ATTACHMENT 2 - CONTRACT TERMS AND CONDITIONS
EXHIBIT A - AOC STANDARD TERMS AND CONDITIONS
(NON-IT SERVICES)

Each proposer must state in its proposal whether it accepts the below, standard contract terms and conditions. Any exceptions must be included, if at all, with the proposal submission. **Please note:** (1) Terms marked with an asterisk **(*)** are ***mandatory minimum terms*** of the procurement, and taking any material exception will render a proposal non-responsive; and (2) exceptions taken to other terms and conditions may be a negative factor in evaluation of a proposal.

1. DEFINITIONS

A. Wherever capitalized in this Agreement, the following words shall have the following meanings:

i. "**Amendment**" means a written document issued by the AOC and signed by the Contractor which alters the Contract Documents and identifies the following:

a. A change in the Services;

b. A change in Contract Amount;

c. A change in time allotted for performance; and/or

d. An adjustment to the Agreement terms.

ii. **"Child"** or **"Children"** refers to all children and youth, including eligible non-minor dependents in juvenile dependency proceedings.

iii. **"Confidential Information"** means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the AOC's business or the business of its constituents. Confidential Information does not include:

a. Information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party;

b. Information that becomes generally available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement;

c. Information that is independently developed by the receiving party without reference to the Confidential Information; and

d. Information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.

iv. "**Contract**" or "**Contract Documents**" mean(s) the entire integrated agreement between the AOC and the Contractor, as attached to and incorporated by a fully executed Standard Agreement Coversheet form. The terms "Contract" or "Contract Documents" may be used interchangeably with the term "**Agreement.**"

v. "**Contract Amount**" means the total amount encumbered under this Agreement for any payment by the AOC to the Contractor for performance of the Services, in accordance with the Contract Documents.

vi. "**Contractor**" means the individual, association, partnership, firm, company, consultant, corporation, affiliates, or combination thereof, including joint ventures, contracting with the AOC to perform the Services. The Contractor is one of the parties to this Agreement.

vii. **"Court"** means the Superior Court of California, County of Marin.

viii. "**Data**" has the meaning set forth in Section 13.

ix. "**Force Majeure**" means a delay that prevents the timely performance of any obligation because such delay or failure to perform was unforeseeable and beyond the control of the party that failed to perform. Acts of Force Majeure include, but are not limited to:

a. Acts of God or the public enemy;

b. Acts or omissions of any government entity;

c. Fire or other casualty for which a party is not responsible;

d. Quarantine or epidemic;

e. Strike or defensive lockout; and,

f. Unusually severe weather conditions.

x. **"Parent"** refers to all parents, guardians, and de facto parents in juvenile dependency proceedings.

xi. **"PCC"** refers to the California Public Contract Code.

xii. **"Services"** means the services to be performed by the Contractor pursuant to this Agreement, as set forth in Exhibit B.

xiii. "**Standard Agreement Coversheet**" refers to the form used by the AOC to enter into agreements with other parties.

xiv. "**Standard Amendment Coversheet**" refers to the form used by the AOC to amend agreements with other parties.

xv. "**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.

xvi. "**Third Party**" refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the AOC or the Contractor, which is not a party to this Agreement.

2. INDEPENDENT CONTRACTOR

Contractor shall be, and is, an independent contractor, and is not an employee or agent of the AOC or the Court, and is not covered by any employee benefit plans provided to AOC employees or Court employees. Contractor is liable for the acts and omissions of itself, its employees, its Subcontractors and its agents. Nothing in this Agreement shall be construed as creating an employment or agency relationship between the AOC, or the Court, and Contractor. Contractor will determine the method, details and means of performing the Services, including, without limitation, exercising full control over the employment, direction, compensation and discharge of all Subcontractors, agents, employees or other persons assisting Contractor in the performance of the Services. Contractor shall be solely responsible for all matters relating to the payment of Contractor's employees, including but not limited to compliance with Medicare, social security, income tax withholding, unemployment and workers' compensation laws and regulations, withholding for/providing of any and all employee benefits, and all other laws and regulations governing such matters. Neither party to this Agreement has any authority to enter into any contract or otherwise incur any liability in the name of, or on behalf of, the other party.

3. QUALITY OF SERVICES

A. Contractor agrees that each of its employees, Subcontractors, and agents assigned to perform any Services under this Agreement shall have the skills, training, and background reasonably commensurate with his or her responsibilities, so as to be able to perform in a competent and professional manner. Contractor further agrees that the Services provided shall be performed in good faith and in a competent and timely manner consistent with professional standards for such work, will conform to the requirements of this Agreement, and will not infringe upon the rights of third parties. In addition, Contractor shall, and shall cause its employees, agents and Subcontractors to:

i. Provide quality representation for its clients, and comply with the provisions of California Welfare and Institutions Code, section 317 and California Rules of Court, rule 5.660.

ii. Provide competent attorneys to render the Services. Contractor's attorneys shall participate regularly in continuing legal education activities respecting juvenile dependency issues, and shall demonstrate adequate skills, knowledge and comprehension of the statutory scheme, purposes and goals of dependency proceedings, the specific statutes, rules of court and cases relevant to such proceedings, and the applicable procedures for filing petitions for extraordinary writs and other documents.

iii. Not restrict its attorneys' ability to serve on countywide committees, or their ability to participate in or lead public training seminars or conferences, provided such activities are consistent with the attorneys' obligations as professionals and the performance of the Services.

iv. Adhere to the State Bar Act and the California Rules of Professional Conduct relative to the provision of the Services.

