

**MASTER AGREEMENT**

<p>AGREEMENT MA-201802</p>
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- In this Master Agreement (“Agreement”), the term “Contractor” refers to **Johnson Controls Security Solutions LLC**, and the term “Establishing Judicial Branch Entity” or “Establishing JBE” refers to the **Judicial Council of California**. This Agreement is entered into between Contractor and the Establishing JBE for the benefit of the Supreme Court of California, the Courts of Appeal, the Habeas Corpus Resource Center and the fifty-eight (58) Superior Courts of California identified in Exhibit 1 (Definitions). Each the Supreme Court of California, the Courts of Appeal, the Habeas Corpus Resource Center and the fifty-eight (58) Superior Courts of California that enters into a Participation Agreement with Contractor pursuant to this Agreement is a “Participating Entity” (collectively, the “Participating Entities”). The Establishing JBE and the Participating Entities are collectively referred to as “Judicial Branch Entities” or “JBEs” and individually as “JBE”.
- This Agreement is effective as of **July 1, 2018** (“Effective Date”) and expires on **June 30, 2020** (“Expiration Date”). This Agreement includes one or more options to extend through **June 30, 2023**.
- The title of this Agreement is: **Master Agreement for Video Surveillance, Access Control, Detention Control(PLC) Systems and Maintenance Services**  
*The title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.*
- 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 supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties.

<p>Exhibit 1 – Definitions Exhibit 2 – Background and Purpose Exhibit 3 – General Terms and Conditions Exhibit 4 – Licensed Software and Additional Terms Exhibit 5 – Specifications Exhibit 6 – Scope of Work Exhibit 7 – Acceptance and Sign-Off Form</p>	<p>Exhibit 8 – Fees, Pricing and Payment Terms Exhibit 9 – Maintenance and Support Exhibit 10 – Training Exhibit 11 – Transition Services Exhibit 12 – Participation Agreement Exhibit 13 – Contractor Expense and Travel Reimbursement Guidelines Exhibit 14 – Unruh and FEHA Certification</p>
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ESTABLISHING JBE’S SIGNATURE	CONTRACTOR’S SIGNATURE
<b>Judicial Council of California</b>	<b>Johnson Controls Security Solutions LLC</b>
BY (Authorized Signature) 	BY (Authorized Signature) 
PRINTED NAME AND TITLE OF PERSON SIGNING Mona Lawson Supervisor, Contracts	PRINTED NAME AND TITLE OF PERSON SIGNING Nelson Carrillo - CSM
DATE EXECUTED 6/29/2018	DATE EXECUTED 6/29/18
ADDRESS 2850 Gateway Oaks Drive, Suite 300 Sacramento, CA 95833	ADDRESS 3801 Bay Center Place Hayward, CA 94545

## EXHIBIT 1

### DEFINITIONS

1. **Agreement:** the entire integrated master agreement, including all contract documents, Exhibits, Attachments, and Amendments incorporated therein, signed by the Establishing JBE and Contractor, for performance of the Work.
2. **Amendment:** written contract document issued by a JBE, and signed by both Contractor and the JBE, which, in the case of the Establishing JBE, modifies the Agreement or, in the case of any Participating Entity, modifies the Participating Entity's Participation Agreement, including any (1) change in the Work; (2) change in fees, pricing and payment terms; (3) change in schedule for delivery and performance of Work; or (4) change to other terms and conditions.
3. **Appropriation Year:** authorized period of time for government spending for a defined purpose. The Appropriation Year for state-funded agreements ends on June 30th of each year.
4. **Confidential Information:** (i) any financial, statistical, personal, technical, or other data or information that is designated confidential by a party to this Agreement or any Participation Agreement, (ii) all information related to the business of the JBE that may be obtained orally, in writing, or from any source, or on any JBE mainframe, JBE or judicial branch computer network or workstation, and all software, whether owned or licensed by the JBE and whether accessed by Contractor by direct or remote access method, (iii) any information relating to the methods, processes, financial data, lists, apparatus, statistics, programs, research, development, or related information of the JBE concerning the past, present, or future official business and/or the results of the provision of services to the JBE, (iv) JBE Data, and (v) information relating to JBE personnel and JBE users. Confidential Information does not include: (i) information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information generally and lawfully available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement; (iii) information independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.
5. **Contractor:** individual or entity, contracting with the JBEs to do the agreed Work and supply any Deliverable under this Agreement and any Participation Agreement. Contractor is a party to this Agreement.
6. **Data:** information, including, but not limited to, Confidential Information, personal information, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
7. **Data Safeguards:** the highest industry-standard safeguards (including administrative, physical, technical, and procedural safeguards) against the destruction, loss, misuse, unauthorized disclosure, or alteration of the JBE Data or Confidential Information, and such

other related safeguards that are set forth in applicable laws, a Scope of Work, or pursuant to JBE policies or procedures.

**8. Deliverable(s):** hardware, Licensed Software, third party software, firmware, documentation, services or other items, specified in the Agreement or any Participation Agreement, that Contractor shall complete and deliver or submit to JBEs.

**9. Documentation:** (i) all documentation published by Contractor for the Licensed Software, and (ii) 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.

**10. Hosted Services:** Any hosted service (including Licensed Software hosted services), or software as a service provided under the Agreement or Participating Addendum

**11. Licensed Software:** Contractor's commercially available Software applications set forth in Exhibit 4 (Licensed Software and Additional Terms), together with all Upgrades thereto.

**12. Maintenance:** enhancements, Upgrades and new releases of the Licensed Software (including without limitation those updates required to allow the Licensed Software to operate properly under new releases of the operating system or database platform), which Contractor agrees to provide the JBEs under the provisions of Section 4 (Maintenance and Support Services) of Exhibit 3 (General Terms and Conditions) and Exhibit 9 (Maintenance and Support).

**13. Maintenance Release(s):** those modules, improvements, enhancements, Upgrades or extensions to the Licensed Software as more particularly defined in Exhibit 9 (Maintenance and Support).

**14. Material(s):** all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication hardware and software.

**15. Notice:** written document signed by an authorized representative of either party to this Agreement, providing formal notification and sent by either: (1) depositing in the U.S. Mail or commercial express mail, prepaid, to the address of the authorized representative of the other party. Notice will be effective on the post-marked date; or (2) hand-delivery to the other party's authorized representative, as set forth in this Agreement. This Notice shall be effective on the date of receipt.

**16. Participating Entities:** Each the Supreme Court of California, the Courts of Appeal, the Habeas Corpus Resource Center and the fifty-eight (58) Superior Courts of California shall have the right to participate in this Agreement and become a Participating Entity by executing a Participation Agreement with Contractor.

**17. PCC:** California Public Contract Code.

**18. Project Lead:** Contractor's representative who will operate as the main interface with the JBE regarding the Work to be performed under this Agreement or any Participation Agreement. Contractor's Project Lead may vary by Participating Entity.

**19. Project Manager:** JBE representative who will operate as the main interface between Contractor and the JBE regarding the Work to be performed under this Agreement and each Participation Agreement.

**20. Source Code:** the source language code of the Licensed Software as the same is written by the programmers thereof.

**21. Specifications:** collectively (i) the functional specifications for the Licensed Software, as such functional specifications may be developed and revised from time to time, and (ii) the additional specifications required by a JBE to be implemented in addition to the specifications for the Licensed Software. Specifications include, without limitation, the technical specifications for the Licensed Software as established in the Documentation accompanying the Licensed Software. The Specifications in effect as of the Effective Date of this Agreement are set forth in Exhibit 5 (Specifications).

**22. Stop Work Order:** written notice to Contractor from a JBE, directing Contractor to stop performance of Work for a period of ninety (90) days, or for a longer period by mutual agreement of the parties.

**23. Subcontractor:** a person or business entity that has a contract (as an independent contractor and not an employee) with Contractor to provide some portion of the Work of this Agreement.

**24. Support Services:** those services required to support or maintain the Licensed Software or Hosted Services, in accordance with the terms of Section 4 (Maintenance and Support Services) of Exhibit 3 (General Terms and Conditions) and Exhibit 9 (Maintenance and Support).

**25. Task:** one or more functions, services, or actions, as specified in this Agreement or a Participation Agreement, to be performed by Contractor for the JBE.

**26. Third Party:** any individual or entity not a party to this Agreement.

**27. Transition:** Contractor assistance services necessary to ensure the smooth transition of the Maintenance and Support Services performed by Contractor or Contractor's subcontractor to the JBE or its designee, in the event of termination of this Agreement or a Participation Agreement.

**28. Upgrades:** means all new versions, bug fixes, error-corrections, workarounds, patches and new releases of Licensed Software, Hosted Services, and/or Documentation. "Upgrades" shall also include any modification, improvement, enhancement, added feature, or added functionality to the Licensed Software that Contractor develops, distributes, or enables in connection with or as a result of any individual Participating Entity's participation in this

Agreement. Such Upgrades shall become part of the Licensed Software and Hosted Services and available to all other Participating Entities under the terms of this Agreement.

29. **Work:** any or all labor, services (including the Hosted Services), Deliverables, training, equipment, supplies, Materials, Tasks, and any other items (including the Licensed Software) or activities necessary for the performance and completion of Contractor's obligations in compliance with the requirements of this Agreement or a Participation Agreement. Work may also include Tasks, Deliverables, and/or submittals required by individual work order(s) or Scope of Work.

***END OF EXHIBIT 1***

## EXHIBIT 2

### BACKGROUND AND PURPOSE

#### 1. Background, Purpose, and Ordering.

- 1.1 This Agreement sets forth the terms and conditions that apply to Contractor's provision of Work to the JBEs. This Agreement does not obligate a JBE to place any orders for Work under this Agreement, and does not guarantee Contractor a specific volume of Work.
- 1.2 Each JBE shall have the right to place orders under this Agreement for any of the Work. A JBE may place orders for Work by entering into a Participation Agreement with Contractor in the form attached as Exhibit 12 (Participation Agreement). Pricing for Work shall be in accordance with the prices and fees set forth in this Agreement. After a Participation Agreement has been presented to the Contractor by a JBE, the Contractor shall acknowledge, sign, and perform under the Participation Agreement in a timely manner. Contractor shall provide the Work for each JBE in accordance with the terms of this Agreement and the applicable Participation Agreement.
- 1.3 Each Participation Agreement constitutes and shall be construed as a separate, independent contract between Contractor and the JBE signing such Participation Agreement, subject to the following: (i) each Participation Agreement shall be governed by this Agreement, and the terms in this Agreement are hereby incorporated into each Participation Agreement; (ii) the Participation Agreement may not alter or conflict with the terms of this Agreement, or exceed the scope of the Work provided for in this Agreement; and (iii) the term of the Participation Agreement may not extend beyond the expiration date of the Agreement. The Participation Agreement and this Agreement shall take precedence over any terms and conditions included on Contractor's invoice or similar document. Contractor shall notify the Establishing JBE within five (5) business days of receipt of a Participation Agreement from a Participating Entity. The Contractor shall promptly provide the Establishing JBE with a fully-signed copy of each Participation Agreement between the Contractor and a Participating Entity. Failure by Contractor to timely execute a Participation Agreement in accordance with this Agreement shall be a material breach of this Agreement. The Participating Entities (other than the Establishing JBE) are third party beneficiaries of this Agreement, and they may enforce their rights and seek remedies pursuant to this Agreement.
- 1.4 Any term in a Participation Agreement (including a Participating Entity's Scope of Work) that conflicts with or alters any term of this Agreement or exceeds the scope of the Work provided for in this Agreement, will not be deemed part of the contract between Contractor and that Participating Entity. Fees and pricing in any Participation

Agreement may not exceed the fees and pricing set forth in this Agreement for the applicable Work.

