

**MASTER AGREEMENT**

AGREEMENT NUMBER <b>MA-2017-08</b>
TAX IDENTIFICATION NUMBER <b>31-1504710</b>

1. In this Master Agreement (“Agreement”), the term “Contractor” refers to **CEIA USA Ltd.** and the term “Establishing Judicial Branch Entity”, “Establishing JBE” or “Judicial Council” refers to the **Judicial Council of California**. This Agreement is entered into between Contractor and the Establishing JBE for the benefit of the Judicial Branch Entities (as defined in Appendix D). Any Judicial Branch Entity that purchases goods or services from Contractor pursuant to this Agreement is a “Participating Entity” (collectively, “Participating Entities”). The Establishing JBE and the Participating Entities are collectively referred to as “JBEs” and individually as “JBE”).

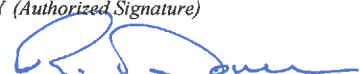
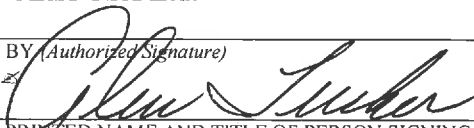
2. This Agreement is effective for an initial two-year term beginning on September 15, 2017 (“Effective Date”) and ending on September 14, 2019 (“Expiration Date”).

This Agreement includes three consecutive one-year Option Terms for a potential maximum of five years (See Appendix C, Section 5 for additional information).

Any termination or non-renewal of this Agreement as provided herein, shall not operate so as to terminate any maintenance service agreement purchased prior to the expiration or non-renewal of the Term.

3. The title of this Agreement is: **Master Agreement for Security Screening Equipment and Maintenance.**  
*The title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.*

4. The parties agree that this Agreement, made up of this coversheet, the appendixes listed below, and any attachments, contains the parties’ entire understanding related to the subject matter of this Agreement, and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties.  
 Appendix A – Goods and Services  
 Appendix B – Payment Provisions  
 Appendix C – General Provisions  
 Appendix D – Defined Terms  
 Appendix E – Prevailing Wage Requirements  
 Appendix F – Unruh Civil Rights Act and FEHA Certification

JUDICIAL COUNCIL OF CALIFORNIA SIGNATURE	CONTRACTOR’S SIGNATURE
<b>Judicial Council of California</b>	<b>CEIA USA Ltd.</b>
BY (Authorized Signature) 	BY (Authorized Signature) 
PRINTED NAME AND TITLE OF PERSON SIGNING Name: <u>Robert Downs</u> Title: <u>Principal Manager</u>	PRINTED NAME AND TITLE OF PERSON SIGNING Name: <b>Alen Tucker</b> Title: <b>Regional Sales Manager</b>
DATE EXECUTED <u>10/2/2017</u>	DATE EXECUTED <b>September 29, 2017</b>
ADDRESS 2850 Gateway Oaks Drive, Suite 300 Sacramento, CA 95833-4348	ADDRESS 9155 Dutton Drive Twinsburg, OH 44087

## **APPENDIX A**

### **GOODS AND SERVICES**

#### **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. “Work” shall mean the Goods, Services, and Deliverables as further described in this Appendix A, Sections 2 and 3, Goods and Services respectively. 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 orders.
- 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 issuing a Purchase Order. A “Purchase Order” is defined as an ordering document used by a JBE to place an order for Work under this Agreement. The form and format of an ordering document may vary. All Purchase Orders will reference this Agreement. The terms and conditions of this Agreement are applicable to all Purchase Orders, regardless of the ordering document or ordering process. Pricing for Work shall be in accordance with the prices set forth in this Agreement. After a Purchase Order has been presented to the Contractor by a JBE, the Contractor shall acknowledge and perform under the Purchase Order in a timely manner. Contractor shall provide the Work for each JBE in accordance with the terms of this Agreement and the applicable Purchase Order.
- 1.3** Purchase Orders issued by a JBE constitute and will be construed as a separate, independent contract between Contractor and such JBE. Such contract will be subject to and incorporate the terms and conditions of this Agreement, provided the following: any additional or supplemental terms and conditions contained in the Purchase Order or in any invoice or confirmation of the Purchase Order that conflict with or materially alter any term or condition of this Agreement, (a) will not be deemed part of such Purchase Order; and (b) will not serve to supersede or modify any provision of this Agreement.
- 1.4** JBEs issuing a Purchase Order under this Agreement will include the name of a JBE contact person in the Purchase Order. Contractor shall contact the JBE’s designated contact regarding questions on any Purchase Order or payment status of any Purchase Order.
- 1.5** The JBE signing the Purchase Order shall be solely responsible for: (i) the acceptance of and payment for the Work under such Purchase Orders; 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 Purchase Order signed by such JBE, nor shall any breach by a JBE under a Purchase Order give rise to a breach under any other Purchase Order 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 Purchase Order), 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.