4. AOC'S QUALITY ASSURANCE PLAN

A. The AOC or its agent may evaluate Contractor's performance under this Agreement. Such evaluation may include assessing Contractor's compliance with all Agreement terms and performance standards.

i. The AOC may perform annual peer, client and judicial officer evaluation of attorneys, including attorneys providing services on a subcontracting basis. Contractor agrees to participate in the evaluation process by providing information requested by the AOC, including completion and return of peer evaluation forms to the AOC or to the AOC's agent as requested.

ii. Contractor's deficiencies which AOC determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to Contractor. The report may include recommended improvements and corrective measures to be taken by Contractor. If Contractor's performance remains unsatisfactory to the AOC, the AOC may terminate this Agreement for cause or impose other penalties as specified in this Agreement. Any evaluation of Contractor's performance conducted by the AOC shall not be construed as an acceptance of Contractor's work product or methods of performance. Contractor shall be solely responsible for the work product it delivers under this Agreement; Contractor shall not rely on the AOC to perform any quality control review of Contractor's work product, and Contractor shall be solely responsible for the quality, completeness, and accuracy of its own work product.

B. As required by PCC 10353.5, Contractor shall (i) adhere to legal cost and billing guidelines designated by the AOC; (ii) adhere to litigation plans designated by the AOC, if applicable; (iii) adhere to case phasing of activities designated by the AOC, if applicable; and (iv) submit and adhere to legal budgets as designated by the AOC, and (v) submit to legal bill audits and law firm audits if so requested by the AOC, whether conducted by employees or designees of the AOC or by any legal cost-control provider retained by the AOC for that purpose. Contractor may be required to submit to a legal cost and utilization review as determined by the AOC.

5. SUBCONTRACTING

A. Contractor is prohibited from subcontracting this Agreement or any part of it, unless such subcontracting is first approved by the AOC in a written instrument executed and approved in the same manner as this Agreement. An agreement made in violation of this paragraph shall confer no rights on any party and shall be null and void.

B. If requested by the AOC, Contractor shall provide documentation that the proposed Subcontractor is experienced and able to perform that portion of the Services Contractor wishes to subcontract. Contractor shall require all Subcontractors to comply with the provisions of this Agreement. Contractor shall provide copies to the AOC of all agreements with Subcontractors who will perform Services pursuant to this Agreement. The AOC's approval of subcontracts shall in no way relieve Contractor of any of its responsibilities and obligations under this Agreement.

6. INDEMNIFICATION (*)

A. Contractor shall indemnify, defend (with counsel satisfactory to the AOC), and hold harmless:

i. The AOC, its officers and employees;

ii. The Court, its judges, subordinate judicial officers, court executive officers, court administrators, officers and employees; and

iii. Their agents, representatives, contractors, subcontractors, and volunteers (**"Indemnified Parties"**) from any and all losses, costs, liabilities, claims, fees, penalties, interest and damages, including but not limited to reasonable attorneys' fees and costs (individually, (**"Claim"**) and collectively, (**"Claims"**)).

a. Arising from, related to or in connection with, in whole or in part, the negligent acts or omissions, or intentional misconduct, of Contractor, its agents, employees, or Subcontractors;

b. Arising from, related to or in connection with, in whole or in part, Contractor's breach of its obligations, representations or warranties under this Agreement, or the violation of any applicable law, rule or regulation or the failure to report, withhold or pay any taxes when due by Contractor, its agents, employees or Subcontractors;

c. Made or incurred by any Third Party that furnishes or provides Services, materials, or supplies in connection with this Agreement; or

d. Made or incurred by any other Third Party who may be injured or damaged by Contractor, its agents, employees or Subcontractors in connection with this Agreement.

7. INSURANCE [2 OPTIONS]

Option 1 – non-government insurance

A. Insurance Required. Without limiting Contractor's indemnification obligations, Contractor shall secure and maintain in force throughout the term of this Agreement the following types of insurance with limits as shown. Each policy, other than the Professional Liability policy, shall be written on an "occurrence" form. The Professional Liability policy may be written on a "claims made" form.

i. Workers' Compensation—A program of Workers' Compensation Insurance in an amount and form sufficient to meet all applicable requirements of the California Labor Code, including Employer's Liability with at least $500,000 per accident. This coverage shall not be required when Contractor has no employees.

ii. Commercial General Liability Insurance— Coverage 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 shall provide limits of at least $500,000 per occurrence and annual aggregate.

iii. Automobile Liability Insurance— If an automobile is used in providing the Services, automobile liability insurance covering bodily injury and property damage and applicable to all owned, non-owned, leased, and hired vehicles. The policy shall provide combined single limits of at least $500,000 per occurrence.

iv. Professional Liability Insurance— Covering any act, error, or omission committed in the performance of Services under this Agreement. The policy shall provide limits of at least $1,000,000 per occurrence and annual aggregate. If the policy is written on a "claims made" form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the termination and acceptance of all work provided under this Agreement. The retroactive date or "prior acts inclusion date" of any such "claims made" policy must be no later than the date that activities commence pursuant to this Agreement.

B. Additional Insured Endorsements. All policies required in Section 7.A above, with the exception of Workers' Compensation, and Professional Liability, must be endorsed to name the following as additional insureds with respect to liabilities arising out of the performance of Services under this Agreement: The State of California, the Judicial Council of California, the Administrative Office of the Courts, the Superior Court of California, County of Marin and their respective judges, subordinate judicial officers, executive officers, administrators, and any and all of their other officers, officials, agents, representatives, contractors, volunteers or employees.

C. Required Policy Provisions. Each policy required in Section 7.A above must provide that:

i. The insurance is primary and non-contributory with any insurance or self-insurance programs carried or administered by the AOC.

ii. The insurance shall apply separately to each insured against whom a claim is made and/or a lawsuit is brought, except with respect to the limits of the insurer's liability.

iii. Each insurer waives any right of recovery or subrogation it may have against the State of California, the Judicial Council of California, the Administrative Office of the Courts, the Superior Court of California, or County of Marin, including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents for loss or damage.

D. Notices. The Contractor shall provide the AOC fifteen (15) days' advance written notice of any reduction in coverage or other change, nonrenewal, or cancellation, mailed to the address provided for notices in Section 22.J of this Exhibit.

E. No Reduction or Limit of Contractor's Obligation. Insurance affected or procured by Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the AOC. Acceptance of Contractor's insurance by the AOC shall not relieve or decrease the liability of Contractor hereunder.