- 1.5 The JBE signing the Participation Agreement shall be solely responsible for: (i) the acceptance of and payment for the Work under such Participation Agreement; and (ii) its obligations and any breach of its obligations. Any breach of obligations by a JBE shall not be deemed a breach by any other JBE. Under no circumstances shall a JBE have any liability or obligation except pursuant to a Participation Agreement signed by such JBE, nor shall any breach by a JBE under a Participation Agreement give rise to a breach under any other Participation Agreement or be deemed grounds for termination of this Agreement by Contractor. The Establishing JBE shall have no liability or responsibility of any type related to: (i) any other JBE's use of or procurement through this Agreement (including any Participation Agreement), or (ii) such JBE's business relationship with Contractor. The Establishing JBE makes no guarantees, representations, or warranties to any Participating Entity.
- 1.6 This Agreement is a nonexclusive agreement. Each JBE reserves the right to provide, or have others provide the Work. Contractor shall reasonably cooperate with any third parties retained by a JBE to provide the Work.

***END OF EXHIBIT 2***

### EXHIBIT 3

#### GENERAL TERMS AND CONDITIONS

##### 1. Scope of Work; Acceptance; Prior Work.

**A. Scope of Work.** Pursuant to a Participating Entity's scope of work ("Scope of Work") (set forth in Exhibit 6), Contractor will perform and complete all Work set forth in a Participation Agreement, including any attachments, in compliance with the requirements of this Agreement, and to the satisfaction of the Participating Entity. The Scope of Work shall, at a minimum, include:

- i) itemized list of services, Deliverables, and Work to be performed, including any requirements to perform the Work;
- ii) a milestone schedule for the completion of the services, Deliverables, and Work;
- iii) any acceptance criteria in addition to the acceptance provisions set forth in Section 1(B) below;
- iv) the personnel to be assigned, along with their job classification, if applicable;
- v) if applicable, the anticipated number of hours to be expended by each such person in the performance of Scope of Work;
- vi) the name of Contractor's Project Lead, if applicable;
- vii) a project plan that addresses the scope and detail of services to be performed; and
- viii) to the extent not provided in Exhibit 8 (Fees, Pricing and Payment Terms), any additional fees and costs that may be applicable to the Scope of Work as the parties may agree upon.

##### **B. Acceptance.**

i) All Work and Deliverables provided by Contractor under this Agreement are subject to written acknowledgement and acceptance by the JBE's Project Manager. The JBE's Project Manager will apply the acceptance criteria set forth in the applicable Scope of Work, (including timeliness, completeness, technical accuracy and conformance to statistical, industry or marketplace standards) to determine acceptance or non-acceptance of the Work.

ii) The JBE's Project Manager may use the Acceptance and Sign-off Form, in the form provided in Exhibit 7 (Acceptance and Sign-Off Form), to notify the Contractor of acceptance or non-acceptance.

iii) If the Work is not acceptable, the JBE's Project Manager shall detail its failure to meet the acceptance criteria. Contractor shall have ten (10) business days from receipt of the Acceptance and Sign-Off Form to correct the failure(s) to conform to the acceptance criteria. Contractor will re-submit the Work and the Project Manager shall re-apply the acceptance criteria to determine its acceptance or non- acceptance. Thereafter, the parties shall repeat the process set forth in this Section 1(B)(iii) until Contractor's receipt of the JBE's written acceptance of such corrected Work; provided, however, that if the JBE rejects any Work on at least two (2) occasions, the JBE may terminate that portion of this Agreement which relates to the rejected Work at no expense to the JBE.

iv) If the JBE rejects any services or Work after payment to Contractor, the JBE may exercise all contractual and other legal remedies, including without limitation (i) setting off the overpayment against future invoices payable by the JBE, (ii) setting off the overpayment against any other amount payable for the benefit of Contractor pursuant to this Agreement or otherwise, and (iii) requiring Contractor to refund the overpayment within thirty (30) days of the JBE's request.

**C. Prior Work.** Prior work, performed by Contractor pursuant to the JBE's authorization, but before execution of this Agreement, will be considered as having been performed subject to the provisions of this Agreement.

**D. Non-Exclusivity.** This is a non-exclusive agreement. The JBEs reserve the right to perform, or have others perform the Work of this Agreement. The JBEs reserve the right to request bids for the Work from others or procure the Work by other means.

## **2. Changes in Work; Stop Work.**

### **A. Changes in Work.**

i) The JBEs reserve the right to require Contractor to make changes in the Work, as set forth in the applicable Scope of Work, which may include additions, deletions, or modifications to the Work, or changes in the timing or level of effort for the Work.

ii) For any change proposed by a JBE or Contractor, Contractor will submit in writing:

a) a description of the proposed change and the reasons for the change;

- b) a summary of the total compensation to be paid Contractor with a breakdown of tasks and costs, including any reduction in work or costs resulting from the change; and
  - c) a statement of the expected impact on schedule.
- iii) If the JBE and Contractor agree on a change, the JBE will issue an Amendment documenting the change, for the parties' execution.
- iv) If the parties cannot agree to the terms of a change, Contractor will proceed diligently with the Work unless otherwise directed by the JBE, and any continuing disagreement will follow the process set forth in the provisions entitled "Dispute Resolution." Contractor should not proceed with any change prior to receiving a written directive or Amendment from the JBE. All costs for changes performed by Contractor without the JBE's prior written approval will be at Contractor's sole risk and expense.

#### **B. Stop Work.**

- i) The JBE may, at any time, by delivery of a written Stop Work Order to Contractor, require Contractor to stop any or all of the Work, for ninety (90) days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree.
- ii) Upon receipt of the Stop Work Order, Contractor will immediately comply with its terms and take all reasonable steps to minimize the costs incurred to the JBE during the applicable Stop Work period. Within ninety (90) days after a Stop Work Order is delivered to Contractor, or within any mutually agreed extension of that period, the JBE will either cancel the Stop Work Order or terminate the Work, as provided in Section 26 (Termination).
- iii) If a Stop Work Order is cancelled, or the period of the Stop Work Order or any extension thereof expires, Contractor will resume Work. The JBE may make an equitable adjustment in the delivery schedule, the contract price, or both, if (a) the Stop Work Order increases Contractor's costs or the time required for performance; and (b) Contractor asserts its right to an equitable adjustment within thirty (30) days after the end of the applicable Stop Work period.
- iv) If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated other than for cause, the JBE may allow reasonable costs resulting from the Stop Work Order.
- v) The JBE will not be liable to Contractor for loss of profits because of any Stop Work Order.

### 3. Software License.

#### A. Grant of Rights.

i) Contractor grants to the JBE a perpetual, irrevocable, worldwide, non-exclusive license to: (a) install and use the Licensed Software for the purpose of conducting the JBE's business; and (b) make a reasonable number of copies of the Licensed Software for archival and/or backup purposes. The JBE's rights hereunder shall permit the installation 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, immigration, judicial or other governmental entity 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) third parties that perform processing services and/or disaster recovery services for the JBE or on behalf of JBE as long as the Licensed Software is used only as defined herein, and (d) the JBE's service providers, but only in connection with their providing of services to the courts of the State of California. Such use and access may be directly enabled or web enabled via Internet or intranet or enabled via any other communication facility.

ii) Notwithstanding any other provision in this Agreement, the JBE (and its agents, employees, and contractors), and JBE third-party contractors (which shall include the agents, employees and contractors of the Judicial Council of California) may: (a) install, use and host the Licensed Software for the benefit of the JBE at the facilities of the JBE or the facilities of Contractor or third-party contractors; (b) install and use the Licensed Software for the purpose of providing the JBE with implementation and configuration services in connection with the Licensed Software; (c) install and use the Licensed Software for the purpose of maintaining and supporting the Licensed Software for the benefit of the JBE; and (d) make a reasonable number of copies of the Licensed Software for archival and/or backup purposes.

#### B. Additional Terms

i) **Additional License Terms.** The JBE and Contractor agree to the license terms, if any, set forth in Exhibit 4 (Licensed Software and Additional Terms), as additions to (as applicable) the terms of this Section 3(B)(ii). If the additional terms set forth in Exhibit 4 (Licensed Software and Additional Terms) directly conflict with the terms of this Exhibit 3 (General Terms and Conditions), the terms of this Exhibit 3 shall control.

#### 4. Maintenance and Support Services.

**A. Maintenance.** Except as otherwise provided in Exhibit 9 (Maintenance and Support), during the term of this Agreement, Contractor shall provide the JBE with Maintenance for the Licensed Software as follows: (i) such improvements, enhancements, upgrades, updates, new releases, extensions and other changes to the Licensed Software, as and when made generally available by Contractor to its other customers or as and when made specifically available by Contractor to any other JBE, including but not limited to modifications, improvements, renamed products, correction of defects, and fixes relative to the usual, general, and ordinary use and application of the Licensed Software; (ii) updates to the Licensed Software if and as required to cause the Licensed Software to operate under new versions or releases of the JBE's then-current operating system or database platform, within a reasonable time after the general release of such new versions or releases; (iii) updates to the Licensed Software if and as required to cause the Licensed Software to support business operations of the JBEs conducted in order to comply with specific provisions of California and other applicable law, as and when such law may change from time to time during the term; and (iv) Maintenance Releases to the Licensed Software if and as required.

Maintenance Releases shall not include those new modules, improvements, enhancements, upgrades or extensions which provide additional features or additional material functionality not provided or performed by the Licensed Software originally licensed to the JBE; provided, however, that such new modules, improvements, enhancements, upgrades or extensions which provide additional features or additional material functionality shall be considered Maintenance Releases (a) in the event that such modules, improvements, enhancements, upgrades or extensions are distributed by Contractor free of charge to its customers, (b) in the event that such modules, improvements, enhancements, Upgrades or extensions are distributed to or developed by Contractor for any other JBE; (c) if Contractor requires the JBE to install such new module, improvement, enhancement, upgrade or extension in order to receive or continue receiving a Maintenance Release(s) of the Licensed Software, or (d) if such modules, improvements, enhancements, upgrades or extensions constitute a new product, released by Contractor as a substitute for the Licensed Software, under circumstances where Contractor discontinues releases of or support for the Licensed Software.

**B. Installation of Maintenance Releases.** The JBE agrees to install or permit the installation or implementation of all Maintenance Releases such that, after the JBE's acceptance of the Licensed Software and at all times thereafter during the term, the version of the Licensed Software in use by the JBE either (i) was first made generally available by Contractor within thirty-six (36) months of then-current date, or (ii) is within one (1) major release of the most recent release of the Licensed Software made generally available by Contractor; provided, however that the JBE shall have the right to refuse the installation or implementation of any such Maintenance Release that necessitates: (i) re-training of the JBE's users, (ii) conversion of the JBE's case

management system to a new platform or operating system, (iii) significant reprogramming or reconfiguration of the Licensed Software, or (iv) undesired functionality. During the term of this Agreement, the JBE may request that Contractor provide, pursuant to a separate agreement for professional services, a Maintenance Release for the Licensed Software to permit the JBE to implement a new or different database platform or operating system for the JBE's case management system. If Contractor refuses to provide such Maintenance Release within a commercially reasonable period, then the JBE may terminate this Agreement or the applicable Participation Agreement in accordance with Section 26(A) ("Termination for Cause by Court").

**C. Support Services.** During the term of this Agreement and each Participation Agreement, Contractor shall provide to the JBE the Support Services, via such method as is appropriate given the nature of the required Support Services, including without limitation telephone support, remote access support or in-person support at the JBE's location or such other location as JBE may specify, all as more particularly described in Section 1 (Classification of Errors) of Exhibit 9 (Maintenance and Support).

**D. Support Service Levels.** In the event that the Licensed Software fails to perform in accordance with the Specifications or otherwise contains errors, defects, bugs, nonconformity or malfunctions, the JBE shall notify the Contractor of such condition, and Contractor shall respond to the JBE's requests for Support Services in accordance with the Service Levels set forth in Exhibit 9 (Maintenance and Support). The JBE shall assign the applicable Service Level, as described in Exhibit 9 (Maintenance and Support) to each request for Support Services and Contractor shall respond according to the applicable response requirements set forth in Exhibit 9 (Maintenance and Support), based on the severity of the error, defect, bug, nonconformity or malfunction designated by the JBE. Contractor shall perform such correction or repair at no additional charge to the JBE. In the event that Contractor is unable to complete the corrections or repairs necessary to permit the Licensed Software to perform and conform to the Specifications or to correct such error, bug, nonconformity or malfunction, then the parties shall invoke the Escalation Procedure set forth in Exhibit 9 (Maintenance and Support).