## 2. Goods

- 2.1 **Description of Goods.** As ordered by each JBE under a Purchase Order, Contractor shall provide to the JBEs the following products, goods, materials, and supplies (“Goods”) free and clear of all liens, claims, and encumbrances, and in accordance with this Agreement.

A. Magnetometer, model HIPE Plus/PZ

Options

- a. Matching assistants side table
- b. Floor anchor system (silicone or concrete anchors)
- c. Wheel attachments
- d. Battery back-up
- e. Remote viewing accessory

B. Magnetometer, model PMD2Plus/PZ

Options

- a. Matching assistants side table
- b. Floor anchor system (silicone or concrete anchors)
- c. Wheel attachments
- d. Battery back-up
- e. Remote viewing accessory

- 2.2 **Packaging.** All products must be delivered in the manufacturer’s standard packaging. Prices shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the Judicial Council or JBE Purchase Order number as well as the name and telephone phone number of the Contractor’s staff member who will be installing the equipment. Each shipment shall include a packing slip showing the Purchase Order number, the ordering date, ordering department (if appropriate), ship-to location, the item number(s), product description(s), serial number(s), quantity ordered, quantity shipped and backordered items including the expected shipping date.

- 2.3 **Delivery.** Delivery shall be made as specified on the Purchase Order. JBEs may not have a loading dock to accept deliveries. Therefore, the Contractor shall assume that all deliveries will be inside deliveries to a specific location as designated by the Judicial Council or JBE and the Judicial Council or JBE shall incur no additional charges for any inside delivery. Specific delivery instructions will be noted on the Purchase Order. Any damage to the JBE’s building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. When damage does occur, it is the responsibility of the Contractor to immediately notify the JBE Project Manager.

Contractor shall arrange for the return of all mis-ordered, mis-shipped, returned or damaged items at no cost to the JBE. There will be no restocking fee for returns of items that are damaged or shipped by the Contractor in error. Contractor shall not charge the JBE for the return of any mis-ordered, mis-shipped or damaged items.

- 2.4 Risk of Loss; Title.** Contractor will deliver the Goods “Free on Board Destination Freight Prepaid”, to the JBEs at the address specified in the applicable Purchase Order. Title to the Goods vests in the applicable JBE upon such JBE’s receipt of the Goods.
- 2.5 Inspection and Acceptance Criteria.** Notwithstanding any prior inspection or payments, all Goods delivered hereunder are subject to final inspection and acceptance or rejection by the JBE at any time within thirty days after delivery to the JBE. All items which are not in compliance with the specifications hereof, which are not as warranted or which are shipped late, shipped in excess or insufficient quantities or substituted for items ordered hereunder may be rejected by the JBE and returned or held at Contractor’s expense and risk. Payment does not constitute an acceptance of the material nor impair the JBE’s right to inspect or any of its remedies
- 2.6 Warranties.** Contractor warrants to the JBEs that the Goods will be merchantable for their intended purposes, free from all defects in materials and workmanship, in compliance with all applicable specifications and documentation, 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 shall not relieve Contractor of its obligations under this warranty.
- 2.7 Inventory.** The JBEs have an ongoing requirement for the Products and Services and Contractor shall maintain access to a reasonable stock of applicable products necessary to ensure prompt delivery to all JBEs for the duration of the Master Agreement. Failure to maintain access to a reasonable stock shall be deemed a material contractual breach.
- 2.8 Estimated Volumes.** No minimum delivery estimate is to be stated in the Master Agreement and neither the Judicial Council nor the JBEs are required to order any Products and Services under the Master Agreement

