

**ATTACHMENT 2
CONTRACT TERMS AND CONDITIONS**

STANDARD AGREEMENT COVERSHEET

AGREEMENT NUMBER

[TBD]

1. In this Agreement, the term “Contractor” refers to [CONTRACTOR NAME], and the term “JBE” and “AOC” refer to the **JUDICIAL COUNCIL OF CALIFORNIA, ADMINISTRATIVE OFFICE OF THE COURTS.**
2. This Agreement is effective as of [TBD] (“Effective Date”).
3. The maximum amount the AOC may pay Contractor under this Agreement is \$[TBD] (the “Contract Amount”).
4. The purpose or title of this Agreement is: case management solution for juvenile dependency attorneys in the State of California.
The purpose or title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.
5. The parties agree that this Agreement, made up of this coversheet, the exhibits listed below, and any attachments, contains the parties’ entire understanding related to the subject matter of this Agreement and is mutually binding on the parties in accordance with its terms. If there are any inconsistent terms in the exhibits, the descending order of precedence is set forth in 11. General, Section 11.11 Order of Precedence.

- Exhibit A – General Terms and Conditions
- Exhibit B – Pricing and Payment
- Exhibit C – Statement of Work
- Exhibit D – Licensed Software
- Exhibit E – Maintenance and Support Services
- Exhibit F – Service Level Requirements
- Exhibit G – Remote Hosting Requirements
- Exhibit H – Business and Functional Requirements
- Exhibit I – Testing Requirements
- Exhibit J – Configuration Requirements
- Exhibit K - Acceptance and Sign-off Form

AOC’S SIGNATURE	CONTRACTOR’S SIGNATURE
JUDICIAL COUNCIL OF CALIFORNIA, ADMINISTRATIVE OFFICE OF THE COURTS	CONTRACTOR’S NAME (if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc., and the state or territory where Contractor is organized) [CONTRACTOR NAME]
DO NOT SIGN	

EXHIBIT A GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

Wherever capitalized in this Agreement, the following words shall have the meanings as set forth:

- A. “Acceptance”** is defined in this Exhibit, Section 3.2.
- B. “Agreement”** means this Standard Agreement as defined on the Standard Agreement Coversheet, including the following, which are hereby incorporated into the Agreement by this reference: Exhibit A (General Terms and Conditions), Exhibit B (Pricing and Payment), Exhibit C (Statement of Work), Exhibit D (Licensed Software), Exhibit E (Maintenance and Support Services), Exhibit F (Service Level Requirements), Exhibit G (Remote Hosting Requirements), Exhibit H (Business and Functional Requirements), Exhibit I (Testing Requirements), Exhibit J (Configuration Requirements) and Exhibit K (Acceptance and Sign-off Form).
- C. “Applicable Law”** means any applicable laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders.
- D. “Business Day”** means any day other than Saturday, Sunday or a scheduled AOC holiday.
- E. “Claims”** means claims, suits, actions, arbitrations, demands, proceedings, fines, penalties, losses, damages, liabilities, judgments, settlements, costs, and expenses (including reasonable attorneys’ fees and costs), including those based on the injury to or death of any person or damage to property.
- F. “Confidential Information”** means: (i) any information related to the business or operations of Judicial Branch Entities, including information relating to Judicial Branch Entities’ personnel and users; (ii) all financial, statistical, personal, technical and other data and information of the Judicial Branch Entities (and proprietary information of third parties provided to Contractor) that is designated confidential or proprietary, or that Contractor otherwise knows, or would reasonably be expected to know is confidential; and (iii) all Developed Works, AOC Works and AOC Data. Confidential Information does not include information (that Contractor demonstrates to the AOC’s satisfaction, by written evidence): (a) that Contractor lawfully knew prior to the AOC’s first disclosure to Contractor, (b) that a Third Party rightfully disclosed to Contractor free of any confidentiality duties or obligations, or (c) that is, or through no fault of Contractor has become, generally available to the public.
- G. “Consulting Services”** refers to the services performed under “Consulting Services Agreements,” which are defined in Public Contract Code section 10335.5, substantially, as contracts that: (i) are of an advisory nature; (ii) provide a recommended course of action or personal expertise; (iii) have an end product that is basically a transmittal of information, either written or oral, that is related to the governmental functions of state agency administration and management and program management or innovation; and (iv) are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type. The end product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

- H.** “**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.**”
- I.** “**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.
- J.** “**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 and the other obligations under this Agreement. The Contractor is one of the parties to this Agreement.
- K.** “**Contractor Key Personnel**” means the Contractor Project Manager and those Project Staff members identified as “Key Personnel” as set forth in a Statement of Work.
- L.** “**Contractor Project Manager**” means the employee identified in a Statement of Work as the Contractor project manager.
- M.** “**Contractor Service Location(s)**” means any location (except for an AOC Service Location) from which Contractor performs Services.
- N.** “**Contractor Works**” means Works owned or developed prior to the provision of the Services, or developed by Contractor independently from the provision of the Services and without use of the AOC Works or Confidential Information.
- O.** “**Data Safeguards**” means industry-standard safeguards against the destruction, loss, misuse, unauthorized disclosure, or alteration of the AOC Data or Confidential Information, and such other related safeguards that are set forth in Applicable Laws, a Statement of Work, or pursuant to AOC policies or procedures.
- P.** “**Default**” means if any of the following occurs: (i) Contractor breaches any of Contractor’s obligations under this Agreement, and this breach is not cured within ten (10) days following notice of breach or is not capable of being cured within this cure period; (ii) Contractor or Contractor’s creditors file a petition as to Contractor’s bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business; (iii) Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading; or (iv) any act, condition, or item required to be fulfilled or performed by Contractor to (x) enable Contractor lawfully to enter into or perform its obligations under this Agreement, (y) ensure that these obligations are legal, valid, and binding, or (z) make this Agreement admissible when required is not fulfilled or performed.
- Q.** “**Defect**” means any failure of any Deliverable or Service to conform to and perform in accordance with the requirements of this Agreement and all applicable Specifications and Documentation.
- R.** “**Deliverables**” means any Developed Works, Contractor Works and Third Party Works, or any combination thereof (including those identified as “Deliverables” in a Statement of Work, together with all Upgrades thereto), as well as any other items provided pursuant to the Services,

and the Licensed Software. A Deliverable is structured per end product.

- S. **“Developed Works”** means Works created, made, or developed by Contractor or Subcontractors, either solely or jointly with the Judicial Branch Entities or AOC Contractors, in the course of the performance of the Services under this Agreement, and all Intellectual Property Rights therein and thereto, including, without limitation, (i) all work-in-process, data or information, (ii) all modifications, enhancements and derivative works made to Contractor Works, and (iii) all Deliverables; provided, however, that Developed Works do not include Contractor Works.
- T. **“Documentation”** means all technical architecture documents, technical manuals, user manuals, flow diagrams, operations guides, file descriptions, training materials and other documentation related to the Deliverables; together with all Upgrades thereto.
- U. **“Effective Date”** has the meaning set forth on the Standard Agreement Coversheet or Standard Amendment Coversheet, as the case may be.
- V. **“Intellectual Property Rights”** means all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including copyrights, moral rights, and mask work rights; (b) trademark and trade name rights and similar rights; (c) trade secret rights; (d) patent and industrial property rights; (e) other proprietary rights in intellectual property of every kind and nature; and (f) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses (a) through (e) of this sentence.
- W. **“IT Infrastructure”** means software and all computers and related equipment, including, as applicable, central processing units and other processors, controllers, modems, servers, communications and telecommunications equipment and other hardware and peripherals.
- X. **“JBE”** and **“AOC”** have the meaning defined in the coversheet of this Agreement.
- Y. **“JBE Contractors”** and **“AOC Contractors”** mean the agents, subcontractors and other representatives of the Judicial Branch Entities, other than Contractor and Subcontractors.
- Z. **“JBE Data”** and **“AOC Data”** mean all data and information of the Judicial Branch Entities or AOC Contractors disclosed to or accessed by Contractor or Subcontractors, including all such data and information relating to the Judicial Branch Entities and their respective contractors, agents, employees, technology, operations, facilities, markets, products, capacities, systems, procedures, security practices, court records, court proceedings, research, development, business affairs and finances, ideas, concepts, innovations, inventions, designs, business methodologies, improvements, trade secrets, copyrightable subject matter, patents and other intellectual property and proprietary information.
- AA. **“JBE Project Manager”** or **“AOC Project Manager”** means the individual appointed by the AOC to communicate directly with the Contractor Project Manager.
- BB. **“JBE Service Locations”** or **“AOC Service Locations”** means any AOC facility at which Contractor performs Services.
- CC. **“JBE Works”** and **“AOC Works”** mean Works owned, licensed, made, conceived, or reduced to practice by a Judicial Branch Entity or an AOC Contractor, any Works developed or acquired

separate from this Agreement, and all modifications, enhancements, derivative works, and Intellectual Property Rights in any of the foregoing.