## 5. Data and Security.

### A. Safety and Security Procedures.

**"JBE Data"** means information or other content related to the business or operations of a JBE and its users or personnel, including without limitation court case information, personally identifiable information, a JBE's Confidential Information, and any information or content that a JBE's personnel, agents, and users upload, create, or modify through the services, software, or networks provided by Contractor under this Agreement. Unauthorized access to, or use or disclosure of JBE Data (including data mining, or any commercial use) by Contractor or third parties is prohibited. Contractor shall not, without the prior written consent of an authorized

representative of JBE, use or access the JBE Data for any purpose other than to provide the Work under this Agreement. In no event shall Contractor transfer the JBE Data to third parties, or provide third parties access to the JBE Data, except as may be expressly authorized by JBE. Contractor is responsible for the security and confidentiality of JBE Data that Contractor receives or has access to. JBE owns and retains all right and title to JBE Data, and has the exclusive right to control its use.

Contractor shall implement, maintain and enforce the highest industry-standard safety and physical security policies and procedures (including appropriate administrative, physical, technical, and procedural safeguards).

#### **B. Data Security.**

(i) Contractor shall comply with the Data Safeguards. Contractor shall implement and maintain a comprehensive information security program (“Contractor’s Information Security Program”) in accordance with the Data Safeguards. Contractor shall comply with all applicable privacy and data security laws, and other laws (including the California Rules of Court) and regulations relating to the protection, collection, use, and distribution of JBE Data, as well as privacy and data security requirements and standards set forth in the JBE’s policies or procedures. To the extent that California Rule of Court 2.505 applies to this Agreement, Contractor shall provide access and protect confidentiality of court records as set forth in that rule and in accordance with this Agreement.

(ii) Unauthorized access to, or use or disclosure of JBE Data (including data mining, or any commercial use) by Contractor or third parties, is prohibited. Contractor shall not, without the prior written consent of an authorized representative of JBE, use or access the JBE Data for any purpose other than to provide the Work under this Agreement. In no event shall Contractor transfer the JBE Data to third parties, or provide third parties access to the JBE Data, except as may be expressly authorized by JBE. Contractor is responsible for the security and confidentiality of the JBE Data. JBE owns and retains all right and title to the JBE Data, and has the exclusive right to control its use.

No Work (including Hosted Services and Licensed Software) shall be provided from outside the continental United States. Remote access to JBE Data from outside the continental United States is prohibited unless approved in writing in advance by the JBE. The physical location of Contractor’s data center, systems, and equipment where the JBE Data is stored shall be within the continental United States. Contractor shall ensure that access to the JBE Data will be provided to the JBE (and its authorized users) 24 hours per day, 365 days per year (excluding agreed-upon maintenance downtime). Upon the JBE’s request, all JBE Data in the possession of Contractor shall be provided to JBE in a manner reasonably requested by JBE and all copies shall be permanently removed from Contractor’s system,

records, and backups, and all subsequent use of such information by Contractor shall cease. Notwithstanding the foregoing and any other restrictions set forth in this Agreement, it is not the intent of the parties that Contractor be restricted from engaging support services from locations outside the United States or from persons who are not U.S. citizens or U.S. permanent residents, regardless of whether engaging those support services may result in data being stored, accessed, or accessible outside of the United States.

(iii) Confidential, sensitive, or personally identifiable information shall be encrypted in accordance with the highest industry standards, applicable laws, this Agreement, and JBE policies and procedures.

**C. Data Breach.** If there is a suspected or actual Data Breach, Contractor shall notify the JBE in writing within two (2) hours of becoming aware of such occurrence. A “Data Breach” means any access, destruction, loss, theft, use, modification or disclosure of the JBE Data by an unauthorized party. Contractor’s notification shall identify: (i) the nature of the Data Breach; (ii) the data accessed, used or disclosed; (iii) who accessed, used, disclosed and/or received data (if known); (iv) what Contractor has done or will do to mitigate the Data Breach; and (v) corrective action Contractor has taken or will take to prevent future Data Breaches. Contractor shall promptly investigate the Data Breach and shall provide daily updates, or more frequently if required by the JBE, regarding findings and actions performed by Contractor until the Data Breach has been resolved to the JBE’s satisfaction, and Contractor has taken measures satisfactory to the JBE to prevent future Data Breaches. Contractor shall conduct an investigation of the Data Breach and shall share the report of the investigation with the JBE. The JBE and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the JBE, its agents and law enforcement, including with respect to taking steps to mitigate any adverse impact or harm arising from the Data Breach. After any Data Breach, Contractor shall at its expense have an independent, industry-recognized, JBE-approved third party perform an information security audit. The audit results shall be shared with the JBE within seven (7) days of Contractor’s receipt of such results. Upon Contractor receiving the results of the audit, Contractor shall provide the JBE with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Agreement.

**D. Security Assessments.** Upon advance written notice by the JBE, Contractor agrees that the JBE shall have reasonable access to Contractor’s operational documentation, records, logs, and databases that relate to data security and the Contractor’s Information Security Program. Upon the JBE’s request, Contractor shall, at its expense, perform, or cause to have performed an assessment of Contractor’s compliance with its privacy and data security obligations. Contractor shall provide to the JBE the results, including any findings and recommendations made by Contractor’s assessors, of such assessment, and, at its expense, take any corrective actions.

**E. Data Requests.** Contractor shall promptly notify the JBE upon receipt of any requests which in any way might reasonably require access to the JBE Data. Contractor shall not respond to subpoenas, service of process, Public Records Act requests (or requests under California Rule of Court 10.500), and other legal requests directed at Contractor regarding this Agreement or JBE Data without first notifying the JBE. Contractor shall provide its intended responses to the JBE with adequate time for the JBE to review, revise and, if necessary, seek a protective order in a court of competent jurisdiction. Contractor shall not respond to legal requests directed at the JBE unless authorized in writing to do so by the JBE.

**F. Data Backups.** If Contractor is providing Hosted Services under this Agreement, Contractor shall:

- ensure that any hosting facilities (including computers, network, data storage, backup, archive devices, and the data storage media), and disaster recovery facilities (if applicable) shall be located in the continental United States; ensure that Contractor's employees and any Subcontractors personnel potentially having access to the JBE Data have been background-checked, must be authorized to work in the United States and is based in the United States
- have the capability to export JBE's raw data in human readable and machine readable format, and have the capability to promptly provide JBE Data to JBE upon its request;
- have the capability to import JBE's data (subject to Contractor's confidentiality obligations);
- maintain recoverable secure backups offsite in a fire-protected, secure area, geographically separate from the primary datacenter
- Recover from backup within the timeframe set forth in the Service Level requirements;
- Recover recently posted transactions within the timeframes set forth in the Service Level requirements; and
- Encrypt backup data.

**G. Transition Period.** For ninety (90) days prior to the expiration date of this Agreement or any Participation Agreement, or upon notice of termination of this Agreement or any Participation Agreement, Contractor shall assist the JBE in extracting and/or transitioning all JBE Data in the format determined by the JBE. During the transition period, the Hosted Services and JBE Data access shall continue to be made available without alteration.

**6. Accounting.** Contractor will maintain a system of accounting and internal controls that meets Generally Accepted Accounting Principles (U.S. GAAP).

**7. Audit; Retention of Records.**

**A. Audit.** Upon reasonable notice, Contractor will provide to the JBE, to any federal or state entity with monitoring or reviewing authority, or to the JBE's authorized representatives, access to and the right to examine and audit all records and documents relating to performance and billing under this Agreement, and, as necessary, to determine compliance with relevant federal, state, and local statutes, rules, and regulations. Contractor agrees to provide the JBE with all relevant information requested, and will permit access to its premises at reasonable times, for the purpose of interviewing employees and inspecting and copying any relevant records. Without limiting the foregoing, this Agreement is subject to examinations and audit by the State Auditor for a period of three (3) years after final payment.

**B. Retention of Records.** Contractor will maintain all financial Data, supporting documents, and all other records relating to performance and billing under this Agreement for a period in accordance with state and federal law. The minimum retention period will be four (4) years from the date of the submission of the final payment request or until audit findings are resolved, whichever is later.

**8. Assignment.** Contractor will not assign its rights or obligations under this Agreement (including any Participation Agreement), either in whole or in part, without the prior written consent of the Establishing JBE. Any attempted assignment will be void or invalid. This Agreement binds the parties as well as their heirs, successors, and assignees.

**9. Choice of Law; Jurisdiction and Venue.**

**A. Choice of Law.** 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.

**B. Jurisdiction and Venue.** Contractor irrevocably consents to the exclusive jurisdiction and venue of the state and federal courts located in the State of California in any legal action concerning or relating to this Agreement.

**10. Certifications and Representations.** Contractor represents and certifies the following:

**A. 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 JBEs under this Agreement; (iv) this Agreement constitutes a valid and binding obligation of Contractor, enforceable

in accordance with its terms; (v) Contractor is qualified to do business and in good standing in the State of California; (vi) Contractor, its business, and its performance of its obligations under this Agreement comply with all applicable laws; and (vii) Contractor pays all undisputed debts when they come due.

**B. No Harassment/Nondiscrimination.** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring. Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of nondiscrimination.

**C. Drug-free Workplace.** Contractor certifies that it and its Subcontractors will provide a drug-free workplace as required by Calif. Gov. Code §§ 8355–8357.

**D. Labor/Collective Bargaining.** Contractor certifies that it and its Subcontractors will provide notice of their obligations under the foregoing provisions to labor organizations with which it or they have collective bargaining agreements, prior to execution of this Agreement.

**E. National Labor Relations Board (NLRB) Certification.** Contractor certifies that, within the immediately preceding two-year period, no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against Contractor because of Contractor's failure to comply with an order of the National Labor Relations Board.

**F. Prohibition Against Hiring Court Employees.** Contractor certifies and will require all Subcontractors to certify to the following:

“Former Court employees will not be offered employment position for two (2) years from the date of separation, if that employee participated in the decision-making process relevant to the Agreement, or for one (1) year from the date of separation if that employee was in a policy-making position in the same general subject area as the proposed Agreement, within the prior twelve-month period of Court employment.”

**G. No Interference with Other Contracts.** Contractor certifies that to the best of Contractor's knowledge, this Agreement does not create a conflict of interest or default under any of Contractor's other contracts.

**H. No Litigation.** Contractor certifies that no suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or, to Contractor's knowledge, threatened against or affecting Contractor or Contractor's business, financial condition, or ability to perform this Agreement, except any suit, action, arbitration, proceeding, or investigation that individually or in the aggregate with others will not or would not have a material adverse effect on Contractor's business, the validity or enforceability of this Agreement, or Contractor's ability to perform this Agreement.

**I. Domestic Partners, Spouses, Gender, and Gender Identity Discrimination.** Contractor is in compliance with: (i) Public Contract Code section 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) Public Contract Code section 10295.35, which places limitations on contracts with contractors that discriminate in the provision of benefits on the basis of an employee's or dependent's actual or perceived gender identity.

**J. Expatriate Corporation.** Contractor certifies that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC 10286.1, and is eligible to contract with the JBEs.

**K. Sweatfree Code of Conduct.** If this Agreement provides for furnishing equipment, materials, or supplies (except related to the provision of public works), or for the laundering of apparel, garments or corresponding accessories:

i) No apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the JBE 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 further declares under penalty of perjury that it adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and PCC 6108.

ii) Contractor cooperates 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 JBE.