F. Evidence of Coverage. Before commencing any work under this Agreement, Contractor must furnish to the AOC certificates of insurance and applicable endorsements, in form and with insurers satisfactory to the AOC, evidencing that all required insurance coverage is in effect.

The AOC reserves the right to require Contractor to provide complete, certified copies of all required insurance policies.

G. Accident Reporting. If a death, serious personal injury, or substantial property damage occurs in connection with the performance of this Agreement, Contractor shall immediately notify the Senior Manager of Business Services, by mail, at the following address: Judicial Council, Administrative Office of the Courts, Senior Manager, Business Services, Fiscal Services Office, 455 Golden Gate Ave., San Francisco, CA 94102. Contractor shall promptly submit a written report, in such form as may be required by the AOC, of all accidents, which occur in connection with this Agreement. The report must include at least the following information:

i. Name and address of the injured or deceased person(s);

ii. Name and address of Contractor's Subcontractor, if any;

iii. Name and address of Contractor's liability insurance carrier;

iv. A description of the circumstances surrounding the accident, whether any of the AOC's equipment, materials or staff were involved and the extent of damage to AOC and/or other property; and

v. A description of what effect, if any, the accident will have upon Contractor's ability to perform the Services.

Option 2 – county/government self-insurance

A. Insurance Required. Contractor will provide a Statement of Coverage providing evidence of its program of self-insurance for general liability, automobile liability, professional liability and workers' compensation/employers liability.

B. No Reduction or Limit of Contractor's Obligation. Contractor's program of self-insurance shall not reduce or limit Contractor's contractual obligation to indemnify and defend the AOC. Acceptance of Contractor's program of self-insurance by the AOC shall not relieve or decrease the liability of Contractor hereunder.

C. Accident Reporting. If a death, serious personal injury, or substantial property damage occurs in connection with the performance of this Agreement, Contractor shall immediately notify the Senior Manager of Business Services, by mail, at the following address: Judicial Council, Administrative Office of the Courts, Senior Manager, Business Services, Fiscal Services Office, 455 Golden Gate Ave., San Francisco, CA 94102-3688. Contractor shall promptly submit a written report, in such form as may be required by the AOC, of all accidents, which occur in connection with this Agreement. The report must include at least the following information:

i. Name and address of the injured or deceased person(s);

ii. Name and address of Contractor's Subcontractor, if any;

iii. Name and address of Contractor's liability insurance carrier;

iv. A description of the circumstances surrounding the accident, whether any of the AOC's equipment, materials or staff were involved and the extent of damage to AOC and/or other property; and

v. A description of what effect, if any, the accident will have upon Contractor's ability to perform the Services.

8. TERMINATION FOR CAUSE

A. Default. Each of the following shall constitute an event of default (**"Event of Default"**):

i. Contractor fails or refuses to perform any covenant contained in this Agreement at the time and in the manner provided.

ii. Any representation or warranty made by Contractor is untrue when made or becomes untrue during the term of this Agreement.

iii. Contractor is generally not paying its debts as they become due.

iv. Contractor voluntarily files a petition in bankruptcy or to take advantage of any bankruptcy, insolvency, or other debtors' relief law of any jurisdiction.

v. Contractor is subject to an involuntary petition in bankruptcy filed by its creditors that has not been dismissed within forty-five (45) days of its filing.

vi. Contractor makes an assignment for the benefit of its creditors.

vii. A custodian, receiver, trustee, or other officer with similar powers is appointed over any substantial part of Contractor's property.

viii. Contractor winds up or dissolves its business, or is liquidated.

B. Remedies. On and after any Event of Default, the AOC shall have the right to exercise its contractual, legal and equitable remedies, which shall include, without limitation, the right to terminate this Agreement upon written notice or to seek specific performance of all or any part of this Agreement. In addition, the AOC shall have the right (but no obligation) to cure or cause to be cured on behalf of Contractor any Event of Default. Contractor shall pay to the AOC on demand all costs and expenses incurred by the AOC in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. The AOC shall have the right to offset from any amounts due to Contractor under this Agreement, or any other agreement between the AOC or any California trial or appellate court and Contractor, all damages, losses, costs, fees, penalties, interest or expenses incurred by the AOC as a result of such Event of Default.

9. TERMINATION FOR NON-APPROPRIATION OF FUNDS (*)

A. Contractor acknowledges that funding for this Agreement is conditioned upon appropriation by the California Legislature and allocation by the Judicial Council of California of sufficient funds to support the activities described in this Agreement. By written notice to Contractor, the AOC may terminate this Agreement, in whole or in part, at any time for lack of appropriation of funds, or other withdrawal, reduction or limitation in any way of the AOC's budget, funding or financial resources. Such termination is in addition to the AOC's rights to terminate for convenience or cause. If this Agreement is terminated for non-appropriation:

i. The AOC will be liable only for payment in accordance with the terms of this Agreement for Services rendered and expenses incurred prior to the effective date of termination;

ii. Contractor shall be released from any further obligation to provide the Services affected by such termination; and

iii. Termination shall not prejudice any other right or remedy available to the AOC.

10. TERMINATION FOR CONVENIENCE

The AOC shall have the option, in its sole discretion, to terminate this Agreement, in whole or in part, at any time during the term hereof, for convenience and without cause. The AOC shall exercise this option by giving Contractor at least thirty (30) days prior written notice of termination. The notice shall specify the date on which termination shall become effective.