- DD.** “**Judicial Branch Entity**” or “**Judicial Branch Entities**” means the JBE and any California superior or appellate court, the Judicial Council of California, the Administrative Office of Courts, and the Habeas Corpus Resource Center; these entities comprise the “Judicial Branch”.
- EE.** “**Judicial Branch Personnel**” means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.
- FF.** “**Licensed Software**” means the software set forth in Exhibit D, including Source Code and object code versions of such software, in whatever form or media, together with all Upgrades and Documentation thereto.
- GG.** “**Malicious Code**” means any (i) program routine, device or other feature or hidden file, including any time bomb, virus, software lock, Trojan horse, drop-dead device, worm, malicious logic or trap door that may delete, disable, deactivate, interfere with or otherwise harm any of the Judicial Branch Entities’ hardware, software, data or other programs, and (ii) hardware-limiting, software-limiting or services-limiting function (including any key, node lock, time-out or other similar functions), whether implemented by electronic or other means.
- HH.** “**Maintenance and Support Services**” means the services provided by Contractor under Exhibit E.
- II.** “**Parties**” means the AOC and Contractor, collectively.
- JJ.** “**Party**” means either the AOC or Contractor, as the case may be.
- KK.** “**Project Staff**” means the personnel of Contractor and Subcontractors who provide the Services.
- LL.** “**Service Location(s)**” means any AOC Service Location or Contractor service location.
- MM.** “**Services**” means, collectively, the services provided under this Agreement, including those services and Deliverables set forth in a Statement of Work, Maintenance and Support Services, and any incidental services or responsibilities that are reasonable and customary in the industry and not specifically described in this Agreement (or the Statement of Work), but which are required for the performance and delivery of these services.
- NN.** “**Source Code**” means human-readable program statements written by a programmer or developer in a high-level or assembly language that are not directly readable by a computer and that need to be compiled into object code before they can be executed by a computer.
- OO.** “**Specifications**” means with respect to each Deliverable or Service, the detailed statements and documents setting out the functionality and requirements for each component of the Deliverable or Service.
- PP.** “**Standard Agreement Coversheet**” refers to the form used by the AOC to enter into agreements with other parties.
- QQ.** “**Standard Amendment Coversheet**” refers to the form used by the AOC to amend agreements with other parties.
- RR.** “**Statement of Work**” means one or more statements of Services and/or Deliverables to be provided pursuant to and governed under the terms of this Agreement, substantially in the form

attached as Exhibit C, as agreed to by the Parties.

- SS.** “**Subcontractor**” means the agents, subcontractors and other representatives of Contractor performing Services hereunder who are not employees of Contractor.
- TT.** “**Term**” means the term of this Agreement.
- UU.** “**Termination Assistance Period**” means the period commencing upon the expiration or termination of this Agreement and each Statement of Work and expiring six (6) months thereafter, as such period may be extended by the Parties.
- VV.** “**Third Party**” means any person or entity other than the AOC or Contractor.
- WW.** “**Third Party Works**” means Works that are licensed or obtained by Contractor from a Third Party.
- XX.** “**To Be Determined**” or “**TBD**” is the item that is not yet identified. Any and all To Determined items, set forth herein, shall be determined prior to award or by mutual agreement between the Contractor and the State and incorporated into the Agreement via Amendment(s).
- YY.** “**Upgrades**” means all new versions and releases of, and bug fixes, error corrections, Workarounds, updates, upgrades, modifications, and patches for, the Licensed Software, Deliverables, and Documentation.
- ZZ.** “**Works**” means all inventions (whether patentable or not), discoveries, literary works and other works of authorship (including software), designations, designs, know-how, technology, tools, ideas and information.

2. SERVICES AND SOFTWARE

- 2.1 Performance of Services. Contractor shall perform the Services described in this Agreement, the Statement of Work, and the Specifications. Except as set forth in the Statement of Work, Contractor is responsible for providing all facilities, materials and resources (including personnel, equipment and software) necessary and appropriate for delivery of the Services and to meet Contractor's obligations under this Agreement.
- 2.2 Software License. Contractor grants to Judicial Branch Entities a perpetual, irrevocable, worldwide, non-exclusive license to: (i) install, use and host the Licensed Software; and (ii) make a reasonable number of copies of the Licensed Software for archival and/or backup purposes, or to the extent reasonably necessary to enable access to and use of the Licensed Software. The Judicial Branch Entities’ rights hereunder shall extend to permit the installation, use, hosting and/or reproduction and copying of the Licensed Software, or portions thereof, to the extent reasonably necessary to enable access to and use of the Licensed Software by: (a) any law enforcement, judicial or other governmental agency for purposes reasonably related to the administration of the courts of the State of California, (b) any court user or party needing the Licensed Software for the purpose of connecting to, making use of (such as lawyers, litigants, parties and the general public) or supporting the operations of the courts of the State of California, (c) dependency attorneys and related personnel; or (d) AOC Contractors, but only in connection with their provision of services to

Judicial Branch Entities. The foregoing use and access may be directly enabled or web enabled via Internet or intranet or enabled via any other communication facility.

2.3 Stop Work Orders.

- (a) Effect. The AOC may, at any time, by written stop work order to Contractor, require Contractor to stop all, or any part, of the Services or other work called for by this Agreement for a period of up to ninety (90) days after the stop work order is delivered to Contractor, and for any further period to which the Parties may agree. Upon receipt of a stop work order, Contractor shall promptly comply with the terms of the stop work order and take all reasonable steps to end the incurrence of any costs, expenses or liabilities allocable to the Services or other work covered by the stop work order during the period of work stoppage. Within ninety (90) days after a stop work order is delivered to Contractor, or within any extension of that period mutually agreed to by the Parties, the AOC shall either: (i) cancel the stop work order; or (ii) terminate the work covered by the stop work order.
- (b) Expiration or Cancellation. If a stop work order is canceled by the AOC or the period of the stop work order or any extension thereof expires, Contractor shall promptly resume the Services or other work covered by such stop work order. The AOC shall make an equitable adjustment in the delivery schedule, and the applicable Statement of Work shall be modified, in writing, accordingly, if: (i) the stop work order directly and proximately results in an increase in the time required for the performance of any part of the Statement of Work; and (ii) Contractor asserts its right to such equitable adjustment within thirty (30) days after the end of the period of work stoppage.

2.4 Changes and Amendments.

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

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

2.6 Data and Security.

- (a) Safety and Security Procedures. Contractor shall maintain and enforce, at the Contractor Service Locations, industry-standard safety and physical security policies and Procedures. While at each AOC Service Location, Contractor shall comply with the safety and security policies and procedures in effect at such AOC Service Location.
- (b) Data Security. Contractor shall comply with the Data Safeguards. Contractor personnel and Subcontractors shall not attempt to access, and shall not allow access to the AOC Data and other Confidential Information that is not required for the performance of the Services by such personnel or Subcontractors. In the event Contractor or a Subcontractor discovers or is notified of a breach or potential breach of security relating to the AOC Data or other Confidential Information, Contractor shall promptly, at its own expense: (i) notify the AOC Project Manager of such breach or potential breach; and (ii) if the applicable AOC Data or other Confidential Information was in the possession of Contractor or Subcontractors at the time of such breach or potential breach, Contractor shall (1) investigate and cure the breach or potential breach and (2) take measures satisfactory to the AOC to prevent such breach or potential breach from recurring.
- (c) Security Assessments. At least once a year, or upon the AOC's request, Contractor shall, at its expense, perform, or cause to have performed an assessment of Contractor's compliance with the safety and security policies set forth in this Agreement or any Statement of Work. Contractor shall provide to the AOC the results, including any findings and recommendations made by Contractor's assessors, of such assessment, and, at its expense, take any corrective actions. The AOC and AOC Contractors may, at the AOC's expense, perform the assessments described in this Section and "snap" assessments (e.g., safety and data/physical security assessments) of the AOC Service Locations.

2.7 Project Staff.

- (a) Contractor Project Manager. The Contractor Project Manager shall serve, from the Effective Date, as the Contractor project manager and primary Contractor representative under this Agreement. The Contractor Project Manager shall (i) have overall responsibility for managing and coordinating the performance of Contractor's obligations under this Agreement, including the performance of all Subcontractors; and (ii) be authorized to act for and bind Contractor and Subcontractors in connection with all aspects of this Agreement. The Contractor Project Manager shall respond promptly and fully to all inquiries from the AOC Project Manager.
- (b) Contractor Key Personnel. The AOC reserves the right to interview and approve proposed Contractor Key Personnel prior to their assignment to the AOC. Contractor shall not replace or reassign any Contractor Key Personnel unless the AOC consents in advance in writing or such Contractor Key Personnel (i) voluntarily resigns or takes a leave of absence from Contractor, (ii) has his/her employment, professional or other for-hire relationship terminated by Contractor, (iii) fails to perform his or her duties and responsibilities pursuant to this Agreement, or (iv) dies or is unable to work due to his or her disability. If Contractor needs to replace a Contractor Key Personnel for any of the foregoing reasons, Contractor shall (1) notify the AOC promptly, (2) provide resumes for

proposed replacement Contractor Key Personnel within two (2) Business Days after so notifying the AOC, and (3) be responsible for all costs and expenses associated with any replacement of any Contractor Key Personnel member (including, without limitation, any costs and expenses associated with training, project orientation or knowledge transfer reasonably required for replacement personnel to provide the applicable Services).