**L. Child Support Compliance Act.**

i) Contractor recognizes the importance of child and family support obligations and shall fully comply 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, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**M. Small Business Preference Contract Clause.** This provision is applicable if Contractor received a small business preference in connection with this Agreement. Contractor's failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement. Contractor must within sixty (60) days of receiving final payment under this Agreement report to the Establishing JBE the actual percentage of small/micro business participation that was achieved. If Contractor is a nonprofit veteran service agency ("NVSA"), Contractor must employ veterans receiving services from the NVSA for not less than 75 percent of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement.

**N. Federally-funded Agreements.** If this Agreement is funded in whole or in part by the federal government, then:

i) 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.

ii) This Agreement is valid and enforceable only if sufficient funds are made available to the JBE 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.

iii) 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.

iv) The parties may amend the Agreement to reflect any reduction in funds.

## **11. Conflict of Interest; Prohibition Against Gratuities.**

### **A. Conflict of Interest.**

i) Contractor has no interest that would constitute a conflict of interest under (i) PCC 10365.5, 10410 or 10411; (ii) Government Code sections 1090 et seq. or 87100 et seq.; or (iii) California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with the JBEs.

ii) Contractor and its Subcontractors and employees will not participate in proceedings that involve the use of JBE funds or that are sponsored by a JBE if the Contractor, its Subcontractors, or their employees, principals, partners, family members, or organizations have a financial interest in the outcome of the proceedings.

iii) Contractor and its Subcontractors and employees will not engage in actions resulting in, or creating the appearance of:

a) use of an official position with the government for private gain;

b) preferential treatment to any particular person associated with this Work or Agreement;

c) impairment of a JBE's independence or impartiality;

d) a decision made outside official channels; or

e) adverse effects on the confidence of the public in the integrity of the JBE.

### **B. Prohibition Against Gratuities.**

i) Contractor covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by Contractor or any agent, director, or representative of Contractor, to any officer, official, agent, or employee of a JBE, in an effort to secure the Agreement or favorable treatment with respect to any determinations concerning the performance of the Agreement.

ii) For any breach or violation of this covenant, the JBE has the right to terminate the Agreement or the Participation Agreement, as applicable, for cause, either in whole or in part. Any loss or damage sustained by a JBE in procuring, on the open market, replacement goods or services that Contractor agreed to provide, will be borne and paid for by Contractor. The JBE's rights and remedies under this provision are in addition to any other rights and remedies provided by law or under this Agreement.

**12. Consideration; Payment.** The consideration paid to Contractor is the entire compensation for all Work performed under this Agreement, including all of Contractor's approved reimbursable expenses incurred, such as travel and per diem expenses, unless otherwise expressly provided, as set forth in Exhibit 8 (Fees, Pricing and Payment Terms).

**A. Payment Does Not Imply Acceptance of Work.** The JBE's payment will not relieve Contractor from its obligation to replace unsatisfactory Work, even if the unsatisfactory character of such Work may have been apparent or detected at the time such payment was made. Work, Data, or components that do not conform to requirements of this Agreement will be rejected, and will be replaced by Contractor, without delay or additional cost to the JBE.

**B. Disallowance.** If Contractor receives payment from the JBE for a service or reimbursement that is later disallowed or rejected by the JBE, Contractor will promptly refund the disallowed amount to the JBE upon the JBE's request. At its option, the JBE may offset the amount disallowed from any payment due to Contractor, under this Agreement or any other agreement.

### **13. Contractor Status.**

#### **A. Independent Contractor.**

i) Contractor, Subcontractors, and their officers, agents, employees, and all others acting on behalf of Contractor for this Work, act as independent contractors and not as JBE agents, officers or employees. Contractor has no authority to bind or incur any obligation on behalf of the JBEs.

ii) This Agreement will not be considered under any circumstance to create a joint-venture relationship.

iii) If any governmental entity concludes that Contractor is not an independent contractor, the JBE may terminate this Agreement or applicable Participation Agreement immediately upon Notice. Alternatively, Contractor may agree to a reduction in JBE's financial liability, so that JBE's total costs under this Agreement do not exceed the originally contemplated amount.

**B. Contractor's Employees.**

i) Contractor's employees will be entirely and exclusively under the direction, supervision, and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring, and termination, or any other employment issues or requirements of law, will be determined by Contractor.

ii) Contractor will issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's employees, consultants, and independent contractors.

iii) If the Internal Revenue Service or any other federal or state governmental entity should investigate or challenge Contractor's independent status with respect to JBE, the parties agree that (i) each will inform the other party of such investigation or challenge; and (ii) JBE will have the right, but not the obligation, to participate in any discussion or negotiation occurring with the federal or state entity, regardless who initiates such discussions or negotiations.

iv) Contractor will indemnify and hold the JBE harmless from all claims, costs, and liabilities resulting from third-party actions alleging an employment relationship between the JBE and any Contractor or Subcontractor personnel.

**C. Exclusive Control of Means and Method of Performance.** Contractor will determine the method, details, and means of performing or supplying the Work under this Agreement. Contractor will be responsible to Participating Entities only for the requirements and results specified in this Agreement and more particularly as set forth in the Participating Entity's Participation Agreement (including the Participating Entity's Scope of Work), and will not be subjected to the JBE's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement or any Participation Agreement. Contractor will have the "right to control" and bear the sole responsibility for the job site conditions and safety.

**D. Permits, Laws, and Regulations.**

i) Contractor must observe and comply with all applicable laws, rules, and regulations affecting the Work. Contractor will, at all times, obtain and keep in full force and effect, all permits and licenses necessary to accomplish the Work. Such permits and licenses will be made available to the JBE, upon request.

ii) Contractor will promptly provide Notice to the JBE of any conflict discovered between the Agreement or any applicable Participation Agreement and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict. If Contractor proceeds with the Work in question without resolution of the conflict, Contractor will be solely liable for

any costs, fines, penalties, or damages that accrue, including costs for remedial work required to comply with such requirements.

**E. Subcontracting.**

i) Contractor will not engage a Subcontractor to perform any portion of the Work, without the express written consent of the affected Participating Entity. Any subcontracting without the Participating Entity's written consent is a material breach of this Agreement and the applicable Participation Agreement.

ii) Contractor warrants and represents that all Subcontractors will be subject to the same terms and conditions applicable to Contractor under this Agreement and any applicable Participation Agreement. Contractor will incorporate this Agreement and any applicable Participation Agreement as the prime agreement in any subcontracting relationship. Contractor will be liable for all Subcontractor acts or omissions, including indemnity obligations.

**F. Authority.** Contractor has all requisite power and authority to conduct its business, and to execute and perform the Agreement and any Participation Agreement. If Contractor is a corporation, limited liability company, or limited partnership, Contractor is qualified to do business and in good standing in the State of California.

**14. Dispute Resolution.** The JBE and Contractor will attempt, in good faith, to resolve any disputes informally. Contractor will meet with the JBE's Project Manager or other designated representative to discuss the matter and any actions necessary to resolve a dispute.

**A. Escalation.**

i) If a dispute remains unresolved either party may give Notice requesting each party's chief executive officer ("CEO") or designated representative to meet, exchange information and attempt resolution within fifteen days of receipt of the Notice.

ii) If the matter is not resolved as set forth in the preceding subsection, the aggrieved party will submit a second Notice which will:

a) provide detailed factual information;

b) identify the specific provisions in this Agreement or applicable Participation Agreement on which any demand is based;

c) advise if the demand involves a cost adjustment and, if so, provide the exact amount, accompanied by all supporting records; and

d) attach a declaration that the demand is made in good faith, the supporting data are accurate and complete, and the amount requested properly reflects the necessary adjustment. Notice will be signed by an authorized representative of the aggrieved party.

e) If the negotiations do not result in resolution of the dispute within forty-five (45) calendar days after receipt of the Notice, the parties agree to mediation prior to any party initiating a legal action or process in court.

iii) Each party will comply with reasonable requests for additional information. Any additional information will be provided within fifteen days after receipt of a written request, unless otherwise agreed.

**B. Confidentiality During Dispute Resolution.** All dispute resolution negotiations are considered confidential, and will be treated as compromise and settlement negotiations, to which California Evidence Code § 1152 applies.

**C. Continued Performance of Work.** Pending final resolution of any dispute, Contractor agrees to proceed diligently with the performance of the Work, including Work associated with the dispute, unless otherwise directed by the JBE. Contractor's failure to diligently proceed in accordance with the JBE's instructions will be considered a material breach of the Agreement and any applicable Participation Agreement.

## 15. Force Majeure.

A. Force Majeure events include, but are not limited to:

- i) catastrophic acts caused by nature or public enemy;
- ii) civil disorder;
- iii) fire or other casualty for which a party is not responsible; and
- iv) quarantine or epidemic.

The party asserting a Force Majeure event will immediately provide Notice to the other party of the occurrence and nature of the Force Majeure event, and its expected impact on schedule. The party claiming Force Majeure will use commercially reasonable efforts to continue or resume performance, including alternate sources or means. Contractor will have no right to additional payment for costs incurred as a result of a Force Majeure event.

B. Any assertion of a Force Majeure event by Subcontractors will be attributed to

Contractor.

**16. Indemnification and Limit of Liability.**

**A.** To the fullest extent permitted by law, Contractor will indemnify, hold harmless, and defend (with counsel satisfactory to the indemnified party) the JBEs and their respective agents, officers, and employees from and against any and all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorneys' fees, arising or resulting from, or in connection with, the performance or breach of this Agreement and any Participation Agreement by Contractor or its officers, employees, agents, representatives, or Subcontractors. This indemnity applies regardless of the theory of liability on which a claim is made or a loss occurs. This indemnity will survive the expiration or termination of this Agreement or any Participation Agreement, and acceptance of any services and Work. 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 that would bind an indemnified party, without the affected JBE's prior written consent, which consent shall not be unreasonably withheld; and such JBE 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.

**B.** For Contractor's acts, errors, or omissions which are covered by Contractor's Professional Liability insurance, Contractor will provide the above indemnification for that proportion of damages, costs, and liabilities that are attributed to Contractor, or any of its Subcontractors, but not for a JBE's proportionate share of liability, if any.

**C.** Contractor's obligation to defend, indemnify, and hold the JBEs and their respective agents, officers, and employees harmless is not limited to, or restricted by, any requirement in this Agreement that Contractor procure and maintain a policy of insurance.

**D.** Under no circumstances shall Contractor's aggregate liability for each Participation Agreement exceed \$5,000,000. The foregoing limitation of liability shall not apply to Contractor's gross negligence or willful misconduct, or its breach of confidentiality obligations.

## 17. Insurance Requirements.

**17.1** The Contractor shall provide to each JBE and maintain the following types of insurance in full force during the term of this Agreement and each Participation Agreement:

- A. *Commercial General Liability.* The policy must be at least as broad as the Insurance Services Office (ISO) Commercial General Liability “occurrence” form, with coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. The policy must provide limits of at least \$1,000,000 per occurrence and annual aggregate.
- B. *Workers Compensation and Employer’s Liability.* The policy must include workers’ compensation to meet the minimum requirements of the California Labor Code, and it must provide coverage for employer’s liability bodily injury at minimum limits of \$1,000,000 per accident or disease.
- C. *Automobile Liability.* The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in Contractor’s performance of this Agreement whether owned, non-owned, leased, or hired. The policy must provide combined single limits of at least \$1,000,000 per occurrence.
- D. *Professional Liability.* The policy must cover liability resulting from any act, error, or omission committed in Contractor’s performance of services under this Agreement, at minimum limits of \$1,000,000 per occurrence and annual aggregate. If the policy is written on a “claims made” form, Contractor shall maintain such coverage continuously throughout the Term and, without lapse, for a period of three (3) years beyond the termination and acceptance of all Work provided under this Agreement. The retroactive date or “prior acts inclusion date” of any such “claims made” policy must be no later than the date that activities commence pursuant to this Agreement.

**17.2 Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.

**17.3 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 (2) times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.

**17.4 Deductibles and Self-Insured Retentions.** Contractor shall declare to each JBE all deductibles and self-insured retentions that exceed \$100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to each JBE’s approval. Deductibles and self-insured retentions do not limit Contractor’s liability.