11. ACTIONS OF CONTRACTOR UPON TERMINATION

A. Immediately upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by the AOC and to minimize the liability of Contractor and the AOC to Third Parties as a result of termination. All such actions shall be subject to the prior approval of the AOC, at the AOC's sole discretion, and shall be in accordance with the attorneys' obligations to their clients.

i. Withdrawal and Tail Representation. Contractor will continue to represent existing clients until Contractor withdraws as counsel of record (or substitutes counsel) without prejudice to the interests of Contractor's clients and without violating any law, rule or regulation.

ii. Release from Performance of Services. Contractor will be released from performing Services to the extent Contractor effectively withdraws as counsel of record (or substitutes counsel) in accordance with Section 11.A above. If Contractor cannot be released from performing Services due to an inability to withdraw as described above, Contractor will give the AOC as much written notice as possible before the termination date, which notice will describe each affected matter and the basis for the Contractor's inability to withdraw, and the Contractor and the AOC will then confer in good faith. If a court orders that Contractor maintain certain representations or, using its reasonable judgment, the AOC determines that Contractor's assertions warrant its continued representation as its withdrawal is not permitted for the reasons stated in the immediately preceding paragraph, then, until such time as this Agreement would have expired, (had it not been earlier terminated for change in law) pursuant to the expiration date of the Agreement or, if renewed, the date of expiration of the renewed Agreement, the following provisions shall apply:

a. Contractor's duties under this Agreement will continue after the Termination Date solely with respect to the affected matters;

b. Compensation following the Termination Date will be at a rate of **$97.00** per hour for legal services provided;

c. In addition, the AOC will reimburse the Contractor for any direct, reasonable, actual expenditures for long distance telephone and, if contained in a court order, Third Party experts.

12. EFFECT OF TERMINATION

A. In addition to any other remedies and actions set forth in this Agreement, if this Agreement is terminated for cause, non-appropriation of funds, or for convenience, the following will apply:

i. Payment Upon Termination. The AOC shall pay for Contractor's Services satisfactorily performed through the effective date of termination; provided, however, that in no event shall Contractor's total compensation pursuant to this Agreement exceed the Contract Amount.

ii. Offset and Deduction. The AOC may deduct from any payment upon termination:

a. All payments previously made by the AOC for Services covered by Contractor's final invoice.

b. The amount of any claim that the AOC may have against Contractor in connection with this Agreement.

c. Where Contractor is terminated for cause, in the event the AOC determines it must provide services to remedy the results of Contractor's inadequately performed Services, the AOC may deduct, from any amounts owed Contractor hereunder, the AOC's good faith estimate of the reasonable cost of replacing performance of such inadequately performed Services.

13. OWNERSHIP OF DATA

Contractor will provide to the client or subsequent counsel at no cost copies of all relevant client files produced by Contractor in the course of its performance of Services including, without limitation, any motions or briefs. Contractor will provide these copies upon request by the client or upon appointment of subsequent counsel. The client or the subsequent counsel may use the materials in the client file at his or her discretion. All reports, records, files, documents, memoranda, schedules, recordings, information and other materials or data that the Contractor is required to create by the AOC or provide to the AOC pursuant to this Agreement (collectively, "**Data**") are the sole property of the AOC without the payment of additional compensation to Contractor. Contractor shall provide the AOC with all Data within thirty (30) days of the AOC's written request. However, nothing in this Section 13 is intended to create any right in any person or entity to any Data that is covered by the attorney work-product doctrine.

14. OPERATING RESERVE

A. Contractor shall maintain, at all times during the term of this Agreement, an unallocated operating reserve at least equal to 11.5 percent of the total annual contract amount.

B. Contractor shall maintain, at all times during the term of this Agreement, an additional reserve (distinct from the reserve identified in Section 14.A above) in an amount at least equal to outstanding employee leave balances.

C. [The unallocated operating reserve shall be established and maintained according to procedures developed by the Contractor's Board of Directors. Expenditures from the unallocated operating reserve shall follow the procedures set forth by the Board of Directors and shall be reflected in the financial information the Contractor furnishes to the Court.]

D. Contractor shall notify the AOC within forty-five (45) calendar days if any reserve required by this Section 14 falls below the applicable minimum level. Contractor shall include with the notification: (1) a detailed explanation of the reason(s) for the reduced reserve level and (2) a plan for specific operational change(s) to increase the reserve to the mandatory minimum level. Contractor shall not be deemed to be in breach of this Agreement if any reserve required by this Section 14 falls below the applicable minimum level if Contractor has implemented a plan to raise the applicable reserve to the minimum level within a reasonable period of time. For avoidance of doubt, any line of credit or similar instruments may be used to determine whether the reserves required under this Section 14 have been met.

15. PROPRIETARY OR CONFIDENTIAL INFORMATION OF THE AOC

A. Contractor understands and agrees that, in the performance of the Services under this Agreement or in contemplation thereof, Contractor may have access to private or Confidential Information that may be owned or controlled by, or entrusted to, the AOC, the Court, their personnel or constituents and that the disclosure of such information to Third Parties may be damaging to the AOC or the Court. Contractor agrees that all information disclosed to Contractor in connection with this Agreement shall be held in confidence and used only in the performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as Contractor uses to protect its own proprietary information and in any case, no less than a reasonably prudent person or entity would use to protect its own proprietary data.

B. Notwithstanding the foregoing, Contractor may disclose the Confidential Information to the extent necessary to comply with any law, rule, regulation or ruling applicable to it or as appropriate to respond to any summons or subpoena applicable to it; provided, however, that Contractor has given reasonable prior notice of its intention to disclose in order to give the AOC or the Court an opportunity to seek a protective order.

C. Contractor agrees that monetary damages are inadequate to remedy any breach or threatened breach of this provision and, accordingly, consents to injunctive relief for any breach or threatened breach hereof without the posting of any bond.

16. AUDIT AND RETENTION OF RECORDS

Contractor shall permit authorized representatives of the AOC and/or its designee at any reasonable time to inspect, copy, or audit any and all records and documentation related to the performance of the Agreement, including records related to billings and other financial records. Contractor shall allow the auditor(s) access to such records during normal business hours and shall

allow the auditor(s) to interview any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the AOC to audit records and interview staff in any subcontract related to performance of this Agreement. Contractor shall correct errors and deficiencies by the 20th day of the month following the audit. Contractor shall maintain all records and documentation related to the performance of this Agreement, including records related to billings and other financial records, in an accessible location and condition for a period of not less than four (4) years after final payment is received pursuant to this Agreement or until after final audit has been resolved, whichever is later. Contractor shall adequately protect all records against fire or other damage. The State of California, or any other government agency or entity having an interest in the subject of this Agreement, shall have the same rights conferred upon the AOC by this Section 16. Without limiting the foregoing, this Agreement is subject to examinations and audit by the State Auditor for a period of three years after final payment.