- (c) Subcontractors. Contractor shall not subcontract or delegate any of the obligations under this Agreement except as approved by the AOC in writing in advance. The AOC may withdraw its approval of a subcontractor if the AOC determines in good faith that the subcontractor is, or will be, unable to effectively perform its responsibilities. If the AOC rejects any proposed subcontractor in writing, Contractor will assume the proposed subcontractor's responsibilities. No subcontracting shall release Contractor from its responsibility for performance of its obligations under this Agreement. Contractor shall remain fully responsible for the performance of Subcontractors hereunder, including, without limitation, all work and activities of Subcontractors providing services to Contractor in connection with the Services. Contractor shall be the sole point of contact with Subcontractors under this Agreement, and Contractor shall be solely responsible for Subcontractors, including, without limitation, payment of any and all charges resulting from any subcontract. The AOC's consent to any subcontracting or delegation of Contractor's obligations will take effect only if there is a written agreement with the Subcontractor, stating that the Contractor and Subcontractor: (i) are jointly and severally liable to the AOC for performing the duties in this Agreement; (ii) affirm the rights granted in this Agreement to the AOC; (iii) make the representations and warranties made by the Contractor in this Agreement; (iv) appoint the AOC an intended third party beneficiary under Contractor's written agreement with the Subcontractor; and (v) shall comply with and be subject to the terms of this Agreement, including with respect to Intellectual Property Rights, Confidential Information and Data Safeguards.
- (d) Project Staff. Contractor shall appoint to the Project Staff: (i) individuals with suitable training and skills to perform the Services, and (ii) sufficient staffing to adequately provide the Services. Contractor shall make commercially reasonable efforts consistent with sound business practices to honor the specific request of the AOC with regard to assignment of its employees. The AOC may require Contractor to remove any personnel from the Project Staff that interact with any personnel of the Judicial Branch Entities or AOC Contractors (including, without limitation, the Contractor Project Manager) upon providing to Contractor a reason (permitted by law) for such removal. Contractor may, with the AOC's consent, continue to retain such member of the Project Staff in a role that does not interact with any personnel of the Judicial Branch Entities or AOC Contractors. The Contractor Project Manager and the AOC Project Manager shall work together to mitigate any impact on the schedule as set forth in a Statement of Work caused by any replacement of a Project Staff member. Contractor shall be responsible for all costs and expenses associated with any Project Staff replacement. Contractor shall assure an orderly and prompt succession for any Project Staff member who is replaced. If the Contract Amount is over \$200,000.00 (excluding Consulting Services), then Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.

(e) Conduct of Project Staff.

- (i) While at the AOC Service Locations, Contractor shall, and shall cause Subcontractors to: (1) comply with the requests, standard rules and regulations and policies and procedures of the Judicial Branch Entities regarding safety and health, security, personal and professional conduct generally applicable to such AOC Service Locations, and (2) otherwise conduct themselves in a businesslike manner.
- (ii) Contractor shall enter into an agreement with each of the members of the Project Staff, which assigns, transfers and conveys to Contractor all of such Project Staff member's right, title and interest in and to any Developed Works, including all Intellectual Property Rights in and to Developed Works.
- (iii) Contractor shall cooperate with the AOC if the AOC wishes to perform any background checks on Contractor's employees or contractors by obtaining, at no additional cost, all releases, waivers, and permissions the AOC may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the AOC of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the AOC and performed by Contractor. Contractor shall remove from the Project Staff any person refusing to undergo such background checks and any other person whose background check results are unacceptable to Contractor or that, after disclosure to the AOC, the AOC advises are unacceptable to the AOC or the Judicial Branch Entities.

2.8 Licenses and Approvals. Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by Applicable Laws for the performance of the Services. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any Applicable Law.

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

3. DELIVERY, ACCEPTANCE, AND PAYMENT

3.1 Delivery. Contractor shall deliver to the AOC the Deliverables in accordance with this Agreement, including the Statement of Work.

3.2 Acceptance. All Services and Deliverables are subject to written acceptance by the AOC. The AOC may reject any Services or Deliverables that: (i) fail to meet applicable requirements, Specifications, or acceptance criteria, (ii) are not as warranted, (iii) are performed or delivered late, or not provided in accordance with this Agreement; or (iv) contain Defects. Payment does not imply acceptance of Contractor's invoice, Services or Deliverables. If the AOC provides Contractor a notice of rejection for any Deliverable or Service, Contractor shall modify such rejected Deliverable or Service at no expense to the AOC to correct the relevant deficiencies and shall redeliver such Deliverable or Service to

the AOC within ten Business Days after Contractor's receipt of such notice of rejection, unless otherwise agreed in writing by the Parties. Thereafter, the Parties shall repeat the process set forth in this Section until Contractor's receipt of the AOC's written acceptance of such corrected Deliverable or Service (each such AOC written acceptance, an "Acceptance"); provided, however, that if the AOC rejects any Deliverable or Service on at least two occasions, the AOC may terminate that portion of this Agreement which relates to the rejected Deliverable or Service at no expense to the AOC.

3.3 Fees and Payment. Subject to the terms of this Agreement, the Contractor shall invoice the AOC, and the AOC shall compensate Contractor, as set forth in Exhibit B. The fees set forth in this Agreement are the total and complete compensation to be paid to Contractor for its performance under this Agreement. Contractor shall bear, and the AOC shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature which Contractor incurs.

4. Representations and Warranties. Contractor represents and warrants to the AOC as follows:

- 4.1 Authorization/Compliance with Laws. (i) Contractor has full power and authority to enter into this Agreement, to grant the rights and licenses herein and to perform its obligations under this Agreement, and that Contractor's representative who signs this Agreement has the authority to bind Contractor to this Agreement; (ii) the execution, delivery and performance of this Agreement have been duly authorized by all requisite corporate action on the part of Contractor; (iii) Contractor shall not and shall cause Subcontractors not to enter into any arrangement with any Third Party which could reasonably be expected to abridge any rights of the Judicial Branch Entities under this Agreement; (iv) this Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms; (v) Contractor is qualified to do business and in good standing in the State of California; (vi) Contractor, its business, and its performance of its obligations under this Agreement comply with all Applicable Laws; (vii) Contractor pays all undisputed debts when they come due; and (viii) this Agreement will not create a breach or conflict of interest under any of Contractor's other contracts.
- 4.2 No Gratuities or Conflict of Interest. Contractor: (i) has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement; and (ii) has no interest that would constitute a conflict of interest under Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.
- 4.3 No Litigation. No Claim or governmental investigation is pending or threatened against or affecting Contractor or Contractor's business, financial condition, or ability to perform this Agreement.
- 4.4 Not an Expatriate Corporation. Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1, and is eligible to contract with the AOC.

- 4.5 Sales and Use Tax Collection. Contractor collects and remits sales and use taxes as and to the extent required under the Revenue and Taxation Code.
- 4.6 No Interference. To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest or default under any of Contractor's other contracts.
- 4.7 Drug Free Workplace. Contractor provides a drug-free workplace as required by California Government Code sections 8355 through 8357.
- 4.8 No Harassment / Non-discrimination. Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring. Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of non-discrimination.
- 4.9 Special Provisions regarding Domestic Partners, Spouses, and Gender Discrimination. If the Contract Amount is \$100,000.00 or more, Contractor is in compliance with Public Contract Code section 10295.3, which places limitations on contracts with contractors whose benefits provisions discriminate between employees with spouses and employees with domestic partners.
- 4.10 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.
- 4.11 Special Provisions regarding Compliance with the Child Support Compliance Act. If the Contract Amount is \$100,000.00 or more: (i) Contractor recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and (ii) Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 4.12 Intellectual Property. Contractor shall perform its obligations under this Agreement in a manner such that the Services, and Deliverables, and any portion thereof, do not infringe, or constitute an infringement, misappropriation or violation of, any Intellectual Property Right. Contractor has full Intellectual Property Rights and authority to perform all of its obligations under this Agreement, and Contractor is and will be either the owner of, or

authorized to use for its own and the Judicial Branch Entities' benefit, all Licensed Software, Contractor Works and Third Party Works provided or used in connection with this Agreement.

- 4.13 Services and Deliverables. (i) the Services will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services; and (ii) Contractor will use efficiently the resources or services necessary to provide the Services; and perform the Services in the most cost efficient manner consistent with the required level of quality and performance. Contractor represents and warrants that each Deliverable will conform to and perform in accordance with the requirements of this Agreement and all applicable Specifications and Documentation. For each such Deliverable, the foregoing representation and warranty in this Section 4.13 shall commence for such Deliverable upon the AOC's acceptance of such Deliverable, and shall continue for a period of one year following Acceptance. In the event any Deliverable does not conform to the foregoing provisions of this Section 4.13, Contractor shall promptly correct all non-conformities.
- 4.14 Malicious Code. No Services or Deliverable will contain any Malicious Code. Contractor shall immediately provide to the AOC written notice in reasonable detail upon becoming aware of the existence of any Malicious Code. Without limiting the foregoing, Contractor shall use best efforts and all necessary precautions to prevent the introduction and proliferation of any Malicious Code in the Judicial Branch Entities' IT Infrastructure or networks or in the Contractor systems used to provide Services. In the event Contractor or the AOC discovers the existence of any Malicious Code, Contractor shall use its best efforts, in cooperation with the AOC, to effect the prompt removal of the Malicious Code from the Deliverables and the Judicial Branch Entities' IT Infrastructure and the repair of any files or data corrupted thereby, and the expenses associated with the removal of the Malicious Code and restoration of the data shall be borne by Contractor. In no event will Contractor or any Subcontractor invoke any Malicious Code.
- 4.15 Four-Digit Date Compliance. Contractor will provide only Four-Digit Date Compliant Deliverables and/or Services to the AOC. "Four-Digit Date Compliant" Deliverables and Services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries.
- 4.16 Miscellaneous. The rights and remedies of the AOC provided in this Section 4 will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. The representations and warranties that Contractor makes in this Section 4 shall be true and accurate as of the Effective Date, and shall remain true during the term of this Agreement and the Termination Assistance Period. Contractor shall promptly notify the AOC if any representation or warranty becomes untrue.