**17.5 Additional Insured Endorsements.** Contractor's commercial general liability policy, automobile liability policy, and, if applicable, umbrella policy must be endorsed to name the following as additional insureds with respect to liabilities arising out of the performance of this Agreement: the Establishing JBE, the State of California, the Participating Entities, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees.

**17.6 Certificates of Insurance.** Before Contractor begins performing services and Work, Contractor shall give the Establishing JBE (and on request, any Participating Entity) certificates of insurance attesting to the existence of coverage, and stating that the policies will not be canceled, terminated, or amended to reduce coverage without thirty (30) days' prior written notice to the Establishing JBE and any Participating Entity.

**17.7 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.

**17.8 Required Policy Provisions.** Each policy must provide, as follows: (i) the policy is primary and noncontributory 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; (ii) the insurance applies separately to each insured against whom a claim is made or a lawsuit is brought, to the limits of the insurer's liability; and (iii) each insurer waives any right of recovery or subrogation it may have against the Establishing JBE, any Participating Entity, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees for loss or damage.

**17.9 Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.

**17.10 Consequence of Lapse.** If required insurance lapses during the Term, the JBEs are not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

## **18. Confidentiality, Non-Disclosure, and Data Security.**

**A. Contractor's Responsibilities.** While performing Work, Contractor and its Subcontractors may gain access to Confidential Information that, if disclosed to Third Parties, may be damaging to the JBE, its personnel, JBE users, or other government entity. Neither Contractor nor its Subcontractors acquires any right or title to the

Confidential Information, and Contractor and its Subcontractors agree not to disclose any Confidential Information to any third party. All Confidential Information disclosed to or received by Contractor or its Subcontractor will be held in strict confidence and used only in performance of Work. In the event of any unauthorized disclosure or loss of Confidential Information, Contractor will immediately provide Notice to the affected JBE, with pertinent details of the unauthorized disclosure or loss, and any remedial measures taken.

**B. Permissible Disclosures.** Contractor may disclose a JBE's Confidential Information on a "need to know" basis to Contractor's employees and Subcontractors and any representatives of the JBE that are working on the project, provided that Contractor requires its Subcontractors to comply with the confidentiality provisions of this Agreement. Additionally, Contractor may disclose the Confidential Information, to the extent necessary to (i) comply with any applicable law, rule, regulation, or ruling; (ii) respond to any enforceable summons or subpoena; or (iii) enforce its rights under this Agreement.

**C. Court's Responsibilities.** The JBE agrees that: (a) the Licensed Software shall be treated as the Confidential Information of Contractor; (b) the JBE shall take all commercially reasonable actions necessary to protect and ensure the confidentiality of the Licensed Software and, without limiting the foregoing, will exercise at least the same degree of care to safeguard the confidentiality of the Licensed Software as the JBE would exercise to safeguard the JBE's Confidential Information.

**D. Return of Confidential Information.** Upon the written request of the JBE, Contractor shall deliver to the JBE all items, including, but not limited to, drawings, descriptions, test data or other papers or documents, which may contain any of the JBE's Confidential Information, as well as any copies thereof, that Contractor has in its possession.

**E. Breach of Confidentiality.** Contractor and the JBE each acknowledge as the receiving party that, due to the unique nature of the disclosing party's Confidential Information, there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach will likely result in irreparable harm to the disclosing party, and therefore, that upon any material breach of the confidentiality obligations in this Section 18 (Confidentiality; Non-Disclosure and Data Security), the disclosing party shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.

## **19. Ownership of Intellectual Property.**

**A.** Except as provided in this Agreement, Contractor agrees that (i) all Data, Deliverables, Materials and Work created in whole or in part by Contractor in the course of or related to providing services to a JBE under this Agreement or any Participation Agreement shall be treated as if it were "work for hire" for the JBE, and

(ii) the Contractor will immediately disclose to the JBE all discoveries, inventions, enhancements, improvements, and similar creations (collectively, "Creations") made, in whole or in part, by the Contractor in the course of or related to providing services to the JBE.

**B.** All ownership and control of Creations, Data, Deliverables, Materials and Work, including any copyright, patent rights, and all other intellectual property rights therein, shall vest exclusively with the JBE. Contractor hereby assigns all right, title, and interest that Contractor may have in such Creations, Data, Deliverables, Materials and Work to the JBE, without any additional compensation and free of all liens and encumbrances of any type. Contractor agrees to execute any documents required by the Judicial Council to register its rights and to implement the provisions herein.

**C.** Contractor shall set forth in an exhibit to each Scope of Work any Third Party Materials that Contractor intends to use in connection with that Scope of Work. The JBE shall have the right to approve in writing the introduction of Third Party Materials into any Work prior to such introduction. Contractor grants to the JBE without additional charge, a perpetual, irrevocable, royalty-free, fully paid-up, worldwide, nonexclusive license to use, reproduce, perform, display, transmit, distribute, modify, and create derivative works of Third Party Materials, and to sublicense such rights to other parties, in each case for California judicial branch business and operations.

**D.** Notwithstanding any other provision to the contrary, this Master Agreement grants the JBEs no title or rights of ownership in the Licensed Software.

**20. Modification.** No modification or change to this Agreement or any Participation Agreement will be valid without written approval by the affected JBE, in the form of an Amendment, including any changes to a Scope of Work.

**21. Prohibited Bids for End Product of this Agreement.** No person, firm, or subsidiary thereof which has been awarded a consulting services agreement may submit a bid for, or be awarded an agreement for, the provision of services, procurement of Materials or Data, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of this Agreement. This provision will not apply to any person, firm, or subsidiary thereof, which is awarded a subcontract under this Agreement in an amount no more than ten percent (10%) of the total monetary value of this Agreement.

## **22. Standard of Performance; Warranties.**

**A. Standard of Performance.** Contractor will perform all Work with the requisite skill and diligence consistent with professional standards for the industry and type of work performed under the Agreement, and pursuant to the governing rules and regulations of the industry. Contractor understands that the JBE relies on the accuracy, competence, and completeness of Contractor's services. Contractor will maintain and implement

industry-standard safeguards against the destruction, loss, misuse, unauthorized disclosure, or alteration of Data and the JBE's Confidential Information, and such other related safeguards that are set forth in applicable laws, rules, and regulations, or pursuant to JBE policies or procedures.

**B. Warranties.**

i) **Services Warranty.** Contractor warrants and represents that the Work and all Deliverables furnished to the JBE will conform to the requirements of this Agreement and the JBE's Participation Agreement from the date of first productive use of the Work or Deliverable, as applicable, and that such Work and Deliverables will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship, and, to the extent not manufactured pursuant to detailed designs furnished by the JBE, free from defects in design. The JBE's approval of designs or specifications furnished by Contractor will not relieve Contractor of its obligations under this warranty.

ii) **Licensed Software Warranty.** Contractor hereby warrants and represents that, commencing on the date of the JBE's acceptance, final cutover or first productive use of the Licensed Software, whichever is latest, and thereafter, that (a) the Licensed Software, as installed and configured on the JBE's systems, will perform in accordance with and conform to the applicable Specifications in all material respects, and (b) the Licensed Software will be appropriately adapted, as and to the extent necessary, to operate effectively using the JBE's existing software program(s) as installed as of the effective date of the Participation Agreement.

iii) **Malicious Code/Virus Protection Warranty.** Contractor hereby warrants and represents that, any time the Licensed Software, Hosted Services, or any Maintenance Release(s) are delivered to the JBE, whether delivered via electronic media or the internet, no portion of the Licensed Software, Hosted Services, or Maintenance Release(s), or the media upon which it is stored or delivered, will have any type of software routine or other element which is designed to facilitate or is capable of facilitating: (a) unauthorized access to or intrusion upon; (b) disabling or erasure of; or (c) unauthorized interference with, the operation of any hardware, software, data or peripheral equipment of or utilized by the JBE, or any contamination which might impact the JBE's network or data.

iv) **Four-Digit Date Compliance.** Contractor represents and warrants that it will provide only Four-Digit Date Compliant Deliverables and/or services to the JBE. "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. This warranty and representation is subject to the warranty terms and conditions of this Agreement and does not limit the generality of warranty obligations set forth elsewhere in this Agreement.

v) **Warranty of Law.** Contractor warrants and represents that to the best of Contractor's knowledge: (a) there is no claim, litigation or proceeding pending or threatened against Contractor with respect to the Licensed Software, Hosted Services or any component thereof alleging infringement of any patent or copyright or any trade secret or any proprietary right of any person; (b) the Licensed Software complies in all material respects with applicable laws, rules and regulations; (c) Contractor has full authority to enter into this Agreement and any Participation Agreement and to consummate the transactions contemplated hereby; and (d) Contractor's performances under this Agreement and any Participation Agreement are not materially impaired or prohibited by any other agreement to which Contractor is a party or by which it may be bound. Contractor warrants that it complies with all laws, rules and regulations applicable to Contractor's business and services.

(vi) **Warranty of Title.** Contractor warrants and represents that (a) it has good title to the Licensed Software; (b) it has the absolute right to grant to the JBE the licenses granted hereunder; (c) the JBE shall quietly and peacefully possess and use any Licensed Software provided hereunder, subject to and in accordance with the provisions of this Agreement; and (d) Contractor shall be responsible for, has and shall have full authority to license all proprietary and/or third party software modules, algorithms and protocols that are incorporated into the Licensed Software (the "Title Warranty").

vii) **Support Services Warranty.** Contractor hereby warrants and represents that each of its employees, independent contractors or agents assigned to perform any Support Services or provide any technical assistance in configuration, development and implementation, training, use and related services under the terms of this Agreement shall have the skill, training, and background reasonably commensurate with his/her level of performance or responsibility, so as to be able to perform in a competent and professional manner.

vii) **Effect of Breach of Warranty.** If, at any time during the term of this Agreement or any Participation Agreement, Contractor breaches any warranty under this Section 22, the JBE shall promptly notify Contractor in writing of such alleged breach of warranty, and shall include if applicable the information required pursuant to Exhibit 9 (Maintenance and Support). If the breach relates to the Licensed Software Warranty or Virus Protection Warranty, then Contractor shall correct any such deficiency in the Licensed Software or the Hosted Services in accordance with the Service Level criteria set forth in Exhibit 9 (Maintenance and Support). If the breach relates to Section 22(B)(v) (Warranty of Law), then Contractor shall promptly correct the identified deficiency. If the breach relates to Section 22(B)(6) (Warranty of Title), then Contractor shall promptly either: (a) procure for the JBE the right to continue use of the Licensed Software at no additional charge to the JBE, (b) modify such

Licensed Software to avoid the claimed infringement (provided that such modification does not adversely affect the JBE's intended use of the Licensed Software) at no additional charge to the JBE, or (c) replace said Licensed Software with an equally suitable, compatible and functionally equivalent non-infringing software, including installation and configuration as required, at no additional charge to the JBE. If none of the foregoing options is practicable, then the JBE may terminate this Agreement or applicable Participation Agreement as hereinafter provided in this section. If the breach relates to Section 22(B)(7) (Support Services Warranty), then Contractor shall promptly re-perform the nonconforming Support Services, until such time as the nonconformance is corrected or the parties otherwise agree in writing. If after reasonable efforts Contractor is unable to correct any such breach of warranty as described in this section, and the resulting non-performance or deficiency materially affects the ability of the JBE to utilize the Licensed Software, then the JBE may terminate this Agreement in accordance with Section 26(A) (Termination for Cause), subject to the transition provisions of Exhibit 11 (Transition Services), in which event the JBE shall have all remedies available at law or equity.

ix) All warranties will inure to the JBE, its successors, assigns, customer agencies, and users of the Work provided hereunder.

### **23. Personnel Requirements.**

**A.** Contractor will use adequate numbers of qualified individuals with suitable training, education, experience, and skill to perform the Work. For continuity, Contractor will endeavor to retain the same individuals during the performance of Work.