17. ACCOUNTING SYSTEM REQUIREMENTS

Contractor shall maintain an adequate system of accounting and internal controls in accordance with Generally Accepted Accounting Principles (GAAP).

18. CERTIFICATIONS, REPRESENTATIONS AND WARRANTIES

A. By executing this Agreement, Contractor certifies under penalty of perjury under the laws of the State of California that the following representations and warranties are true and correct as of the Effective Date of this Agreement:

i. Nondiscrimination/No Harassment Provisions and Compliance.

a. Nondiscrimination. During the performance of this Agreement, Contractor and its Subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, creed, religion, color, national origin, ancestry, physical or mental disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), medical condition, marital status, age (over 40), sex, sexual orientation, gender identity, or domestic partner status. Contractor and its Subcontractors shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

b. No Harassment. During the performance of this Agreement, Contractor and its Subcontractors shall not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor or its Subcontractors interact in the performance of this Agreement. Contractor and its Subcontractors shall take all reasonable steps to prevent harassment from occurring.

c. FEHA. Contractor shall comply with all applicable provisions of the Fair Employment and Housing Act, Government Code, section 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 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. Compliance with Americans with Disabilities Act. Contractor shall provide the Services specified in this Agreement in a manner that complies with the Americans with Disabilities Act, 42 United States Code, section 012101 *et seq*. and applicable regulations and guidelines in accordance therewith (the "ADA"), and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of Services, benefits or activities provided under this Agreement.

e. Notice to Labor Organizations. Contractor and its Subcontractors shall give written notice of their obligations under this clause to any labor organizations with which they have a collective bargaining or other agreement.

f. Compliance. Contractor shall include the nondiscrimination and compliance provisions of this Section 18.A.i in any and all subcontracts issued to perform Services under the Agreement.

ii. Conflict of Interest. Contractor has no interest that would constitute a conflict of interest under Public Contract Code, sections 10365.5, 10410 or 10411; Government Code, sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.

iii. Drug-Free Workplace. Contractor will provide a drug-free workplace as required by Government Code, sections 8355 through 8357.

iv. National Labor Relations Board. 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.

v. Licenses and Permits. Contractor and any Subcontractors providing Services under this Agreement have, and will maintain in full force and effect throughout the term of this Agreement, all licenses, permits, and qualifications legally required to provide the Services.

vi. Covenant Against Gratuities. No gratuities, in the form of gifts, entertainment, or otherwise, were or will be offered by Contractor or any agent, director, or representative of the Contractor, to any officer, official, agent, or employee of the AOC or the Court with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement.

vii. Authority. Contractor has authority to enter into and perform its obligations under this Agreement, and Contractor's signatory has authority to bind Contractor to this Agreement. This Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms. Contractor is qualified to do business and in good standing in the State of California.

viii. Not an Expatriate Corporation. Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code, section 10286.1, and is eligible to contract with the AOC. (Expatriate corporations are certain foreign incorporated entities that are publicly traded in the United States. For additional information, see Public Contract Code, section 10286.1.)

ix. Domestic Partners; Spouses; Gender Discrimination. Contractor is, and will remain for the term of the Agreement, in compliance with PCC 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits regarding marital or domestic partner status.

x. Child Support Compliance Act. If the Contract Amount is $100,000 or more:

Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the term of this Agreement) all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in 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.

B. During the term of this Agreement, Contractor shall not take an action, or omit to perform any act, that results in a representation and warranty becoming untrue. Contractor shall promptly notify the AOC if any representation and warranty becomes untrue.

19. LOSS LEADER PROHIBITION

Contractor shall not sell or use any article or product as a “loss leader” as defined in section 17030 of the Business and Professions Code.

20. UNION ACTIVITIES

If the Contract Amount is $50,000 or more, no AOC funds received under this Agreement will be used to assist, promote or deter union organizing during the term of this Agreement (including any extension or renewal term).

21. IRAN CONTRACTING ACT

If the Contract Amount is $1,000,000 or more, Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (**“Iran List”**) created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending $20,000,000 or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the AOC to enter into this Agreement pursuant to PCC 2203(c).

22. GENERAL

A. Survival. Termination or expiration of this Agreement shall not affect, alter or impair the respective rights and obligations of the parties that accrue prior to the effective date of termination or expiration, except as otherwise expressly provided herein.

B. No Endorsement. Contractor shall make no written or oral statement, which represents or implies any endorsement by the state of Contractor, its employees or subcontractors or the quality of the Contractor's, its employees' or subcontractor's services without the AOC's Business Services Manager's prior written consent, the granting of which shall be in the AOC's sole discretion. Nothing herein shall prevent Contractor's disclosure of the existence and nature of this Agreement.

C. Assignment. The Services to be performed by Contractor are personal in nature and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by Contractor, including delegation to one or more Subcontractors, unless such assignment or delegation is first approved by the AOC by written instrument executed and approved in the same manner as this Agreement. All of the terms, provisions and conditions of the Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns and legal representatives. Any assignment or delegation in violation hereof shall be null and void.

D. Waiver. Either party's failure to enforce any of its rights pursuant to this Agreement shall not be construed as a waiver of such rights. Any waiver of any term of this Agreement must be in writing and executed by an authorized representative of the waiving party and shall not be construed as a waiver of any succeeding breach of the same, or breach of any other, term of this Agreement.