5. INTELLECTUAL PROPERTY

- 5.1 Contractor/Third Party Works. Contractor shall set forth in an exhibit to each Statement of Work all Contractor Works and Third Party Works that Contractor intends to use in connection with that Statement of Work. The AOC shall have the right to approve in writing the introduction of any Contractor Works or Third Party Works into any Deliverable

or Service prior to such introduction. Contractor grants to the Judicial Branch Entities, together with all AOC Contractors, without additional charge, a perpetual, irrevocable, royalty-free, fully paid-up, worldwide, non-exclusive license to use, reproduce, perform, display, transmit, distribute, modify, create derivative works of, make, have made, sell, offer for sale and import Contractor Works and Third Party Works (including Source Code) and to sublicense such rights to other entities, in each case for the purpose of conducting the Judicial Branch Entities' business.

- 5.2 Rights in Developed Works. Upon their creation, the Developed Works (and all Intellectual Property Rights therein) will be the sole and exclusive property of the AOC. Contractor (for itself, Project Staff and Subcontractors) hereby irrevocably assigns, transfers and conveys to the AOC without further consideration all worldwide right, title and interest in and to the Developed Works, including all Intellectual Property Rights therein. Contractor further agrees to execute, and shall cause Project Staff and Subcontractors to execute, any documents or take any other actions as may be reasonably necessary or convenient to perfect the AOC's or its designee's ownership of any Developed Works and to obtain and enforce Intellectual Property Rights in or relating to Developed Works. Contractor shall promptly notify the AOC upon the completion of the development, creation or reduction to practice of any and all Developed Works.
- 5.3 Retention of Rights. The AOC retains all rights, title and interest (including all Intellectual Property Rights) in and to the AOC Works. Subject to rights granted herein, Contractor retains all rights, title and interest (including all Intellectual Property Rights) in and to the Contractor Works.
- 5.4 Third-Party Rights. Contractor hereby assigns to the Judicial Branch Entities all of Contractor's licenses and other rights (including any representations, warranties, or indemnities that inure to Contractor from third parties) to all Third Party Works incorporated into the Deliverables or Services. If such licenses and rights cannot be validly assigned to or passed through to Judicial Branch Entities by Contractor without a Third Party's consent, then Contractor will use its best efforts to obtain such consent (at Contractor's expense) and will indemnify and hold harmless the AOC, Judicial Branch Entities and Judicial Branch Personnel against all Claims arising from Contractor's failure to obtain such consent.

6. CONFIDENTIALITY

- 6.1 General Obligations. During the Term and at all times thereafter, Contractor will: (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement, and (c) refrain from disclosing or permitting others to disclose any Confidential Information to any Third Party without obtaining the AOC's express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to Project Staff (including Subcontractors) with a need to know for performance of the Services hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this Section 6. The provisions of this Section 6 shall survive beyond the expiration or termination of this Agreement. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature,

and with no less than reasonable care and industry-standard care. The AOC owns all right, title and interest in the Confidential Information. Contractor will notify the AOC promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the AOC to protect such Confidential Information.

- 6.2 Removal; Return. Contractor will not remove any Confidential Information from Judicial Branch Entities' facilities or premises without the AOC's express prior written consent. Upon the AOC's request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the AOC or, if so directed by the AOC, destroy all Confidential Information (in every form and medium), and (b) certify to the AOC in writing that Contractor has fully complied with the foregoing obligations.
- 6.3 Breach of Confidentiality. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations hereunder, that any such breach will likely result in irreparable harm, and therefore, that upon any breach or threatened breach of the confidentiality obligations, the AOC shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.

7. INDEMNIFICATION

- 7.1 General Indemnity. Contractor shall indemnify, defend (with counsel satisfactory to the AOC), and hold harmless Judicial Branch Entities and Judicial Branch Personnel against all Claims founded upon: (i) Contractor's performance of, or failure to perform, the Services or Contractor's other duties under this Agreement, (ii) any other breach by Contractor under this Agreement; or (iii) Third Party Claims relating to infringement or misappropriation of any Intellectual Property Right by Contractor or the Deliverables, software, systems or other materials provided by Contractor or Subcontractors to Judicial Branch Entities (collectively, the "Covered Items"). Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the AOC's prior written consent, which consent shall not be unreasonably withheld; and the AOC shall have the right, at its option and expense, to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.
- 7.2 Certain Remedies. If any Covered Item provided under this Agreement becomes, or in Contractor's or the AOC's reasonable opinion is likely to become, the subject of any Claim arising from or alleging infringement, misappropriation or other violation of, or in the event of any adjudication that such Covered Item infringes, misappropriates or otherwise violates any Intellectual Property Right of a Third Party, Contractor at its own expense shall take the following actions in the listed order of preference: (a) secure for the Judicial Branch Entities the right to continue using the applicable Covered Item; or (b) if commercially reasonable efforts are unavailing, replace or modify the infringing Covered Item to make it noninfringing; provided, however, that such modification or replacement shall not degrade the operation or performance of the Covered Item.

8. INSURANCE

- 8.1 Basic Coverage. Contractor shall provide and maintain at Contractor's expense the following insurance during the Term:
- (a) Workers Compensation and Employer's Liability. The policy is required only if Contractor has employees. It must include workers' compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1,000,000.00 per accident or disease;
 - (b) Commercial General Liability. The policy must cover bodily injury and property damage liability, including coverage for the products – completed operations hazard and liability assumed in a contract, personal and advertising injury liability, and contractual liability, at minimum limits of \$1,000,000.00 per occurrence, combined single limit; and
 - (c) Professional Liability. The policy must cover liability resulting from errors or omissions committed in Contractor's performance of Services under this Agreement, at minimum limits of \$1,000,000.00 per claim.
 - (d) Commercial Automobile Liability. The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in the performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1,000,000.00 per occurrence, combined single limit.
- "Claims Made" Coverage. If any required insurance is written on a "claims made" form, Contractor shall maintain the coverage continuously throughout the Term, and, without lapse, for three years beyond the termination or expiration of this Agreement and the AOC's acceptance of all Services provided under this Agreement. The retroactive date or "prior acts inclusion date" of any "claims made" policy must be no later than the date that Services commence under this Agreement.
- 8.2 Umbrella Policies. Contractor may satisfy basic coverage limits through any combination of basic coverage and commercial umbrella liability insurance.
- 8.3 Aggregate Limits of Liability. The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case the annual aggregate limits of liability must be at least two times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.
- 8.4 Deductibles and Self-Insured Retentions. Contractor shall declare to the AOC all deductibles and self-insured retentions that exceed \$100,000.00 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000.00 per occurrence are subject to the AOC's approval. Deductibles and self-insured retentions do not limit Contractor's liability.
- 8.5 Additional Insured Status. Contractor shall require Contractor's commercial general liability insurer, Contractor's commercial automobile liability insurer, and, if applicable, Contractor's commercial umbrella liability insurer to name Judicial Branch Entities and

Judicial Branch Personnel as additional insureds with respect to liability arising out of the Services.

- 8.6 Certificates of Insurance. Before Contractor begins performing Services, Contractor shall give the AOC 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 30 or more days' prior written notice to the AOC. Any replacement certificates of insurance are subject to the approval of the AOC, and, without prejudice to the AOC, Contractor shall not perform work before the AOC approves the certificates.
- 8.7 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.
- 8.8 Required Policy Provisions. Each policy must provide, as follows:
- (a) Insurance Primary; Waiver of Subrogation. The basic coverage provided is primary and non-contributory with any insurance or self-insurance maintained by Judicial Branch Entities and Judicial Branch Personnel, and the basic coverage insurer waives any and all rights of subrogation against Judicial Branch Entities and Judicial Branch Personnel; and
 - (b) Separation of Insureds. The commercial general liability policy, or, if maintained in lieu of that policy, the commercial umbrella liability policy, applies separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer's liability.
- 8.9 Partnerships. If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods: (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.
- 8.10 Consequences of Lapse. If required insurance lapses during the Term, the AOC is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

9. TERM AND TERMINATION

- 9.1 Term. This Agreement shall commence **February 1, 2013** and expire **January 31, 2014** and be designated as the **Initial Term**. The compensation for this Term is
- (a) The AOC, in its sole discretion, has the option to extend the Term of the Agreement up to four (4) consecutive one-year periods on the same terms and conditions applicable to the Initial Term and at the compensation cost **\$325,000.00** to **\$402,500.00** for each Option Term, as defined below:

First Option Term – February 1, 2014 through January 31, 2015
Second Option Term – February 1, 2015 through January 31, 2016
Third Option Term – February 1, 2016 through January 31, 2017
Fourth Option Term – February 1, 2017 through January 31, 2018