**B.** The JBE reserves the right to disapprove Contractor's personnel, if dissatisfied with their performance. Upon receipt of such Notice, Contractor will immediately assign replacement personnel, with equivalent or greater experience and skills, who are acceptable to the JBE's Project Manager.

**C.** Contractor will be responsible for all costs associated with replacing personnel, including additional costs to familiarize replacement personnel with the Work. If Contractor does not promptly furnish replacement personnel acceptable to the JBE's Project Manager, the JBE may terminate this Agreement or applicable Participation Agreement for cause.

### **24. Background Checks.**

**A.** For Contractor's employees, Subcontractors, or agents performing Work, and with access to the JBE's systems (on-site or remotely) in the performance of their Work under this Agreement, the JBE will have the right, but not the obligation, to request or conduct a background check, before granting access to the JBE's premises or systems or at any

other time. Contractor will cooperate with the JBE in performing any background checks, will provide prompt Notice to the JBE of (i) any person refusing to undergo such background check, and will immediately remove such person from the project, and (ii) the results of any background check as requested by the JBE. Contractor will obtain all releases, waivers, or permissions required for the release of such information to the JBE. Any additional costs will be borne by Contractor.

**B.** Granting or denying access will be at the sole discretion of the JBE. Contractor will receive a written response with a notification of “Approved” or “Denied” for the facility access for each individual. No background information will be released to Contractor.

**C.** It is the responsibility of Contractor to notify the JBE of any additional staff or change in staff, to submit to the JBE a completed and signed Application and Consent for Background Check form for each person, and to receive authorization from the JBE before the individual begins to work in a JBE facility.

**25. Survival.** All provisions of this Agreement, which by their nature or intent, extend beyond the term of this Agreement will survive termination or expiration of this Agreement, including, without limitation, the provisions regarding: software license, assignment, audit rights, retention of records, confidentiality, non-disclosure, data security, indemnification, warranties, transition services, and Contractor’s obligations regarding privacy and data security. Notwithstanding any provision to the contrary, all representations, warranties, and certifications made by Contractor: (i) shall be deemed to be made to all JBEs; (ii) shall, in addition to this Agreement, be deemed to be made for and under each Participating Addendum; and (iii) shall remain true during the term of this Agreement and any Participating Addendum, as well as during any Transition Period under Exhibit 12. Contractor shall promptly notify each JBE if any representation, warranty, or certification becomes untrue.

## **26. Termination; Term of Agreement.**

**A. Termination for Cause.** The Establishing JBE may terminate this Agreement, in whole or in part, immediately “for cause” (and a JBE may terminate a Participation Agreement, in whole or in part, immediately “for cause”): if (i) Contractor fails or is unable to meet or perform any of its duties under this Agreement or a Participation Agreement, and this failure is not cured within ten (10) days following Notice of default (or in the opinion of the JBE, 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; or (iii) Contractor makes or has made under this Agreement (or any Participation Agreement) any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading. All costs to the JBE arising from Contractor’s default, including costs to complete or correct the Work, will be deducted from any sum

due Contractor. Contractor will not be entitled to recover overhead or profit on the uncompleted portions of the Work.

**B. Termination for Convenience.** The Establishing JBE may terminate, in whole or in part, this Agreement (and a JBE may terminate, in whole or in part, a Participation Agreement) for convenience upon thirty (30) days prior Notice. Upon receipt of the termination Notice, Contractor will promptly discontinue Work as specified in the Notice.

**C. Termination Due to Changes in Budget or Law.** Each JBE's payment obligations are subject to annual appropriation and the availability of funds. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement or Participation Agreement. Funding beyond the current appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement (including a Participation Agreement). The Establishing JBE may terminate this Agreement (and any JBE may terminate a Participation Agreement), and each JBE may limit Contractor's Work (and reduce proportionately Contractor's fees) upon Notice to Contractor without prejudice to any right or remedy of the JBEs if: (i) expected or actual funding to compensate Contractor is withdrawn, reduced or limited; or (ii) the Establishing JBE determines that Contractor's performance under this Agreement (or a JBE determines that Contractor's performance under a Participation Agreement) has become infeasible due to changes in applicable laws.

**D. Effect of Termination.**

i) Upon any expiration or termination, the JBE will have the right to take possession of any materials, equipment, Deliverables, and other Work including partially completed Work. Contractor will immediately assign to the JBE all of Contractor's right, title, and interest in and to such Work and related materials and work product, and any and all intellectual property rights.

ii) Upon termination of any kind, the JBE may withhold from payment any sum that the JBE determines to be owed to the JBE by Contractor, or necessary to protect the JBE against loss due to outstanding liens or claims of former lien holders.

iii) **Transition services.** Contractor shall provide the transition services and procedures set forth on Exhibit 11 (Transition Services), upon request of the JBE, in the event of any termination of this Agreement.

**E. Term and Termination.**

(i) The term ("Term") of this Agreement shall commence on the Effective Date and terminate on the Expiration Date set forth on the first page of this Agreement (the "Initial Term"), unless terminated earlier in accordance with the terms of this

Section 26. The Establishing JBE will have the right to extend the term of this Agreement one additional five-year option period (the "Option Term"). In order to exercise this Option Term, the Establishing JBE must send Notice to Contractor at least thirty (30) days prior to the end of the Initial Term. The exercise of an Option Term will be effective without Contractor's signature.

(ii) **Participating Addenda.** The termination of this Agreement shall not result in the termination of any outstanding Participation Agreement that has not been terminated by the Participating Entity, and this Agreement shall continue to apply to any such Participation Agreement until such time as all Work under such Participation Agreement has been completed by its terms or is terminated as provided in this Section 26; provided, however, that the term of such Participation Agreement may not exceed the Expiration Date of this Agreement. Execution of any Participation Agreement by a Participating Entity and Contractor must be completed before the termination or expiration of this Agreement.

**27. Time is of the Essence.** Time of performance is of the essence in the performance of services by Contractor under this Agreement.

**28. Waiver; Severability.**

**A. Waiver of Rights.** A JBE's action, inaction, or failure to enforce any right or provision of this Agreement or any Participation Agreement is not a waiver of its rights, and will not prevent the JBE from enforcing such rights on any future occasion.

**B. Severability.** The provisions of this Agreement will be effective in all cases, unless otherwise prohibited by applicable state or federal law. The provisions of this Agreement are separate and severable. The invalidity of any sentence, paragraph, provision, section, or portion of this Agreement will not affect the validity of the remainder of this Agreement.

**29. Loss Leader.** 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.

**30. Antitrust Claims.** If goods or services under this Agreement were obtained by means of a competitive bid:

**A. Assignment.** Contractor shall assign to the JBE 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 JBE. Such assignment shall be made and become effective at the time the JBE tenders final payment to the Contractor.

**B. Reimbursement.** If the JBE receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the JBE any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the JBE as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

**C. Reassignment.** Upon demand in writing by the Contractor, the JBE shall, within one (1) year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the JBE has not been injured thereby, or (b) the JBE declines to file a court action for the cause of action.

**31. Recycling.** Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in PCC 12200, in products, materials, goods, or supplies offered or sold to the JBE regardless of whether the product meets 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.

**32. Priority Hiring Consideration.** If this is an Agreement for services, other than consulting services, with total value over \$200,000, 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.

**33. DVBE Participation Certification.** If for this Agreement Contractor made a commitment to achieve disabled veteran business enterprise (“DVBE”) participation, then Contractor must within sixty (60) days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the JBE: (1) the total amount the prime Contractor received under the Agreement; (2) the name and address of the DVBE(s) that participated in the performance of the Agreement; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the 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. (Military & Veterans Code section 999.5(d); Government Code section 14841).

**34. Union Activities.** Contractor agrees that no JBE funds received under this Agreement will be used to assist, promote or deter union organizing during the Term. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no JBE funds were used for those expenditures. Contractor will provide those records to the Attorney General upon request.

**35. Publicity.** Contractor may not make any public announcement, press release, or other writing relating to this Agreement or any Participation Agreement that is not necessary for the performance or completion of the Work without the JBE's prior written approval. In no event will the JBE approve any writing that could be construed as an endorsement of the Contractor.

**36. Counterparts.** This Agreement and any Participation Agreement may be executed in counterparts, each of which is considered an original.

**37. Singular and Plural Usage.** All references to the plural herein shall also mean the singular and to the singular shall also mean the plural unless the context otherwise requires. Section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement. References to "including" means "including, without limitation."

**38. Entire Agreement.**

**A.** Headings or captions to the provisions of this Agreement are solely for the convenience of the parties and will not be used to interpret or determine the validity of this Agreement.

**B.** This Agreement was negotiated between the parties, and neither party "prepared" this Agreement for purposes of California Civil Code §1654. Any ambiguity will not be construed against the drafter, but rather the terms and provisions will be given a reasonable interpretation.

**C.** This Agreement constitutes the entire and final understanding of the parties regarding this matter, and supersedes and terminates any and all prior or contemporaneous negotiations, representations, understandings, discussions, offers, proposals, or agreements between the parties, whether written or oral, express or implied, relating in any way to this matter.

**39. Notices.** Notices regarding this Agreement must be sent to the following address and recipient:

<b>If to Contractor:</b>	<b>If to the Establishing JBE:</b>
Johnson Controls Security Solutions LLC Attn: Nelson Carrillo, Sales Manager 3801 Bay Center Place Hayward, CA 94545	Judicial Council of California Attn: Contracts Supervisor 2850 Gateway Oaks Drive, Suite 300 Sacramento, CA 95833-4348

Either party may change its address for notices by giving the other party 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) days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.

**40. Hosted Services.** Notwithstanding any provision in this Agreement to the contrary, to the extent that any Hosted Services are provided under this Agreement or a Participating Addendum, then in addition to Contractor's obligations regarding the Hosted Services, the Contractor's obligations regarding the Licensed Software (including without limitation, support services, maintenance and support services, transition services, indemnification, warranties, and JBE rights of use/access) shall also apply to the Hosted Services.

***END OF EXHIBIT 3***

**EXHIBIT 4**

**LICENSED SOFTWARE AND ADDITIONAL TERMS**

All maintenance and time and material service requests ordered under this Agreement will apply to existing access and camera and detention control Programmable Logic Controller (PLC) systems installed in JBE facilities regardless of make and age as well as newly installed systems:

Video Surveillance Systems Pelco or equivalent GSA listed manufacturer.

Access Control Systems Proximity reader system – GSA listed.

All copies of software licenses and software tools must remain with JBE receiving any related goods or services from the proposer. System should be complete without further charges for license agreements beyond initial purchase, or ongoing license requirements/renewals and associated costs clearly identified and agreed to prior to ordering of materials.

***END OF EXHIBIT 4***

## EXHIBIT 5

### SPECIFICATIONS

#### 1.0 Specifications for Access Systems, Video Surveillance Systems, & Maintenance Services

##### General Requirements for Video Surveillance Systems:

Video Surveillance System listed with GSA. Equipment may include, but is not limited to, the following:

Hybrid/Analog—CCTV (Pelco Digital Sentry System or equivalent manufacturer with product capable of accommodating both analog and IP cameras)

- a. Fixed interior color camera with lens;
- b. Pan, tilt, zoom interior color camera with lens;
- c. Fixed multi-view/panoramic interior and exterior color camera (180, 270, 360 deg. view)
- d. Fixed exterior color cameras with lens;
- e. Pan, tilt, zoom exterior color camera with lens;
- f. Encoders for analog cameras;
- g. Console station with desktop and mounts for appropriate number of various size monitor Network Video Recorder (NVR) with 280 mbps bandwidth, support for up to 128 IP streams and up to 64 analog cameras at D1 resolution and full frame rate. Configurations with the ability to retain seven (30) days of recorded video at each site, Networkable / CD-RW/DVD-RW/Motion Detection;
- h. All materials, including but not limited to building code compliant, riser/plenum rated conduit, wiring, coax, and connectors for a fully functioning CCTV system;
- i. Lux requirements: 0.1 lux (color mode); 0.003 lux (sensitivity up x32); 0.1 lux (B/W mode); 0.003 lux (sensitivity up x32)

Digital IP (Pelco VideoXpert series or equivalent VMS manufacturer, recorders and associated hardware)

##### Peripherals

- a. External weather-proof camera housing and mounting suitable for protecting this equipment from all weather conditions found at any Purchasing Group member facility. Such weather conditions include, but are not limited to, extreme hot and cold temperatures and snow and rain, housing should be vandal resistant, and detention grade housings for detention areas.
- b. Interior camera domes are standard but purchasing group member may include cameras for video analytics and other specific design criteria.