E. Severability. The provisions of this Agreement are separate and severable. Should any court hold that any provision of this Agreement is invalid, void or unenforceable, then:

i. The validity of other provisions of this Agreement shall not be affected or impaired thereby, and

ii. Such provision shall be enforced to the maximum extent possible so as to affect the reasonable intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

F. Compliance with Laws. Contractor shall keep itself fully informed of, and shall comply with, all applicable federal, state, and local laws, rules, regulations, rules of court and ordinances in any manner affecting the performance of this Agreement, as they may be amended from time to time.

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

H. Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and interpreted in accordance with California law, without regard to any conflict of law provisions that would direct the application of the laws of any other jurisdiction. Contractor irrevocably consents to personal jurisdiction in the courts of the State of California, and any legal action filed by Contractor in connection with the Agreement must be filed in San Francisco County, California, which shall be the sole venue for any such action.

I. Agreement Construction. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given their reasonable interpretation.

J. Notices to the Parties. All notices, requests, demands, and other communications hereunder must be in writing and will be deemed to have been duly given when hand delivered or five (5) days after being deposited in the United States mail, if mailed by certified or registered mail, return receipt requested, postage prepaid, to the following contact information or at such other address as delivered by like notice:

To the AOC:

Judicial Council of California
Administrative Office of the Courts
Center for Families, Children & the Courts
Attn: TBD, Project Manager
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688

To the Contractor:

[Contractor name]
[Attn:]
[Address]
[Address]

With copy to:

Superior Court of California, County of Marin
[Attn:]
[Address]
[Address]

K. Amendments. This Agreement may not be modified or amended, except by written instrument executed and approved by all parties in the same manner as this Agreement. Requests for Amendments shall be submitted in writing and shall 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. Amendments to the Agreement shall be authorized via execution of a Standard Amendment Coversheet.

L. Entire Agreement. This Agreement, consisting of the executed Standard Agreement Coversheet, the Agreement Funding and Account Code Information Form, and all exhibits and attachments thereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous modifications,

agreements, proposals, negotiations, representations, and commitments, both oral and written, between the parties.

23. DVBE PARTICIPATION CERTIFICATION

If Contractor committed to achieve disabled veterans business enterprise (**"DVBE"**) participation, Contractor shall within sixty (60) days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the AOC: (1) the total amount the prime Contractor received under the Agreement; (2) the name and address of any DVBE that participated in the performance of this Agreement; (3) the amount each DVBE received from the Contractor; (4) that all payments under this Agreement have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

24. ANTITRUST CLAIMS

If this Agreement resulted from a competitive solicitation, this section is applicable. Contractor shall assign to the AOC all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the AOC. Such assignment shall be made and become effective at the time the AOC tenders final payment to the Contractor. If the AOC receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the AOC any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the AOC as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by the Contractor, the AOC shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the AOC has not been injured thereby, or (b) the AOC declines to file a court action for the cause of action.

END OF EXHIBIT

EXHIBIT B - SCOPE OF SERVICES AND SERVICE LEVELS

1. SCOPE OF SERVICES

A. Contractor shall comply with Marin Superior Court Rules in performance of this Contract.

B. Contractor shall represent a total of approximately [No. of clients] clients in juvenile dependency proceedings in the Superior Court of California, County of Marin. The client number is a point-in-time figure.

C. This representation requires, but is not limited to, adherence to the following performance standards:

i. Establishing and maintaining an attorney-client relationship;

ii. Visiting Child clients at each new placement, whenever feasible;

iii. Conducting thorough, continuing, and independent investigations and interviews at every stage of the proceedings;

iv. Determining their client's interests and desires and advocating for those interests and desires;

v. Contacting social workers and other professionals associated with their client's case prior to each hearing, whenever practical and appropriate:

- For Child clients, this includes contacting CASA and school personnel;

vi. Requesting services (by court order if necessary) to access entitlements and to ensure a comprehensive service plan:

- For Child clients, this includes requesting services related to IEPs and attending meetings related to the Child, as practical and appropriate;

vii. Monitoring compliance with court orders, including provision of and effectiveness of court-ordered services;

viii. Filing pleadings, motions, responses, or objections as necessary to represent the client;

ix. Preparing for and participating in all hearings:

- For Child clients, preparing for and participating in 241.1 hearings pertaining to current juvenile dependents with a goal of maintaining the dependency jurisdiction wherever possible and appropriate;
- For Parent clients, representation at hearings set to determine the ability to pay for the cost of court appointed counsel.

x. Investigating the interests of Child clients beyond the scope of the juvenile dependency proceeding and notifying the court of issues on behalf of the Child, administratively or judicially. These interests may include:

a. School/special education issues;

b. Mental health assessment and treatment;

c. Immigration;

d. Personal injury; and

e. Delinquency or status offender matters;

Contractor shall not be required to provide legal representation regarding any of the above-referenced interests.

xi. Participating in alternative dispute resolution efforts, including but not limited to Family Group Conferences, Team Decision Making meetings and mediation, as appropriate and beneficial to the client;

xii. Determining if appeals and writs are appropriate and, where necessary, filing writ and notice of appeal; and

xiii. Arranging for substitutive representation where necessary to avoid court delay.

2. CONFLICTS AVOIDANCE

A. Contractor will ensure that conflicts are declared only when an actual conflict exists.

i. New Appointments

- Contractor shall establish procedures to check for conflicts of interest, and shall decline appointment of new clients who present a conflict of interest with their present clients.

[Or, if contract includes conflicts representation:

- Contractor shall establish procedures to check for conflicts of interest, and institute a process to avoid conflicts. Contractor shall arrange for representation of all new clients by one of its [number of firms] separate law firms or by a contract attorney if assignment of a case to one of the [number of firms] separate law firms is not possible due to legal conflict of interest.]

ii. Ongoing Clients

- Contractor shall establish procedures to determine whether actual conflicts of interest arise among current clients, including within sibling groups, and shall advise the court when such conflicts arise and seek to be relieved of appointment in such cases.