- (b) The AOC may exercise the First Option Term through the Fourth Option Term by written notice to Contractor prior to expiration of the Initial Term or the then-current Option Term. In the event the AOC elects to exercise the option to extend the Agreement as set forth in this section, the expiration date of the Agreement shall become the ending date of the Option Term exercised.
- 9.2 Termination for Convenience. The AOC may terminate, in whole or in part, this Agreement and/or any Statement of Work for convenience (without cause) upon thirty (30) days prior written notice. The AOC's notice obligations under the foregoing sentence shall not apply to any stop work orders issued by the AOC under this Agreement or any Statement of Work. After receipt of such notice, and except as otherwise directed by the AOC, Contractor shall immediately: (a) stop Services as specified in the notice; and (b) place no further subcontracts, except as necessary to complete the continued portion of this Agreement.
- 9.3 Early Termination. The AOC may terminate, in whole or in part, this Agreement or any Statement of Work immediately "for cause" if Contractor is in Default. The AOC may also terminate this Agreement or limit Contractor's Services (and proportionately, Contractor's fees) upon written notice to Contractor without prejudice to any right or remedy of the Judicial Branch Entities if: (i) expected or actual funding to compensate the Contractor is withdrawn, reduced or limited; or (ii) the AOC determines that Contractor's performance under this Agreement has become infeasible due to changes in Applicable Laws.
- 9.4 Rights and Remedies of the AOC.
- (a) All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the AOC immediately if Contractor is in Default, or if a Third Party claim or dispute is brought or threatened that alleges facts that would constitute a Default under this Agreement. If Contractor is in Default, the AOC may do any of the following: (i) withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor; (ii) require Contractor to enter into non-binding mediation; (iii) exercise, following notice, the AOC's right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.
- (b) If the AOC terminates this Agreement or any Statement of Work in whole or in part for cause, the AOC may acquire from third parties, under the terms and in the manner the AOC considers appropriate, goods, services, or software equivalent to those terminated, and Contractor shall be liable to the AOC for any excess costs for those goods, services, or software. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Judicial Branch Entities for such goods, services, or software be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the AOC or Judicial Branch Entities. Contractor shall continue the Services not terminated hereunder.
- (c) In the event of any expiration or termination of this Agreement or the applicable Statement of Work, Contractor shall promptly provide the AOC with all originals and

copies of the Deliverables (including: (i) any partially-completed Deliverables and related work product or materials; and (ii) any Contractor Works, Third Party Works, and Developed Works comprising such Deliverables or partially-completed Deliverables), Confidential Information, AOC Data, AOC Works, and all portions thereof, in its possession, custody, or control. In the event of any termination of this Agreement or a Statement of Work, the AOC shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the AOC's termination is not based on a Default, AOC shall pay any fees due under this Agreement for Deliverables completed and accepted as of the date of the AOC's termination notice.

- 9.5 Termination Assistance. At the AOC's request and option, during the Termination Assistance Period, Contractor shall provide, at the same rates charged immediately before the start of the Termination Assistance Period, to the AOC or to its designee (collectively, "Successor") services reasonably necessary to enable the AOC to obtain from another contractor, or to provide for itself, services to substitute for or replace the Services, together with all other services to allow the Services to continue without interruption or adverse effect and to facilitate the orderly transfer of the Services to the Successor (collectively, the "Termination Assistance Services"). Termination Assistance Services will be provided to the AOC by Contractor regardless of the reason for termination or expiration. At the AOC's option and election, the AOC may extend the Termination Assistance Period for an additional six (6) months.
- 9.6 Survival. Termination of this Agreement shall not affect the rights and/or obligations of the Parties which arose prior to any such termination (unless otherwise provided herein) and such rights and/or obligations shall survive any such expiration or termination. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including Sections 4 through 10 of these General Terms and Conditions.

10. SPECIAL PROVISIONS

- 10.1 Special Provisions for Agreements Providing for Compensation of \$50,000.00 or more; Union Activities Restrictions. As required under Government Code sections 16645-16649, if the Contract Amount is \$50,000.00 or more, Contractor agrees that no AOC funds received under this agreement will be used to assist, promote or deter union organizing. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no AOC funds were used for those expenditures and no reimbursement from the AOC was sought for these costs. Contractor will provide those records to the Attorney General upon request.
- 10.2 Special Provisions regarding DVBE Participation Certification. If Contractor made a commitment to achieve disabled veterans business enterprise (DVBE) participation, Contractor shall within 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 disabled veterans business enterprises 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.

- 10.3 Special Provisions Applicable to Competitively Bid Contracts; Antitrust Claims. If this Agreement resulted from a competitive bid, Contractor shall comply with the requirements of the Government Code sections set out below.
- (a) Contractor shall assign to the 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 pursuant to the bid. Such assignment shall be made and become effective at the time the AOC tenders final payment to the Contractor. (GC 4552)
 - (b) If the AOC receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the 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. (GC 4553)
 - (c) 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 (1) the AOC has not been injured thereby, or (2) the AOC declines to file a court action for the cause of action. (GC 4554)
- 10.4 Special Provisions regarding Iran Contracting Act. If the Contract Amount is \$1,000,000.00 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 \$20,000,000.00 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).
- 10.5 Special Provisions regarding Conflict Minerals. Contractor certifies either: (i) it is not a “scrutinized company” as defined in PCC 10490(b), or (ii) the goods or services the Contractor will provide to the AOC are not related to products or services that are the reason the Contractor must comply with Section 13(p) of the Securities Exchange Act of 1934.
- 10.6 Loss Leader Prohibition. If this Agreement involves the purchase of goods, this section is applicable. Contractor shall not sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.

- 10.7 Recycling. If this Agreement provides for the purchase or use of goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods. Without limiting the foregoing, if this Agreement includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable. Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible. Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.
- 10.8 Sweatshop Labor. If this Agreement provides for the laundering of apparel, garments or corresponding accessories, or for furnishing equipment, materials, or supplies other than for public works, this section is applicable. Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the AOC under this Agreement have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and PCC 6108. Contractor agrees to cooperate fully in providing reasonable access to Contractor's records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under this section and shall provide the same rights of access to the AOC.
- 10.9 Special Provisions for Federally-funded Agreements. If this Agreement is funded in whole or in part by the federal government, then:
- (a) It is mutually understood between the Parties that this Agreement may have been written for the mutual benefit of both Parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
 - (b) This Agreement is valid and enforceable only if sufficient funds are made available to the AOC by the United States Government for the fiscal year in which they are due and consistent with any stated programmatic purpose. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.
 - (c) The Parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement is intended to be paid, this Agreement

shall be deemed amended without any further action of the Parties to reflect any reduction in funds.

(d) The Parties may amend the Agreement to reflect any reduction in funds.

11. GENERAL

- 11.1 Audits. Contractor shall allow the AOC and its designees to review and audit Contractor’s documents and records relating to this Agreement, and Contractor shall retain such documents and records for a period of four years following final payment under this Agreement. Contractor shall correct errors and deficiencies by the 20th day of the month following the review or audit. Contractor shall provide to the Judicial Branch Entities and AOC Contractors, on Contractor’s premises (or, if the audit is being performed of an Subcontractor, Subcontractor’s premises if necessary), space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office related equipment and duplicating services as the Judicial Branch Entities or such AOC Contractors may reasonably require to perform the audits described in this Section. Without limiting the foregoing, this Agreement is subject to examinations and audit by the State Auditor for a period three years after final payment.
- 11.2 References. In this Agreement and the Exhibits: (a) the Exhibits shall be incorporated into and deemed part of this Agreement and all references to this Agreement shall include the Exhibits; (b) the Article and Section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement; (c) references to and mentions of the word “including” or the phrase “e.g.” means “including, without limitation” and (d) unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.
- 11.3 Assignment. This Agreement will not be assignable by Contractor in whole or in part (whether by operation of law or otherwise) without the prior written consent of the AOC. Any assignment made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the Parties and their permitted successors and assigns.
- 11.4 Notices. Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: (a) delivered in person, (b) sent by registered or certified mail, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient set forth below:

If to Contractor:	If to the AOC:
[name, title, address]	[name, title, address]
with a copy to:	with a copy to:

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

overnight air courier service.

- 11.5 Independent Contractors. Contractor and Subcontractors in the performance of this Agreement shall act in an independent capacity and not as officers or employees or agents of the Judicial Branch Entities or AOC Contractors. Neither the making of this Agreement nor the performance of its provisions shall be construed to constitute either of the Parties hereto as an agent, employee, partner, joint venturer, or legal representative of the other, and the relationship of the Parties under this Agreement is that of independent contractors. Neither Party shall have any right, power or authority, express or implied, to bind the other.
- 11.6 Covenant of Further Assurances. Contractor covenants and agrees that, subsequent to the execution and delivery of this Agreement and without any additional consideration, Contractor shall execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Agreement.
- 11.7 Publicity. News releases and other public disclosures pertaining to this Agreement will not be made by Contractor without prior written approval of the AOC.
- 11.8 Third Party Beneficiaries. Except as otherwise provided by this Agreement with respect to the Judicial Branch Entities and AOC Contractors, each Party intends that this Agreement shall not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Parties.
- 11.9 Governing Law; Jurisdiction; and Venue. This Agreement and performance under it will be exclusively governed by the laws of the State of California without regard to its conflict of law provisions. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. Contractor hereby irrevocably submits to the exclusive jurisdiction and venue of the state and federal district courts located in California in any legal action concerning or relating to this Agreement.
- 11.10 Follow-On Contracting. Subject to certain exceptions, no person, firm, or subsidiary thereof who has been awarded a Consulting Services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the Consulting Services contract.
- 11.11 Order of Precedence. Any conflict among or between the documents making up this Agreement will be resolved in accordance with the following order of precedence (in descending order of precedence):
 - (i) Exhibit A - General Terms and Conditions;
 - (ii) Standard Agreement Coversheet;
 - (iii) Exhibit B – Pricing and Payment;
 - (iv) Exhibit C – Statement of Work;
 - (v) Exhibit D – Licensed Software;
 - (vi) Exhibit E – Maintenance and Support;
 - (vii) Exhibit H – Business and Functional Requirements
 - (viii) Exhibit F – Service Level Requirements
 - (ix) Exhibit G – Remote Hosting Requirements

- (x) Exhibit I – Testing Requirements
- (xi) Exhibit J – Configuration Requirements
- (xii) Exhibit K – Acceptance and Sign-off Form
- (xiii) Any attachments to the Agreement.

11.12 Miscellaneous. This Agreement has been arrived at through negotiation between the Parties. Neither Party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654. No amendment to this Agreement will be effective unless in writing. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. If any part of this Agreement is held unenforceable, all other parts remain enforceable. A Party's waiver of enforcement of any of this Agreement's terms or conditions is effective only if in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. Time is of the essence regarding Contractor's performance of the Services. The Services may not be performed outside of the United States. The Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but taken together, all of which shall constitute one and the same Agreement.