Proximity Card reader systems listed with the U.S. GSA Access Control Systems.

Access System equipment may include, but is not limited to, the following:

- a. Proximity card readers with modern styling, as flush to wall as possible for internal applications.
- b. External long distance (6 foot) readers should be available.
- c. Self-illuminated readers
- d. Weather proof, tamper proof readers and dual use (Card and Pin Number) for external and an internal version.
- e. Vandal resistant metal key pads.
- f. Vandal resistant proximity reader
- g. System capacity for 200, 400, 600, and 800 proximity cards;
- h. Stand-alone computer, monitor, and power supply, with operating system necessary to assign access levels, authenticate and delete cards/users, run reports, and overall administration of the proximity card system;
- i. The operating system should allow for automatic and effortless back-ups;
- j. The operating system should have an intuitive user interface;
- k. Single workstation able to operate up to 110 doors, with the ability to increase to multiple work stations if necessary;
- l. A minimum of three security software user-levels;
- m. System should be pre-programmed to integrate with external alarm panels, CCTV system, and door locking management tools if necessary;
- n. Exit door panic alarm hardware;
- o. Door controllers and striker locks;
- p. Ability to add exit control buttons and exit door detection devices;
- q. All materials, including but not limited to low voltage wiring, computer programming and electrical work, necessary for a fully functioning access system;
- r. Installation should include any paint and trim replacement as required;
- s. Installations may require the replacement of doors and other trim as required;
- t. Set-up and installation of a fully functioning system;
- u. Onsite service agreement on parts and installation for an initial one year from date of acceptance, with options for four (4) one year terms for all items installed. Initial Onsite service should start following a 90-day stabilization period for newly installed systems. A time and materials service option shall also be available; and
- v. Wireless access control locks and readers.

#### 1.1 Detention Control – Programmable Logic Controller (PLC) Systems

At this time, the detention control Programmable Logic Controller (PLC) systems services being sought are for the repair and maintenance of existing systems.

***END OF EXHIBIT 5***

## EXHIBIT 6

### STATEMENT OF WORK

This Scope of Work is subject to and incorporated into the Agreement and applicable Participation Agreement between Netronix Integration, Inc. (“Contractor”) and Judicial Council of California (“Establishing JBE”).

#### 1.0 Onsite Maintenance Services

Contractor must provide the following onsite maintenance services:

- a. Maintenance contract for a minimum of four (4), one-year periods after expiration of initial one year warranty period.
- b. Time and materials service and repair option.
- c. Ability to begin performing any maintenance work at any JBE facility or at multiple facilities in an identified region simultaneously within twelve-four (24) hours of receiving a service request.
- d. Maintenance and repair of all systems Contractor has indicated they can service regardless of whether the existing system was initially purchased or installed by the Contractor.
- e. Contractor must have the ability to service access control systems and have staff that is DSX certified, due to the number of DSX systems currently installed.

#### 1.2 Certifications and Verifications

All products offered for sale by the Contractor to the JBEs under any this Agreement must be compliant with all standards and regulations as set forth by all federal agencies and state and local governmental entities. All installations and materials shall meet state and local building codes, as well as California fire and safety codes.

#### 1.3 Guarantee

All equipment shall be guaranteed to be new and to perform to the manufacturer’s specifications and Contractor shall warrant the equipment against defects in installation, materials, and workmanship.

#### 1.4 Ordering Process

Contractor will establish a customer account with the Judicial Council for placing orders on behalf of any JBE under this Agreement and an individual account for any JBE that elects to place an order directly from the Contractor.

Contractor will provide the Judicial Council with the total cost and lead time required for the product(s) and services ordered, including maintenance and repairs on existing systems. The total cost will itemize the cost of the products and installation. Contractor will coordinate the installation dates with the Judicial Council prior to finalizing the order. Contractor will provide the Judicial Council with an immediate acknowledgement of the order. The acknowledgement will be submitted by facsimile or email, regardless of what method is used to place the order, and will include: the products and services ordered, installation dates, and contact information. If a JBE is ordering directly from the Contractor, the Contractor will provide the same information to the JBE and use the same ordering process.

Contractor is required to maintain a staffed number for ordering, inquiries, and customer service, including requests for maintenance service.

### 1.5 Customer Service

The Contractor's customer service process shall ensure that all customer service issues are addressed in a consistent and expeditious manner, including problem escalation and resolution of maintenance and service issues. The customer service process includes, but is not limited to:

- a. Customer service organizational structure.
- b. Contact process and contact person identified by position in the company (phone, email, fax, etc.).
- c. Follow up process.
- d. Internal procedures to track customer service contact and resolution.
- e. Escalation process to resolve outstanding customer service issues.

### 1.6 Installation

All products ordered under this Agreement shall be completely installed and tested for functionality by the Contractor. The Contractor shall provide all materials, equipment, parts and labor necessary for the installation of the ordered products. The Contractor shall be responsible to transport all ordered products to the JBE's facility prior to installation. The JBE will not be responsible for risk of loss for any materials delivered to its facility prior to the Contractor completing installation of the product.

Contractor is responsible for system integration and software validation. In engineering, system integration is the bringing together of the component subsystems into one system and ensuring that the subsystems function together as a system. In information technology, systems integration is the process of linking together different computing systems and software applications physically or functionally, to act as a coordinated whole. The system integrator brings together discrete systems utilizing a variety of techniques such as computer networking, enterprise application integration, business process management or manual programming.

### 1.7 Rejection of Goods or Acceptance of Service

If a JBE requests maintenance service, a designated JBE representative will review any completed repairs and approve by signing the Contractor's service report. The designated JBE representative must then be given a copy of this approved Contractor service report. For time and materials repairs, the Contractor's invoice will not be paid unless the Contractor's service report is approved by the JBE representative.

#### 1.8 Inventory

The JBEs have an ongoing requirement for the products indicated in this Agreement. The Contractor shall maintain access to a reasonable stock of such products on hand for the term of this Agreement. Failure to maintain access to a reasonable stock may result in termination of this Agreement for default by the Contractor.

#### 1.9 Estimated Volumes

No minimum ordering estimate is stated in this Agreement. The Judicial Council and JBEs will make their purchasing decision based on what is in the best interest of the Judicial Council and JBEs.

#### 1.10 Procurement Process – Use of Master Agreement

Requests for goods and services as specified in this Agreement will be made by the Judicial Council and JBEs through the issuance of a Work Order. The Work Order will reference the Agreement number and will list and describe all of the requested goods and services. The terms and conditions of this Agreement shall take precedence over the terms and conditions of any Work Order, contract, or terms and conditions included on an invoice or like document unless changes are made by reference to specific provisions of this Agreement.

***END OF EXHIBIT 6***

**EXHIBIT 7**

**ACCEPTANCE AND SIGN-OFF FORM**

**Acceptance and Sign-Off Form**

Description of Work provided by Contractor:

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**Date submitted:** \_\_\_\_\_

Work is:

1) Submitted on time:  yes  no. If no, please note length of delay and reasons.

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2) Complete:  yes  no. If no, please identify incomplete aspects of the Work.

---

---

3) Technically accurate:  yes  no. If no, please note corrections required.

---

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Please note level of satisfaction:

Poor  Fair  Good  Very Good  Excellent

Comments, if any:

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Work is accepted.

Work is unacceptable as noted above.

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**END OF EXHIBIT 7**

**EXHIBIT 8**

**FEES, PRICING AND PAYMENT TERMS**

**1. Fees.**

This Agreement, including all Participation Agreements, is intended to be no-cost to the JBEs. Without limiting the foregoing, the Contractor agrees to provide to the JBEs the following at no-cost under this Agreement:

- a. The Licensed Software;
- b. All necessary professional implementation services;
- c. On-going Maintenance and Support of the Licensed Software;
- d. Hosted Services, including all necessary data storage and backups; and
- e. All necessary training.

**2. Expenses.**

Contractor is not authorized for and will not be allowed any reimbursable expenses under this Agreement.

**3. Fees.**

The following table sets forth the fees that the Contractor may charge to the end consumer under this Agreement:

Training	\$125.00 an hour
Repair & Maintenance	\$125.00 an hour
Installation	\$169.00 an hour
System Design/Engineering	\$199.00 an hour
Project Management	\$199.00 an hour

**All materials to be provided at DGS/GSA pricing or better.**

The fees may not be increased during the Term of the Agreement beyond what may be set forth in the chart immediately above.

- a. **Contractor's Failure to Execute Participation Agreements.** The parties acknowledge that a material consideration of this Agreement is the ability for all interested JBEs to be able to participate in this Agreement. Therefore, in the event Contractor unreasonably refuses or fails to execute a Participation Agreement with an interested JBE after such JBE has presented Contractor with a Participation Agreement for execution, Contractor shall be prohibited from executing any Participation Agreement with any other JBE, unless and until Contractor executes a

Participation Agreement with all interested JBEs. The foregoing provision is not intended to limit any other JBE rights or remedies available.

**4. Liquidated Damages to JBE for Failure to Meet Maintenance and Support Requirements.**

The parties agree that Contractor's failure to meet the Maintenance and Support requirements under this Agreement will cause the JBE to incur substantial economic and reputational harm.

In such cases, the losses and amounts may be impossible to compute and ascertain with certainty. Therefore, liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in addition to other available remedies, the Contractor agrees that liquidated damages may be assessed and recovered by the JBE against Contractor for such failure(s) and without the JBE being required to present any evidence of the amount or character of actual damages sustained by reason thereof.

Contractor shall be liable to the JBE for payment of liquidated damages in the amounts set forth in this Agreement. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor shall pay them to JBE without limiting the JBE's other contractual rights and remedies provided in this Agreement.

In the event Contractor fails to meet the Maintenance and Support requirements of this Agreement, Contractor shall pay to the JBE the amounts set forth in Exhibit 9 (Maintenance and Support).

***END OF EXHIBIT 8***

## EXHIBIT 9

### MAINTENANCE AND SUPPORT

#### I. ERRORS AND CORRECTION

1. **Classification of Errors.** “Error” shall mean a defect which causes the Licensed Software not to function substantially in conformance with the Specifications. Errors are classified as follows:

*Service Level 1:* An Error causing (i) “crashes” of the Licensed Software, (ii) unrecoverable loss or corruption of data or (iii) loss of essential Licensed Software functionality for which there is no documented means of Circumvention. “Circumvention” means, as applied to an Error, a change in operating procedures whereby JBE can conveniently avoid any deleterious effects of such Error. (A Service Level 1 Error is sometimes referred to as “Urgent”).

*Service Level 2:* An Error causing (i) recoverable loss or corruption of data, (ii) loss of essential Licensed Software functionality that can be Circumvented in a manner that is documented or easily identified or (iii) loss of non-essential Licensed Software functionality that cannot be Circumvented. (A Service Level 2 Error is sometimes referred to as “Critical”).

*Service Level 3:* An Error causing (i) loss of non-essential Licensed Software functionality that can be Circumvented in a manner that is documented or easily identified or (ii) difficulties in the user interface. (A Service Level 3 Error is sometimes referred to as “Serious”).

*Service Level 4:* An Error causing no loss of data or functionality that can conveniently be Circumvented by appropriate JBE action or procedures. (A Service Level 4 Error is sometimes referred to as “Minor”).