[Or, if contract includes conflicts representation

- Contractor shall (a) establish procedures to determine whether actual conflicts of interest arise among current clients; (b) advise the court when such conflicts arise; and (c) arrange for the appropriate reassignment of cases either to [one of its] other law firm(s) or to a contract attorney if reassignment of the case to the other firm is not possible due to legal conflict of interest.

3. CONFLICT APPOINTMENT ADMINISTRATION

A. Contractor will identify qualified independent contractor attorneys and execute contracts with those attorneys to be available for appointment in cases of conflict of interest, pursuant to Section 2, above. Any such contract shall be subject to the process set forth in Exhibit A, Section 5. Contractor will ensure that enough independent contractor attorneys are available to represent all clients whose representation would present a conflict of interest pursuant to Section 2 above.

B. The cost for independent contractor attorney services will be paid on a reimbursement basis, as provided in Exhibit C, Section 3. Contractor agrees to incorporate the reporting of monthly statistics, regarding the number of conflict clients represented, into the independent contractor attorney contracts. Contractor will facilitate the reporting of monthly statistics as identified in Section 8, below.

4. COURTROOM STAFFING

Contractor shall staff the Dependency courtroom(s) to ensure adequate attorney availability at all times.

5. EDUCATION AND TRAINING

A. Contractor shall comply with the education and training standards outlined in California Rules of Court, rule 5.660.

B. Contractor shall attend statewide multi-disciplinary trainings or conferences, including but not limited to the AOC's annual "Beyond the Bench Conference."

6. SYSTEM MEETINGS

Contractor shall participate in quarterly local Blue Ribbon Commission Meetings or other Systems Meetings with representatives of the Court, Department of Health and Human Services, County Counsel, Court Appointed Special Advocates, Office of Education, foster parents, and other dependency representation contract agencies.

7. STAFFING AND SERVICE LEVEL

A. Contractor agrees to provide, at a minimum, the following staffing pursuant to this agreement:

i. [number of full time equivalent Attorney(s)] FTE Attorneys

ii. [additional staff if appropriate]

B. The annual salary for key personnel shall be as follows:

[Staff and salaries identified in this section will include management staff, attorneys and social workers.]

Key Personnel	Annual Salary
[Name and Title]	$[Annual salary amount, average or range]

C. Contractor agrees to represent approximately (no. of clients) clients in dependency cases at any point in time. Contractor agrees to keep monthly statistics regarding the number of clients represented as identified in Section 8, below. In the event that the number of clients represented by Contractor increases or decreases by 25% or more over any consecutive 3-month period within the term of the Contract, AOC and the Contractor agree to discuss and renegotiate the level of staffing and payment to Contractor that is required under this Agreement.

8. CASE REPORTS AND MAINTENANCE OF RECORDS

A. Contractor shall provide the following AOC case management reports:

i. Within One Month of Contract Signing. A list of all current cases, including those transferred to Contractor from prior counsel.

ii. Monthly Caseload Reports. Contractor shall provide statistical information on a monthly basis. Specific information will be provided in the manner prescribed by the AOC and will include, but will not be limited to, the following:

a. For newly-appointed cases:

(1) Case number;

(2) Party represented;

(3) For sibling groups, number of Children represented

(4) Appointment date;

(5) Initial hearing date; and

(6) Name of appointed attorney.

b. For cases where representation is terminated:

(1) Case number:

(2) Date of termination of representation; and

(3) Reason for termination of representation.

iii. JCATS Case Calendaring. Contractor will use the JCATS calendaring function to track court hearings.

Quarterly Workload Reports. Contractor shall provide detailed statistical workload data to the AOC for a three-month period each year. The reporting quarter will change during each year of the Contract, and shall be specified by the AOC. Data will be provided by the Contractor in the manner prescribed by the AOC and will include, but will not be limited to, the following information for all ongoing cases:

a. The amount of out-of-court time spent on each case each day, including a breakdown of time spent on specific tasks for each case; and

b. The amount of time spent in court each day, including a daily list of the types of hearings for which an appearance is made.

iv. Monthly Staffing Reports. Contractor shall provide staffing information on a monthly basis in a manner prescribed by the AOC. Staffing reports will include the following:

a. Number of filled and unfilled positions listed in Section 7.A, above; and

b. Name and FTE status of each person employed in the positions listed in Section 7.A, above.

v. Annual Financial Reports. Contractor shall provide annual financial information, by completing and submitting the Income and Expenditures Report, which will be provided by the Project Manager, no later than forty-five (45) days after the end of the AOC's fiscal year. An audited financial statement may be provided in lieu of this report.

9. JUVENILE DEPENDENCY COUNSEL COLLECTIONS

The AOC and the Court have implemented a collections program for dependency counsel services. Contractor agrees to participate in that effort at no additional cost; participation includes, but is not limited to the distribution of financial declaration forms to clients upon initial appointment and representation of Parent clients at hearings set to determine the ability to pay for the cost of court appointed counsel.

END OF EXHIBIT

EXHIBIT C - PAYMENT TERMS

1. COMPENSATION FOR SERVICES

A. Contractor shall be paid as compensation in full for the Services to be performed under this Agreement per period, as set forth in Table 1, below, which includes all of Contractor's in-state travel expenses:

Table 1: Compensation for Services

Period of Service	Fiscal Year	Period Amount	Monthly Amount	Number of Monthly Payments per Period	Invoice Due By Date
[insert period]	[insert fiscal year]	$[insert amount]	$[insert amount]	[insert amount]	[insert date]

B. Funds for a fiscal year are available at the point the Budget Act of said fiscal year passes; e.g., fiscal year 2013-2014 funds are available at the point the Budget Act of fiscal year 2013-2014 passes.

C. Payment for each period shall be made in [twelve (12)] equal monthly payments in the manner set forth in Section 4, below. Compensation as set forth above shall be the only payment made by the AOC pursuant to this Agreement except as set forth in Sections 2 and 3, below. Except as set forth in Sections 2 and 3, below, there shall be no reimbursement of costs, including without limitation any overhead, per diem, travel or other direct or indirect out-of-pocket costs incurred by Contractor, its agents, employees or Subcontractors in connection with this Agreement.