END OF EXHIBIT

EXHIBIT B PRICING AND PAYMENT

Unless otherwise defined in this Exhibit B, each capitalized term will have the meaning set forth in Exhibit A.

1. FEES

- A. In consideration of and subject to the satisfactory performance by Contractor of the Services, the AOC shall pay to Contractor the fees as set forth in this Exhibit B. Except as expressly set forth in this Exhibit B: (i) the such fees are the entire compensation for all Services under this Agreement; and (ii) all expenses relating to the Services are included in such fees and shall not be reimbursed by the AOC.
- B. The maximum amount payable to Contractor under this Agreement will not exceed the Contract Amount. The Contract Amount may be changed only by amendment to this Agreement. Notwithstanding any provision in this Agreement to the contrary, payments to Contractor are contingent upon the timely and satisfactory performance of Contractor's obligations under this Agreement. Contractor shall immediately refund any payment made in error. The AOC shall have the right at any time to set off any amount owing from Contractor to the AOC against any amount payable by the AOC to Contractor under this Agreement.
- C. Licensed Software Fees. *[Contractor, i.e., selected Proposer to insert its proposed pricing structure and payment provisions for consideration by the AOC.]*
- D. Maintenance and Support Fees; fees for hosting services, deployment/implementation services, training, and other services are **[TBD]** *[Contractor, i.e., selected Proposer to insert its proposed pricing structure and payment provisions for consideration by the AOC.]*

2. INVOICING AND PAYMENT TERMS

Contractor shall invoice the AOC for the applicable fees upon Acceptance of each Deliverable (structured on the end product) by the AOC and in accordance with payment milestones and schedules under this Agreement. The AOC will not make any advance payment for Services. Contractor shall provide invoices with the level of detail reasonably requested by the AOC. The AOC will pay each correct, itemized invoice received from Contractor after Acceptance, in accordance with the terms hereof.

- A. Invoice Procedures. After the AOC Project Manager has accepted Services and Deliverables, Contractor will send one original and two copies of a correct, itemized invoice for the accepted Services and Deliverables to "Accounts Payable," at the address shown below. Invoices shall reference the Contract Number.
 - (i) Submitted invoices will be in accordance with Table 2, below, and Exhibit K (Acceptance and Sign-off Form).
 - (ii) Invoices will be submitted in arrears for the Services provided and within thirty (30) days of the accepted Services. Billing shall cover Services not previously invoiced.

- B. **Invoice Instructions.** Contractor will print each invoice on Contractor’s standard printed bill form, and each invoice will include at least (i) the Agreement number, (ii) a unique invoice number, (iii) Contractor’s name and address, (iv) service request date and date of Service completion, (v) detailed description of Service(s) including location where Services performed, (vi) hourly billing rates and number of hours billed, (vii) approved reimbursable total invoiced amount, (viii) contractor’s federal taxpayer identification number and (ix) all back-up documentation and receipts for material costs, associated with each invoice the AOC considers reasonably necessary to evaluate the Services performed and Deliverables delivered. If requested, Contractor will promptly correct any inaccuracy and resubmit the invoice.
- C. **Invoice Submittals.** Invoices may be submitted either electronically via e-mail or by hard copy submittal by mail, in accordance with the following instructions:

Judicial Council of California
Administrative Office of the Courts
Attn: **Financial Services Office/Accounting**
455 Golden Gate Avenue
San Francisco, CA 94102-3688

- D. **Availability of Funds.** The AOC’s obligation to compensate Contractor is subject to the availability of funds. The AOC shall notify Contractor if funds become unavailable or limited.

2. COMPENSATION FOR CONTRACT WORK

- A. For performing the Services of this Agreement, the State shall compensate the Contractor at the rate(s) set forth in Table 1, below, not to exceed the amount per Deliverable nor the estimated due date per Deliverable, as set forth in Table 2, below.

Table 1: Hourly Rates for Each of Contractor’s Key Personnel Function and Other Personnel/Job Functions

1. Key Personnel Function	Hourly Rate	Option Term
1.A [TBD]	[TBD]	
1.B [TBD]	[TBD]	
1.C [TBD]	[TBD]	
1.D [TBD]	[TBD]	
2. Other Personnel/Job Functions	Hourly Rate	Option Term
2.A [TBD]	[TBD]	
2.B [TBD]	[TBD]	
2.C [TBD]	[TBD]	
2.D [TBD]	[TBD]	

Table 2: Due Dates and Not to Exceed Amounts for all Terms

Deliverable No.	Due Date	Not to exceed Amount	Option Term
1	[TBD]	[TBD]	
2	[TBD]	[TBD]	
3	[TBD]	[TBD]	
4	[TBD]	[TBD]	
5	[TBD]	[TBD]	
6	[TBD]	[TBD]	

- B. Except for the specific travel expenses set forth in paragraph 3, below, the hourly rate set forth in Table 1, above, includes all costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for Services rendered under this Agreement.
- C. The Contractor shall not charge nor shall the AOC pay any overtime rate.
- D. The Contractor shall not request nor shall the AOC consider any reimbursement for non-production work including but not limited to time spent traveling to and from the job site or any living expenses.
- E. The total actual cost that the AOC may reimburse the Contractor, pursuant to this provision, shall not exceed **[\$TBD]**.

3. COMPENSATION FOR TRANSPORTATION, MEALS, LODGING EXPENSES

3.1 The AOC shall reimburse the Contractor for the following transportation, meals, and lodging expenses.

- 3.1.1 Subject to the limitations set forth herein, the AOC shall reimburse the Contractor for actual expenses incurred for reasonable and necessary transportation, meals, lodging, and other travel-related expenses required performing the Work of this Agreement.
- 3.1.2 The Contractor shall submit a written travel plan to the AOC Project Manager *prior to incurring any travel expenses*, including the reason for the trip, number of persons traveling, types of expenses the Contractor expects to incur and the estimated costs. Prior approval of the travel plan is required.
- 3.1.3 For necessary air transportation, the AOC will reimburse the Contractor for the actual cost incurred. All air transportation is limited to coach fares and must be booked a minimum of fourteen (14) days prior to travel, unless the AOC Project Manager agrees otherwise in writing.

- 3.1.4 For overnight travel, in accordance with the California Victim Compensation and Government Claims Board (formerly State Board of Control) guidelines, the AOC will reimburse the Contractor for meal and lodging expenses in an amount not to exceed **\$150.00** per day, plus sales tax. Meals shall be reimbursed at the actual cost 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**. Hotel room rental shall be reimbursed for the actual cost not to exceed **\$110.00** per Day plus tax and/or energy surcharge. Within the counties of Alameda, San Francisco, San Mateo, and Santa Clara, the maximum rate is **\$140.00** (per day per person), plus tax and energy surcharge.
- 3.1.5 Reasonable ground transportation expenses will be reimbursed at applicable IRS approved rate per mile. Airport parking will be reimbursed based on the State-approved airport economy parking policy.
- 3.1.6 Upon AOC Project Manager's request, the Contractor shall provide copies of receipts for reimbursement of transportation, lodging, and meal expenses.
- 3.1.7 Notwithstanding any provision to the contrary, the total actual cost that the AOC may reimburse the Contractor, pursuant to this Section 3.1, shall not exceed **\$5,000.00** in the Initial Term.

3.2 Limitation on Travel Expenses. The JBE Travel Expense Policy (Judicial Branch Contracting Manual, Ch. 9, section 9.1(F) includes the following, "All travel expenses should be related to official JBE business. Reimbursement for such expenses should only be permitted if provided for in the contract. If the JBE will be reimbursing the Vendor [a.k.a., Contractor] for travel expenses, the contract should include appropriate travel-related provisions, including travel expense reimbursement limits that are in accordance with the judicial branch travel guidelines."

All travel is subject to pre-authorization and approval by the AOC. The amount applied to this contract for travel expenses due to meet the training requirements in the Initial Term.

4. LIMITATION ON EXPENSES

Contractor shall not invoice the AOC, and the AOC shall not reimburse Contractor, for expenses of any type that exceed in the aggregate \$5,000.00 during the Initial Term.

5. REQUIRED CERTIFICATION

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.

6. TAXES

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

7. RETENTION AMOUNT

Notwithstanding the terms of this Exhibit B, and without limiting the rights of the AOC under the Agreement, the AOC shall have the right at the time of Acceptance, with respect to those Deliverables in each Statement of Work, on a Statement of Work-by-Statement of Work basis, to withhold ten percent (10%) from the amounts to be paid by the AOC to Contractor; therefore, until Acceptance of the final Deliverable under such Statement of Work.

END OF EXHIBIT

EXHIBIT C STATEMENT OF WORK

This Statement of Work is subject to the Agreement between Contractor and the AOC. By executing this Statement of Work, the Parties agree to be bound by the terms and conditions set out in the Agreement with respect to the Services and Deliverables to be provided under this Statement of Work. Unless otherwise defined in this Exhibit A, each capitalized term used herein shall have the meaning set forth in Exhibit A.

1. TERM OF THIS STATEMENT OF WORK

The **Initial Term** of this Statement of Work will commence **February 1, 2013** (“SOW Effective Date”) and will continue until **January 31, 2014**. As set forth in Exhibit A, 9. Term and Termination, the AOC, at its sole option, may extend the Term of the Agreement for up to four (4) consecutive one-year periods. Expiration or termination of the Agreement will not serve to terminate this Statement of Work. All applicable terms and conditions of the Agreement will continue to apply to this Statement of Work until the expiration or termination of this Statement of Work.