2. **Error Correction.** Contractor acknowledges that Errors in the Licensed Software other than Service Level 3 and 4 Errors are extremely serious and must be resolved with the greatest possible urgency. Therefore, Contractor agrees to correct reported Errors in accordance with the following provisions:

a) Contractor shall provide the JBE with names and telephone numbers of Contractor engineering and/or support staff who are to be contacted by the JBE at any time on a seven (7) day a week, twenty-four (24) hours a day basis to report Errors.

b) Contractor shall provide an initial response to all Errors reported by JBE support personnel within one (1) clock hour for Service Level 1 or 2 Errors, and within four (4) working hours for Service Level 3 or 4 Errors, and Contractor and the JBE shall

promptly agree in good faith what additional information and/or Error documentation will be required to permit Contractor to resolve such Errors.

c) Contractor shall resolve Service Level 1 Errors within one (1) calendar day. Contractor shall resolve Service Level 2 Errors within two (2) working days. Contractor shall use its best efforts to resolve Service Level 3 Errors within five (5) working days. Contractor shall use its best efforts to resolve Service Level 1 and 2 Errors by delivering emergency releases to the JBE, shall generally resolve Service Level 3 Errors by documenting a means of Circumvention, and shall resolve Service Level 4 Errors by means of the next regularly scheduled update.

- 3. Escalation Procedure.** In the event Contractor has responded to the JBE's request for corrections to the Licensed Software or for warranty service but has been unable to provide either a permanent or a mutually acceptable temporary resolution within the applicable timeframe as set forth in Sections 1 and 2 of this Exhibit 9, Contractor shall initiate the following escalation procedure:

***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 (1) senior-level technician or engineer. Such resources shall be on-site at the JBE's location, or at such location as is appropriate given the nature of the required corrections. For a Service Level 1 or Level 2 situation, the Contractor's Engineering Manager shall notify the JBE 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.

***Escalation Stage 2:*** After the previous Stage 1 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 Service Level 1 or Level 2 situations, Contractor's Senior Vice President for Engineering shall contact the JBE at two (2) hour intervals until the situation is resolved.

***Escalation Stage 3:*** If a total of seventy-two (72) hours has elapsed since the initial call of the JBE to Contractor for a Service Level 1 or Level 2 situation and the situation is still unresolved to JBE's satisfaction, JBE shall be entitled to receive \$500.00 for each twenty-four (24) hour period that the Licensed Software situation is unresolved, commencing with the date and hour of the instigation of the escalation procedures contained in this Exhibit 9. 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 9 for a Service Level 1 or Level 2 situation and the situation is still unresolved, at the sole discretion of the JBE, Contractor shall immediately send, at Contractor's sole expense, Contractor's most technically qualified representative to the JBE'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 JBE.

## II. SERVICE LEVELS

The hosted service (including Licensed Software), or software as a service provided under this Agreement and each Participation Agreement (collectively, the “Hosted Services”) shall, at a minimum, meet the following service levels:

The Hosted Services shall be available twenty-four (24) hours per day, 365 days per year, with an availability of 99.9% as measured on a monthly basis (excluding agreed-upon maintenance downtime).

In addition to its other remedies, in the event that the Hosted Services fail to meet the availability standards set forth below in any calendar month (excluding agreed-upon maintenance downtime), the JBE will be entitled to the amount set forth in the table below. Contractor will provide a report to the JBE by the tenth day of each calendar month detailing the percentage availability of the Hosted Services for the previous month. The report will be in a format, and contain such information, as may be reasonably be required by the JBE.

Monthly Uptime Percentage	Duration	Amount
< 99.9%	>43 min/month	25% of average EFM daily revenues for impacted court
< 99%	>432 min/month (7.2 hrs)	50% of average EFM daily revenues for impacted court
< 95%	>2,160 min/month (36 hrs)	100% of average EFM daily revenues for impacted court

If the Hosted Services monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), for three (3) or more months in a rolling twelve-month period, the JBE may, in addition to its other remedies, terminate the applicable Participation Agreement for material breach.

***END OF EXHIBIT 9***

**EXHIBIT 10**

**TRAINING**

1. Contractor will provide all training necessary to familiarize court employees with equipment operations and maintaining the system.
2. Training will be provided on-site using the JBE's facilities.

***END OF EXHIBIT 10***

## EXHIBIT 11

### TRANSITION SERVICES

**1. Termination Procedures.** Upon any termination of this Agreement, Contractor shall (i) provide all information and assistance necessary to ensure the smooth substitution of the Licensed Software to another suitable replacement software program (the “Substitute Product”) if requested by the JBE, and (ii) provide all assistance necessary to ensure the smooth transition of the Maintenance and Support Services performed by Contractor or Contractor’s subcontractor to the JBE or its designee. Such continuing services and assistance shall be provided to the JBE for a period up to thirty-six (36) months after the effective date of the termination (the “Transition Period”), and may include, upon the JBE’s request, the following services: (i) assign as specifically requested by the JBE all of the rights, title, and interest of Contractor in all orders and subcontracts relating to Contractor’s obligations under this Agreement; (ii) take such action as may be necessary or as directed by the JBE to preserve and protect the work previously performed by Contractor, and any property related to this Agreement in the possession of Contractor in which the JBE has an interest; (iii) continue performance of any work as directed by the JBE in writing, and (iv) take any other steps reasonably required by the JBE with respect to this Contract.

**2. Software Support.** Contractor understands and agrees that, during the Transition Period, the JBE will be entitled to receive continuing Maintenance and Support Services from Contractor for the Licensed Software, in accordance with the provisions of Exhibit 9 (Maintenance and Support).

**3. Transition Fees.** Any termination or transition assistance provided by Contractor shall be subject to payment by the JBE at Contractor’s hourly rates as set forth in Contractor’s then-standard rates and charges table. Except as provided in this Exhibit 11, no termination fees of any kind, including but not limited to unrecovered costs or other transition fees shall be payable by the JBE upon or subsequent to the termination of this Agreement.

**4. Transition Personnel Requirements.** Contractor will make Contractor personnel available on a commercially reasonable basis to assist in the transition from the Licensed Software supported by Contractor’s Maintenance and Support Services, to the Substitute Product, supported by the JBE or the JBE’s designee.

***END OF EXHIBIT 11***

**EXHIBIT 12**

**PARTICIPATION AGREEMENT**

- (1) This Participation Agreement is made and entered into as of [month/day/year] (“Participation Agreement Effective Date”) by and between the \_\_\_\_\_ *[add full name of the JBE]* (“JBE”) and [add name of Contractor] (“Contractor”) pursuant to the Master Agreement # \_\_\_\_\_ *[add Master Agreement # - see cover page]* (“Master Agreement”) dated \_\_\_\_\_, 20\_\_ *[add Effective Date of the Master Agreement]* between the Judicial Council of California (“Establishing JBE”) and Contractor. Unless otherwise specifically defined in this Participation Agreement, each capitalized term used in this Participation Agreement shall have the meaning set forth in the Master Agreement.
- (2) This Participation Agreement constitutes and shall be construed as a separate, independent contract between Contractor and the JBE, subject to the following: (i) this Participation Agreement shall be governed by the Master Agreement, and the terms in the Master Agreement are hereby incorporated into this Participation Agreement; (ii) the Participation Agreement (including any Scope of Work) may not alter or conflict with the terms of the Master Agreement, or exceed the scope of the Work provided for in the Master Agreement; and (iii) the term of the Participation Agreement may not extend beyond the expiration date of the Master Agreement. The Participation Agreement and the Master Agreement shall take precedence over any terms and conditions included on Contractor’s invoice or similar document.
- (3) Under this Participation Agreement, the JBE will order Contractor’s Work by attaching and incorporating a Scope of Work and any other necessary ordering documents. The JBE’s Scope of Work is set forth in Exhibit 6 of the Master Agreement.
- (4) The JBE is solely responsible for the acceptance of and payment for the Work under this Participation Agreement. The JBE shall be solely responsible for its obligations and any breach of its obligations. Any breach of obligations by the JBE shall not be deemed a breach by the Establishing JBE or any other Participating Entity. The Establishing JBE shall have no liability or responsibility of any type related to: (i) the JBE’s use of or procurement through the Master Agreement (including this Participation Agreement), or (ii) the JBE’s business relationship with Contractor. The Establishing JBE makes no guarantees, representations, or warranties to any Participating Entity.
- (5) Pricing for the Work shall be in accordance with the prices set forth in the Master Agreement.
- (6) The term of this Participation Agreement shall be from the Effective Date until: [\_\_\_\_\_ month/day/year – *may not exceed the Expiration Date of the Master Agreement*].
- (7) The JBE hereby orders, and Contractor hereby agrees to provide, the Work set forth in the attached Scope of Work.

Judicial Council of California Master Agreement  
 Agreement Number MA-201802 with Johnson Controls Security Solutions LLC

- (8) Notices regarding this Participation Agreement must be sent to the following address and recipient:

<b>If to Contractor:</b>	<b>If to the JBE:</b>
<u>[name, title, address]</u>	<u>[name, title, address]</u>
<u>With a copy to:</u>	<u>With a copy to:</u>

Either party may change its address for notices by giving the other party 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) days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.

- (9) This Participation Agreement and the incorporated documents and provisions (including the terms of the Master Agreement) constitute the entire agreement between the parties and supersede any and all prior understandings and agreements, oral or written, relating to the subject matter of this Participation Agreement.

IN WITNESS WHEREOF, the JBE and Contractor have caused this Participation Agreement to be executed on the Participation Agreement Effective Date.

***[JBE]***

***[CONTRACTOR]***

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Name:

Title:

Title:

***END OF EXHIBIT 12***

### EXHIBIT 13

#### CONTRACTOR EXPENSE AND TRAVEL REIMBURSEMENT GUIDELINES

All travel-related expenses must be approved in advance by the JBE. The JBE policy and limits on reimbursable travel-related expenses are listed below.

**Lodging** – Receipts are required and each day of lodging claimed must be listed separately. Maximum rates are listed below.

1

1. In-state - Actual costs are reimbursable up to a maximum per day rate of \$250 for San Francisco county; \$140 for Alameda, San Mateo, and Santa Clara counties; \$120 for Los Angeles, Orange and Ventura counties; and \$110 for all other counties, plus tax and energy surcharge.
2. Out-of-state – Actual costs are reimbursable with appropriate prior approval.

**Meals** – Actual costs are reimbursable up to the limits stated below for continuous travel of more than 24 hours.

1. Breakfast – Up to \$8.
2. Lunch – Up to \$12.
3. Dinner – Up to \$20.

For continuous travel of less than 24 hours, actual expenses up to the above limits may be reimbursable if:

1. Travel begins one hour before normal work hours – Breakfast may be claimed.
2. Travel ends one hour after normal work hours – Dinner may be claimed.
3. Lunch may not be claimed on trips of less than 24 hours.

**Incidental Expenses** – Up to \$6 per day. Incidentals are not reimbursable for one-day trips; they may only be claimed after 24 hours.

**Transportation** – The actual cost of tickets for air, rail, bus, rental car, or other forms of public transportation is reimbursable. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler's itinerary may be submitted in lieu of a receipt.

1. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of \$3.50 or more.
2. Mileage – Personal vehicle mileage is reimbursable at the current federal mileage reimbursement rate established by the IRS that corresponds to the date(s) of travel.

**Other Business Expenses** -- Actual cost is reimbursable. Receipts or documentation are required for all other business expenses, regardless of the amount claimed.

***END OF EXHIBIT 13***

**EXHIBIT 14**

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

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

**CERTIFICATIONS:**

1. Contractor is in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);
2. Contractor is in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of the Title 2 of the Government Code);
3. Contractor does not have any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, that is used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code); and
4. Any policy adopted by a person or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

The certifications made in this document are made under penalty of perjury under the laws of the State of California. I, the official named below, certify that I am duly authorized to legally bind the Contractor to the certifications made in this document.

<i>Contractor Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of _____ in the State of _____</i>

**END OF EXHIBIT 14**