### 3. Services.

- 3.1 Description of Services.** As ordered by each JBE under a Purchase Order, Contractor shall perform the following services (“Services”) described below for the JBEs. The Services provided under this Agreement are subject to the prevailing wage requirements set forth in Appendix E, Prevailing Wage Requirements. Contractor shall comply with the prevailing wage requirements set forth in Appendix E.
- A. Installation.** All products ordered by the JBEs which require installation shall, as soon as possible after delivery, be completely installed and tested for functionality by Contractor. Contractor shall schedule installation, prior to delivery, with the ordering JBE’s designated individual.
- B. Training.**
- 1) Contractor shall provide to the JBE ordering any Goods or Services a manual which shall include, but not be limited to, instructions on how to operate the

functions, best practices, user tips and tricks, how to read the instruments and how to set-up instruments for different uses; the manual shall be used by those who go through initial training and who will be providing product training to new operators.

- 2) Contractor shall provide a total of four (4) hours of onsite training at the JBE's location for each product described that was purchased by the JBE. Two (2) hours of this training shall be provided at the time the product is installed, fully functioning and accepted by the JBE. The remaining two (2) hours of training shall be provided upon the JBE's request at any time after the initial two (2) hours of training, but no later than twelve (12) months following the date the product was installed, fully functioning and accepted by the JBE. Training personnel provided by Contractor shall possess all requisite skills and knowledge to perform the training.
- 3) Upon request of a JBE, Contractor shall provide onsite training in addition to that described in paragraph 2 above, for the product described in this Appendix A, Section 2.1, Description of Goods, that was purchased by the JBE. Hourly billing rates set forth in Appendix B, Payment Provisions, for additional onsite training as described in this paragraph, shall be inclusive of all related costs, including, but not limited to, labor, travel and materials. Training personnel provided by Contractor shall possess all requisite skills and knowledge to perform the training.

### **C. Onsite Maintenance Services and Support**

- 1) Contractor shall provide five (5) continuous years of onsite maintenance services and support for the products described in this Appendix A, Section 2.1, Description of Goods, which shall commence on the day the purchased product is installed, fully functioning and accepted by the ordering JBE. The onsite maintenance services and support obligations will continue even if this Agreement expires, is terminated, or is not extended. Service agreements for x-ray machines must include an annual preventive maintenance and radiation survey. A copy of the radiation survey must be provided to the ordering JBE.
- 2) Contractor's customer service team shall be on-site within twenty-four (24) hours after a JBE or its representative places a service call. All calls made by a JBE or their representative shall be returned within two (2) hours of the call to confirm time of arrival by Contractor's service representative. Unless otherwise agreed to between Contractor and the JBE or their representative, service shall be performed within the JBE's business hours, which are generally 8 a.m. to 5 p.m. PST, Monday through Friday. Contractor shall also provide maintenance services and support after hours, on holidays and in emergency situations if requested by the JBE or their representative. Onsite service provided outside of regular business hours are billable at the hourly rate set forth in Appendix B, Payment Provisions. The responding Contractor's service representative must possess the knowledge and provide all labor, tools, equipment and parts necessary to perform the requested service.

- 3) Onsite maintenance services and support is the primary vehicle for repair of equipment. Any manufacturer's warranty is considered ancillary to maintenance services and support.
- 4) Contractor shall provide telephone and email support to handle all requests and questions related onsite maintenance services and support.

**D. Customer Service**

- 1) Contractor's customer service process shall ensure that all customer service issues are addressed in a consistent manner, including problem escalation and resolution of onsite maintenance services and support issues. The customer service process includes, but is not limited to:
  - a. Telephone customer service and onsite service organizational structure.
  - b. Contact process (phone, email, fax, etc.).
  - c. Turnaround time for calls received, in normal, holiday, and emergency situations.
  - d. Follow up process.
  - e. Internal procedures to track customer service contact and resolution.
  - f. Escalation process to resolve outstanding customer service and maintenance services and support issues.
  - g. Remedies for not meeting the required onsite maintenance services and support response time for a service call placed by a JBE, with such remedies to include, but not be limited to, providing loaner equipment.
- 2) Contractor Contact Information: Contractor's contact information follows:
  - a. Service and Technical Support:  
Telephone: 330-405-3190; mobile 440-991-6842  
Email: atucker@ceia-usa.com
  - b. Purchase Order Submittal  
Contact Name: Al Tucker, Regional Sales Manager  
Telephone: 330-405-3190 (office)  
440-991-6842 (mobile)  
Email: atucker@ceia-usa.com
  - c. Sales Support  
Contact Name: Al Tucker, Regional Sales Manager  
Telephone: 330-405-3190 (office)  
440-991-6842 (mobile)  
Email: atucker@ceia-usa.com