2. AOC’S REQUIREMENTS AND DESCRIPTION OF SERVICES AND DELIVERABLES

- A. Contractor will provide the Maintenance and Support Services (Exhibit E) for all Deliverables (including the Licensed Software as provided by Contractor on a hosted basis) and Services (including all aspects of hosted services).
- B. Contractor will license the Licensed Software and provide the Licensed Software on a hosted basis, in accordance with this Agreement.
- C. All Services and Deliverables will be provided in accordance with the Service Level Requirements (Exhibit F), Remote Hosting Requirements (Exhibit G), Business and Functional Requirements (Exhibit H), Testing Requirements (Exhibit I) and Configuration Requirements (Exhibit J), incorporated into this Agreement.

[Complete description of Services / Deliverables TBD (e.g. hosting services, deployment services, implementation services, etc.)]

3. SCHEDULE, DELIVERABLES AND DATE(S) OF DELIVERY

Contractor shall provide the Services based on the timelines contained in the table below:

[TBD] Insert chart with dates for completion of tasks relating to the Services and delivery dates/milestones for Deliverables to be provided by Contractor.

4. CONTRACTOR’S RESPONSIBILITIES

In addition to any other obligations under the Agreement or this Statement of Work, the following are responsibilities of Contractor that are required to complete the Services described in this Statement of Work:

[TBD] Clear and concise description of Contractor’s additional responsibilities that is necessary for Contractor to perform the Services, including service levels.

5. CONTRACTOR PERSONNEL

[TBD] Identification of Contractor personnel providing the Services.

6. SUPPLEMENTAL PROVISIONS

[TBD] Insert other terms as applicable.

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

**JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE COURTS**

[LEGAL NAME OF CONTRACTOR]

Signature: _____
Name Printed: _____
Title: _____

Signature: _____
Name Printed: _____
Title: _____

END OF EXHIBIT

EXHIBIT D
LICENSED SOFTWARE

1. DESCRIPTION OF THE LICENSED SOFTWARE

[TBD] Description to be filled in by Proposer and negotiated with AOC.

2. SPECIFICATIONS OF SOFTWARE

[TBD] Specifications to be filled in by Proposer and negotiated with AOC.

3. ESCROW

- A. Escrow Account. Upon the Effective Date, Contractor agrees to enter into a mutually agreed upon escrow agreement (“Escrow Agreement”) with a third party escrow agent to be mutually agreed upon by the Parties (“Escrow Agent”). Contractor shall be responsible for establishment, administration and cost of the escrow account. Upon execution of the Escrow Agreement, Contractor shall deliver to the Escrow Agent a copy of the Source Code for the Licensed Software, together with all supporting information, tools, notes and other information necessary and sufficient to allow a reasonably qualified person to support, maintain, modify and prepare derivative works of the Licensed Software and other related Deliverables (collectively the “Source Code Materials”).
- B. Release Conditions. The Escrow Agreement shall provide that release of the Source Code Materials to the AOC shall occur if any of the following occur (each, a “Release Condition”):
- (i) Contractor materially breaches any of its obligations to provide maintenance and support services for the Licensed Software;
 - (ii) Contractor dissolves, becomes insolvent or ceases to conduct business as a going concern;
 - (iii) Contractor makes a general assignment for the benefit of creditors or commences any case, proceeding or other action seeking to have an order for relief entered on Contractor’s behalf as a debtor or to adjudicate Contractor as bankrupt or insolvent, or seeks a reorganization, liquidation, dissolution or composition of Contractor or Contractor’s debts under any law relating to bankruptcy, insolvency, or relief of debtors or seeking appointment of a receiver, trustee, custodian or similar official for Contractor or for all or any substantial portion of Contractor’s assets; or
 - (iv) any case, proceeding or similar action is brought against Contractor seeking to have an order for relief entered against it to adjudicate it as bankrupt or insolvent, or seeking reorganization, liquidation, dissolution or composition of Contractor or Contractor’s debts under any law relating to bankruptcy, insolvency, reorganization or the relief of debtors or seeking appointment of a receiver, trustee, custodian or similar official for Contractor or for all or any substantial portion of Contractor’s assets that relate to this Agreement, and such case, proceeding or other action (1) results in the entry of an order for relief against

Contractor which is not fully stayed within sixty (60) calendar days after the entry thereof or (ii) remains undismissed for a period of sixty (60) calendar days.

C. License. In the event of a Release Condition, Contractor hereby grants to the Judicial Branch Entities a perpetual, irrevocable, worldwide, non-exclusive, royalty-free, fully paid-up, nonexclusive license to use, reproduce, modify and create derivative works of the Licensed Software (in Source Code and object code form) for the purpose of maintaining and supporting the Licensed Software for use in accordance with the terms of this Agreement. Notwithstanding any other provision in this Agreement, AOC Contractors may exercise the foregoing license rights granted to the Judicial Branch Entities for the benefit of the Judicial Branch Entities.

4. LICENSE CHARGES/FEES

[TBD]	[TBD]	[TBD]
[TBD]	[TBD]	[TBD]

END OF EXHIBIT

EXHIBIT E
MAINTENANCE AND SUPPORT SERVICES

1. DEFINITIONS

- A. “Level 1 Support” or means qualifying and logging all Technical Support Incidents, answering technical inquiries regarding the Licensed Software, Deliverables, and Services, and performing limited diagnostic services.
- B. “Level 2 Support” means, with the use of technical support specialists: (i) performing Defect isolation, Defect replication and interoperability testing; (ii) performing remote diagnostic services and on-site troubleshooting, if required; (iii) identifying the source of Defects; (iv) developing a reproducible test case for any Defect and documenting the details of such Defect for escalation to Level 3 Support; and (v) developing and implementing Workarounds where reasonably possible.
- C. “Level 3 Support” means, with the use of backup engineering and technical support staff, isolating Defects and developing Defect corrections including, without limitation, Upgrades.
- D. “Reporting Date” means the date that the AOC reports the Defect at issue.
- E. “Resolution Period” means the period of time elapsed from Contractor’s receipt of a report of a Defect until the time such Defect is resolved and normal production functionality has been achieved, excluding any time of the AOC to perform acceptance testing on the applicable Defect correction.
- F. “Severity Level” means the actual impact of a Defect on a user’s operational environment as further described in the Table 1, Section 1 of Exhibit F, below.
- G. “Standard M&S Hours” means 7:00 AM to 7:00 PM Pacific Time, Monday through Friday.
- H. “Technical Support Incident” means a single, indivisible problem reported or technical inquiry made regarding the Licensed Software and/or any Deliverable or Service, including without limitation user questions or Defect reports. A Technical Support Incident is only closed when mutually agreed by the parties.
- I. “Upgrades” means all new versions and releases of, and bug fixes, error corrections, Workarounds, updates, upgrades, modifications, and patches for, the Licensed Software, Deliverables, Services, and Documentation
- J. “Workaround” means a temporary modification to or change in operating procedures for the Licensed Software and/or any Deliverable or Service that: (i) circumvents or effectively mitigates the adverse effects of a Defect so that the Licensed Software and/or such Deliverable or Service complies with and performs in accordance with the applicable Specifications and Documentation; (ii) does not require substantial reconfiguration of the Licensed Software and/or such Deliverable or Service or any reloading of data; and (iii) does not otherwise impose any requirements that would impede an end user’s efficient use of the Licensed Software and/or such Deliverable or Service.

2. MAINTENANCE

Contractor shall promptly provide the AOC with, and assist AOC with installation of, all Upgrades to the Licensed Software, Deliverables and Services, including without limitation: (i) all Upgrades generally made available by Contractor to its other customers; and (ii) Upgrades as necessary so that the Services and Deliverables comply with the Specifications and applicable laws (including changes in applicable laws). Without limiting any other obligation of Contractor under this Agreement, Contractor represents and warrants under the Agreement that it will maintain equipment and software to the extent that Contractor has maintenance responsibility for such assets so that they operate in accordance with their specifications and documentation including, without limitation, performing software maintenance in accordance with the applicable software vendor's documentation and recommendations.

3. SUPPORT

- A. Response. Without limiting Contractor's obligations under this Exhibit E and Exhibit F, Service Level Requirements, with respect to each Technical Support Incident not covered under Section 1 of Exhibit F, Contractor shall respond to the AOC within four (4) hours after the AOC reports a Technical Support Incident (such hours all occurring during Standard M&S Hours) to Contractor or within the applicable Response Periods, whichever is shorter. Contractor will provide unlimited, no cost, technical support via telephone or email and software programming support as part of any modification required due to a Defect. Contractor will provide call-in technical support during regular business hours (7:00 AM – 7:00 PM Pacific Time, Monday to Friday). Contractor will provide technical support outside of such regular business hours through an on-call technician
- B. Services and Monthly Support Case Report. Contractor shall (i) provide the AOC with Level 1 Support, Level 2 Support and Level 3 Support, and (ii) deliver to the AOC Project Manager a monthly report summarizing Technical Support Incidents opened, continuing, or closed during the preceding calendar month. Without limiting the foregoing, Contractor shall respond to and resolve all Defects in accordance with the Severity Levels determined by the AOC for each Defect and the table set forth in Table 1, Section 1 of Exhibit F, Service Level Requirements.