2. REIMBURSEMENT FOR EXTRAORDINARY EXPENSES

A. The AOC will reimburse Contractor for allowable extraordinary expenses which are directly related to the services provided AOC by Contractor hereunder, billed in the manner set forth in Section 4, below. Allowable extraordinary expenses include out-of state travels to visit Child clients and expert witnesses.

i. Contractor shall notify the AOC if extraordinary expenses will include travel, in advance of any expenditure. For overnight travel, in accordance with AOC approved guidelines, the AOC will reimburse Contractor as follows: meals shall be reimbursed at the actual cost incurred, not to exceed the following maximum amounts per person per day: breakfast = $6.00; lunch = $10.00; dinner = $18.00; and/or incidentals = $6.00. The AOC shall reimburse Contractor for (a) in-state lodging at the actual cost incurred for expert witnesses only, not to exceed $110.00 per day, plus tax and energy surcharge thereon, and (b) out-of-state lodging at the actual cost incurred, up to the federal per diem lodging rate for that locale, plus tax and surcharges thereon, when substantiated by receipts. Any required air travel will be reimbursed based on lowest available coach fare. Reasonable ground transportation expenses will be reimbursed at applicable IRS approved rate per mile.

ii. The AOC will reimburse Contractor for expert witnesses at actual cost and expenses incurred, when substantiated by copies of the expert witnesses' invoices.

B. Contractor shall be reimbursed in full for allowable extraordinary expenses incurred under this Agreement per period as set forth in Table 2, below.

Table 2: Reimbursement for Extraordinary Expenses

Allowable Period for Extraordinary Expenses	Fiscal Year	Period Amount	Invoices Due By Date
[insert period]	[insert fiscal year]	$[insert amount]	April 30, [Insert year] OR TBD

3. REIMBURSEMENT FOR CONFLICT APPOINTMENT PAYMENTS

A. The AOC will reimburse Contractor for payment of conflict counsel appointed pursuant to Exhibit B, Sections 2 and 3, billed in the manner set forth in Section 4, below.

B. Contractor will submit requests for reimbursement on a monthly basis on a separate invoice form, along with a report that includes the following information:

i. For each conflict appointment:

a. Attorney Name;

b. Case Number;

c. Appointment Date;

d. Payment Date; and

e. Payment Amount;

ii. Total number of conflict appointments made during that month; and

iii. Total number and amount of conflict payments made during that month.

C. Contractor shall be reimbursed in full for conflicts appointment payments incurred under this Agreement per period as set forth in Table 3, below.

Table 3: Reimbursement for Conflict Appointment Payments

Allowable Period for Extraordinary Expenses	Fiscal Year	Period Amount	Invoices Due By Date
[insert period]	[insert fiscal year]	$[insert amount]	April 30, [Insert year] OR TBD

4. MANNER OF PAYMENT

A. Within thirty (30) days after the end of each month, Contractor shall submit one original and two copies of each invoice for payment for the Services rendered and extraordinary expenses and conflict appointment payments incurred under this Agreement ("**Invoices**") for approval by the AOC to:

Judicial Council of California
Administrative Office of the Courts
Center for Families, Children and the Courts
Attn: TBD
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688

B. All Invoices must include a reference to this Agreement, the dates and times Contractor performed the Services or incurred the extraordinary expenses and conflict appointment payments during the month, a brief description of the Services performed or extraordinary expenses or conflict appointment payments incurred in a format acceptable to the AOC, Contractor's Federal Tax Payer Identification Number, Contractor's name, address and remittance address (if different), and such other information as the AOC may require. Contractor must include with any request for reimbursement from the AOC a certification that the Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Contractor incurs costs or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the AOC was sought for these costs, and Contractor will provide those records to the Attorney General upon request.

C. The AOC shall endeavor to make payments to Contractor within sixty (60) days after receipt and approval by the AOC of the Invoices from Contractor. The AOC will not be in breach of this Agreement for failure to pay Contractor's Invoices on time unless:

i. The AOC has received a reasonably detailed written notice of late payment from Contractor and

ii. The AOC has not made the delinquent payment(s) within thirty (30) days of the AOC's receipt of such notice. In no event will the AOC be in breach of this Agreement for failure to pay Contractor's Invoices on time if such failure results from the Legislature's failure to approve and adopt a budget in a timely manner.

D. In no event shall the AOC be liable for interest or late charges for any late payments.

E. Contractor is responsible for paying, when due, all applicable income taxes, including estimated taxes, incurred as a result of the compensation paid by the AOC to Contractor for the Services or extraordinary expenses or conflict appointment payments. The AOC may offset any taxes paid by the AOC as a result of Contractor's breach of this provision against any sums owed to Contractor pursuant to the Agreement or otherwise. The AOC is exempt from federal excise taxes, and no payment will be made by the AOC for any taxes levied on Contractor's or any Subcontractor's employees' wages. The AOC will pay any applicable State of California or local sales or use taxes on the services rendered pursuant to this Agreement.

5. FINAL INVOICING

A. Contractor must submit Invoices for Services provided and extraordinary expenses and conflict appointment payments incurred no later than the "Invoice Due By Date" identified for each appropriate funding source in Tables 1, 2, and 3. The AOC may not be

responsible for payment of Invoices received after the "Invoice Due By Date" specified in Tables 1, 2, and 3 for the applicable funding source.

B. For the very last Invoice to be processed against this Agreement, Contractor will identify as "Final Invoice."

6. DISALLOWANCE

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

7. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK

The granting of any payment by the AOC, or the receipt thereof by Contractor, shall in no way alter the obligation of Contractor to remedy unsatisfactory performance of the Services. Services that do not conform to the requirements of this Agreement, in the AOC's judgment, may be rejected by the AOC. In such case, Contractor must remedy the unsatisfactory performance without delay to bring it into conformance with this Agreement.

END OF EXHIBIT