned by the Judicial Council, and the applicable revenue code, Contractor shall transmit payments to the State Treasury for deposit in the Trial Court Trust Fund. Payments to the State Treasurer under section 1.F shall be made by Contractor within fifteen days (15) after the end of each calendar quarter for fees collected in that quarter. Payments to the State Treasurer pursuant to section 2.B shall be made by Contractor within fifteen (15) days of receiving notice from the Judicial Council of its apportioned quarterly FY 2009–2010 amount owing in that quarter. Contractor shall send an original and duplicate of form CA 25 with a check payable to:

State Treasurer
Cash Management Division
915 Capitol Mall, Room 319
Sacramento, CA 95814

4. Late Remittance Penalty

Contractor shall be liable for late charges at the rate equal to the lesser of one and a half percent (1.5%) per month or the highest rate legally permitted, calculated from the date remittance was due under 3.0 above until the date remittance is made, together with all expenses incurred in

collection, including reasonable attorney's fees and expenses. If remittance is not timely made, the Judicial Council or a Court shall notify Contractor that the remittance is overdue and must be paid within five (5) business days. Unless the amounts owing are paid in full by that date, late charges and all expenses incurred in collection, including reasonable attorney's fees and expenses, will start to accrue and be due and payable.

5. Reports

- A. Contractor will provide the Judicial Council with quarterly reports, delivered no later than 15 days after the end of each calendar quarter, in an electronic spreadsheet (e.g., Excel), stating for the quarterly period the telephone appearance fees earned, waived, collected, remitted, and the number of fees earned and waived, the number of telephone appearance fees collected and remitted, the number of liens established, and the amount collected from previously waived fees pursuant to Section 367.6 of the Code of Civil Procedure. Title IV-D telephone appearances shall be reported separately from all other appearances. The quarterly reports will consist of the following items:
- i. A summary, by Court, of the total amount of fees earned, waived, collected, the total amount of the \$20 telephone appearance fees collected and remitted to the state, the total state fees collected from waivers and judgments, the total number of fees earned, waived, total number of state fees collected and remitted, and total number of state fees collected from waivers and judgments, and number of liens established. Title IV-D telephone appearances shall be reported separately from all other appearances.
 - ii. For each telephone appearance, at a minimum the following shall be provided: superior court, court facility name and/or location, name of the judicial officer, appearance date and time, case number, case name, amount of fee earned, fee waived, amount of fee collected, the state fee collected, state fee remitted, date state fee remitted, state fee collected from judgment, date fee collected from judgment, whether an appearance with no payment has a lien established against it, and state fee collected from waiver and state fee collected from judgment. Title IV-D telephone appearances shall be reported separately from all other appearances.
- B. Contractor will provide the Judicial Council quarterly reports, delivered no later than 15 days after the end of each calendar quarter, in electronic format, stating for the quarterly period the balance of state fees that have been collected but have not yet been remitted to the state. The quarterly reports will consist of the following items: For each telephone appearance, at minimum the following will be provided: superior court, court facility name and/or location, name of the judicial officer, appearance date and time, case number, case name, beginning balance of state fees not yet remitted to the state ("state fees outstanding"), state fees originated, date state remittance is due, date state fee remitted, amount of state fees remitted when

due and late, and the ending balance of state fees outstanding. Title IV-D telephone appearances shall be reported separately from all other appearances.

- C. Contractor will provide each Court with whom it enters into a Participation Agreement the same reports provided to the Judicial Council as provided for in sections 5.A and 5.B, but the information will be limited to that Court's information.

APPENDIX D

FORM OF PARTICIPATION AGREEMENT

**PARTICIPATION AGREEMENT
TO
MASTER AGREEMENT NO. MA-201801 FOR TELEPHONIC APPEARANCES
BETWEEN
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____
AND
COURTCALL, LLC**

This Participation Agreement (“Agreement”) between the Superior Court of California, County of _____, an entity organized under Article VI of the California Constitution (“Court”), and CourtCall, LLC (“Contractor”) (individually, a “Party”; collectively, the “Parties”) is entered into as of _____.

BACKGROUND

1. Contractor and the Judicial Council of California, on behalf of the superior courts of the State of California, are parties to that Master Agreement No. MA- 201801 (“Master Agreement”) for telephone appearance services for the superior courts dated July 1, 2018.
2. The Master Agreement sets forth the terms and conditions upon which Contractor will provide telephone appearance services to the superior courts should any such court desire to engage Contractor for such services;
3. Court wants to engage Contractor to provide telephone appearance services under the terms and conditions of the Master Agreement.

The Parties agree to the following:

AGREEMENT

1. Court engages Contractor to perform telephone appearance services under the terms and conditions set forth in the Master Agreement, except where specifically stated otherwise. Terms defined in the Master Agreement will have the same meaning when used here.
2. Within 14 calendar days of executing this Participation Agreement, Contractor will meet with Court to design a mutually acceptable plan for how and when Contractor will provide the services described in the Master Agreement. Such plan will include, but is not limited to, the following:

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- A. which courtrooms and judge's chambers will be equipped to enable telephone appearances;
 - B. schedule and list of all equipment to be provided and installed;
 - C. the content of all forms to be used by Contractor in the administration and coordination of telephonic appearances;
 - D. schedule of training for judicial officers and staff;
 - E. the content of all information and/or marketing materials to be made available to the public;
 - F. procedures for making Court's calendar available to Contractor; and
 - G. procedures for delivering to each courtroom Contractor's calendar information regarding the parties that intend to appear by telephone.
3. The respective Project Managers and their contact information are as follows:

<u>Court Project Manager</u>	<u>Contractor Project Manager</u>
Name:	Name:
Title:	Title:
Address:	Address:
Phone:	Phone:
E-mail:	E-mail:

The Project Managers will be authorized to make day-to-day decisions related to the implementation of this Agreement that do not substantially limit rights or expand the responsibilities of the Parties.

- 4. This Agreement will expire on June 30, 2022. This Agreement may be terminated by either the Court or the JCC under Section 8 (Termination) of Appendix A (General Terms and Conditions) of the Master Agreement or upon termination of the Master Agreement.
- 5. No alteration or amendment to the terms of this Agreement will be valid unless it is made in writing and is signed by the Parties, and no oral understanding or agreement shall be binding on the Parties.
- 6. Contractor may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of the Court.

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7. Each Party will cooperate with the other, and to execute and deliver, or cause to be executed and delivered, all such other instruments and documents, and to take all such other actions as may be reasonably requested of it from time to time to effectuate the provisions and purposes of the Master Agreement and this Agreement.

COURT

Superior Court of California,
County of _____

By: _____

Name: _____

Title: _____

CONTRACTOR

CourtCall, LLC

By: _____

Name: _____

Title: _____