END OF EXHIBIT

EXHIBIT F
SERVICE LEVEL REQUIREMENTS

1. SEVERITY LEVELS

Table 1: Description, Response and Resolution

Severity Level	Description	Resolution Hours	Response Period	Resolution Period
Severity Level 1	<ul style="list-style-type: none"> • A Severity Level 1 Defect is generated if a critical component or the entire application has stopped or is so severely impacted that the Licensed Software, Deliverables or Service component cannot reasonably continue to operate and there is no Workaround available. • A Severity Level 1 Defect is generated if data is corrupted or data integrity issues related to security/confidentiality that leads to noncompliance with legal requirements or regulations. 	24 hours per day, 7 days per week	30 minutes	2 hours
Severity Level 2	<ul style="list-style-type: none"> • A Severity Level 2 Defect is generated if a critical component of the Licensed Software, Deliverable or Service is unavailable or will not work but a Workaround is available. • A Severity Level 2 Defect is generated if a non-critical component of the Licensed Software, Deliverable or Service is unavailable or will not work and there is no Workaround. 	Standard M&S Hours Standard M&S Hours	30 minutes	4 hours
Severity Level 3	<ul style="list-style-type: none"> • A Severity Level 3 Defect is generated if the non-critical component result is not as expected but a Workaround is available and there is no significant impact to the end user. 	Standard M&S Hours	2 hours	120 hours
Severity Level 4	<ul style="list-style-type: none"> • All Defects other than Severity Level 1 Defects, Severity Level 2 Defects and Severity Level 3 Defects (e.g., minor or cosmetic Defects). Workarounds are available. 	Standard M&S Hours	2 hours	30 days

2. ESCALATION PROCEDURE

- A. **Escalation Stage 1:** Contractor's technicians attempting to correct the situation shall notify the Contractor's Engineering Manager. Upon such notification, Contractor will immediately assign, at Contractor's sole expense, additional resources to include at a minimum one senior-level technician or engineer. Such resources shall be on-site at the AOC's location, or at such location as is appropriate given the nature of the required corrections. For a Severity Level 1 or Level 2 situation, the Contractor's Engineering Manager shall notify the AOC at four (4) hour intervals of the status of the situation until the situation is resolved or for the next twenty four (24) hours, whichever occurs first.
- B. **Escalation Stage 2:** After the previous twelve hour timeframe, if the situation is still unresolved, the Contractor's Senior Vice President of Engineering shall be notified, and shall assign additional and more experienced or senior technical staff or engineers. For Severity Level 1 or Level 2 situations, Contractor's Senior Vice President for Engineering shall contact the AOC at two (2) hour intervals until the situation is resolved.
- C. **Escalation Stage 3:** If a total of seventy-two (72) hours has elapsed since the initial call of the AOC to Contractor for a Severity Level 1 or Level 2 situation and the situation is still unresolved to the AOC's satisfaction, Court shall be entitled to receive a five percent (5%) reduction or refund of the annual fees under the Agreement for the current year for each twenty-four (24) hour period that the Defect involving the Service, Licensed Software or other Deliverable is unresolved, commencing with the date and hour of the instigation of the escalation procedures contained in this Exhibit F. At the sole discretion of the AOC, this reduction may (i) be applied to any accrued fees due to Contractor hereunder, or (ii) refunded to the AOC in cash or, at the AOC's option, other good funds. In addition to the annual fee refund, after a total of seventy-two (72) hours has lapsed since the date and hour of the instigation of the escalation procedures contained in this Exhibit F for a Severity Level 1 or Level 2 situation and the situation is still unresolved, at the sole discretion of the AOC, Contractor shall immediately send, at Contractor's sole expense, Contractor's most technically qualified representative to the AOC's site and said representative will continue to address and work to remedy the failure, malfunction, defect or nonconformity until such failure, malfunction, defect or nonconformity is resolved to the satisfaction of the AOC.

3. UPTIME

The contractor will provide the Services, Licensed Software and the other Deliverables in accordance with the uptime availability commitments and other requirements set forth in Exhibit G.

END OF EXHIBIT

EXHIBIT G REMOTE HOSTING REQUIREMENTS

1. HOSTING VENDORS

A Hosting Vendor shall:

- A. In the event of a security breach incident, notify the AOC Project Manager within three hours of first knowledge.
- B. Comply with all applicable laws (including California laws) regarding personal data security and privacy.
- C. Provide all hosting services, equipment and related Deliverables in accordance with the highest industry standards, including standards relating to privacy protection, fire and flood prevention/protection, and temperature/humidity control.
- D. Ensure the following:
 1. A secure hosting infrastructure of the utmost confidentiality (no unauthorized access), integrity (no tampering), and authenticity (no impersonation).
 2. Data in its custody should never be used, under any circumstances, for any purposes other than those agreed to in the contract.
 3. All hosts, servers and devices should have currently-supported and hardened operating systems, the latest anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a whole, should have the most aggressive intrusion-detection and firewall protection.
 4. At a minimum, provide 99% Uptime for the Services, the Licensed Software and the Deliverables, excluding scheduled maintenance for upgrades and updates. [*service level credits TBD*] “Uptime” will be measured by subtracting from the total minutes in a given month, the total minutes of Downtime in such month, divided by the total minutes in such month and then multiplied by 100. “Downtime” means the period of time that the Services, the Licensed Software and all other Deliverables are not fully functional in accordance with their specifications and requirements or there otherwise is a lapse, outage or unavailability in any of the Services, Licensed Software or other Deliverables. Calculation of Uptime excludes planned Downtime for scheduled maintenance; but such planned Downtime for scheduled maintenance may not exceed [48] hours per month, and such scheduled maintenance must be conducted only during the off-hour period of 10pm to 5am Pacific Time, seven days a week. Contractor will use its best efforts to notify the AOC in writing and post notification on the Court’s Website advising end users at least 24 hours in advance of required system maintenance and upgrades. At least 7 days prior to conducting scheduled maintenance, Contractor will notify the AOC in writing and post notification on the Court’s Website advising end users of such scheduled maintenance.
 5. Adequate capacity and functionality to ensure prompt response to both data inquiry/lookup and data modification transactions, at all times.

6. All hardware and software components of the hosting infrastructure should be fully supported by their respective manufacturers at all times.
 7. A conservative sunset and migration schedule for all hardware and software components, subject to the AOC's prior written approval, at all times.
 8. Periodic backups. The minimum acceptable frequency is differential backup daily, and complete backup weekly.
 9. An aggressive regimen of patch management. All critical patches for operating systems, databases, web services, etc, should be applied within three working days of release by their respective manufacturers.
 10. Complete backup-restore and disaster recovery tests from the appropriate media, once per annum.
 11. Comply with the records retention schedule of the AOC, as relevant to the data being hosted remotely.
 12. Agree to transfer the data in its custody to another hosting vendor at the end of the hosting contract.
 13. Submission to scheduled and random security audits, including vulnerability assessments, of the hosting infrastructure and/or the application, to be conducted under the sponsorship of the AOC Information & Technology Services Director.
 14. Complete cooperation with the AOC Information & Technology Services Director in the detection of any security vulnerability of the hosting infrastructure and/or the application.
 15. Expedient remediation of any Defect.
 16. Complete compliance with all Federal and California laws, regulations, statutes, policies, standards, and best practices relevant to internet-based hosting.
- E. Submit the following detailed reports. All reports should be submitted to the AOC Project Manager. Unless otherwise stated, these reports should be filed initially at the inception of the contract, and subsequently, once per annum, as well as corresponding to every substantive change in the subject matter of the relevant report.
1. Uptime and Unplanned Outage Report. This report should be submitted once per quarter.
 2. Planned Downtime Notice for scheduled maintenance. This notice should be submitted at least one week prior to the event.
 3. Physical access controls for the hosting site.
 4. Internal security awareness training curriculum and schedule. Should include the syllabus, the class schedule for new employees, annual refresher training, and any emergency, ad-hoc training.
 5. Self-audit on software and hardware modifications, patches applied, etc. This report should be submitted at least twice per annum.

6. Backup-restore and disaster recovery procedures and the results of the annual tests.
7. Security Breach Incident reporting mechanism.
8. Production Change Management procedure.
9. Password Policy.
10. Event Logging & Auditing practices for Networks, Operating Systems, Applications, and Databases.
11. Installation/Configuration and Maintenance documentation.
12. Any other relevant, internal security-related standards, policies, procedures, best practices, etc, that govern the hosting infrastructure and/or the application, including, the results of any third-party audits.

2. AOC INFORMATION & TECHNOLOGY SERVICES DIRECTOR

A. The Information & Technology Services Director shall:

1. Direct scheduled and random security audits, including vulnerability assessments, to the hosting infrastructure and/or the application.
2. Coordinate the security auditing with the hosting vendor, in case of scheduled audits.
3. At her/his discretion recommends the shutdown, or reduced operation, of the hosting infrastructure and/or the application, indefinitely should an information security deficiency be discovered.
4. Evaluate all notifications and submissions from the hosting vendor, and act upon them, as appropriate, including recommending the shutdown, or reduced operation, of the hosting infrastructure and/or the application, indefinitely.
5. Determine, in the event of security vulnerability and/or an actual security breach, whether it was caused by the hosting vendor.
6. Ensure that the hosted application complies with AOC guidelines prior to its deployment.
7. Evaluate the business impact of a security breach incident notification from the Hosting Vendor, and liaise with the affected business stakeholders of the Contracting Agency.
8. Evaluate the business impacts of the Uptime and Unplanned Outage Report and the Planned Downtime Notice from the hosting vendor.
9. Complete and exclusive ownership of the hosted data rests with the AOC, and is not subject to any conditions.

3. HOSTING CHARGES/FEES

[TBD]	[TBD]	[TBD]
[TBD]	[TBD]	[TBD]

END OF EXHIBIT