**3.2 Description of Deliverables.** As ordered by each JBE under a Purchase Order, Contractor shall deliver to the JBEs the following work products (“Deliverables”):

**Reports.** Contractor must provide to the Judicial Council Project Manager, named in Section 5 below, quarterly reports in a form acceptable to the Judicial Council. The quarterly reports must provide a summary, by JBE, of the Goods and Services ordered, including the total value ordered during the quarter reported. The quarterly report must also include serial numbers of the security screening equipment, maintenance services and support coverage or extended maintenance services and support dates for each unit. Quarterly reports must be provided to the Judicial Council Project Manager no later than thirty (30) days after the end of each calendar quarter and must include purchases that are invoiced or paid for with a credit card. The quarterly report must also include a list of products that are manufacturer discontinued within the quarter reported or are scheduled to be manufacturer discontinued within the next twelve (12) month period. The report must include a proposed replacement product for any product that is manufacturer discontinued, as well as pricing for the proposed replacement. Additionally, notification shall be provided of any specification changes in the equipment, particularly dimensions, to a particular model during the contract period.

**3.3 Inspection and Acceptance Criteria.** The Services must meet the following acceptance criteria or the JBE may reject the applicable Services. Contractor will not be paid for any rejected Services.

A designated representative of the JBE will review any completed repairs or maintenance service and approve by signing Contractor's service report. The designated representative must then be given a copy of this approved Contractor's service report.

**3.4 Timeline.** Contractor must perform the Services and deliver the Deliverables according to the following timeline:

The timeline for performance will be set forth by the individual JBEs in their Purchase Order.

**4. Ordering Process**

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 issuing a Purchase Order as further described in this Appendix A, Section 1, Background, Purpose, and Ordering.

**5. Project Managers.**

Each JBE may designate a project manager. The Establishing JBE's project manager is: Edward Ellestad (“Judicial Council Project Manager”). A JBE may change its project manager at any time upon notice to Contractor without need for an amendment to this Agreement. Contractor's project manager is: Paul Rivello. Subject to written approval by the Establishing JBE, Contractor may change its project manager without need for an amendment to this Agreement.

**6. Service Warranties.**

Contractor warrants to the JBEs that: (i) the Services will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and

professional standards used in well-managed operations performing services similar to the Services; and (ii) Contractor will perform the Services in the most cost-effective manner consistent with the required level of quality and performance. Contractor warrants that the Services will conform to the requirements of this Agreement, the applicable Purchase Order and all applicable specifications and documentation. The foregoing warranty shall commence upon the JBE's acceptance of such Service, and shall continue for a period of one (1) year following acceptance. In the event any Service does not conform to the foregoing warranty, Contractor shall promptly correct all nonconformities to the satisfaction of the JBE.

## **7. Resources.**

Contractor is responsible for providing any and all facilities, materials and resources (including personnel, equipment, tools and software) necessary and appropriate for performance of the Services and to meet Contractor's obligations under this Agreement.

## **8. Commencement of Performance.**

This Agreement is of no force and effect until signed by both parties and all Establishing JBE-required approvals are secured. Any commencement of performance prior to Agreement approval (and approval by a JBE of a Purchase Order) shall be at Contractor's own risk.

## **9. Stop Work Orders.**

**9.1** Each JBE may, at any time, by Notice to Contractor, require Contractor to stop all or any part of the Work being provided to such JBE for a period up to ninety (90) days after the Notice is delivered to Contractor, and for any further period to which the JBE and the Contractor may agree ("Stop Work Order"). The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Stop Work Order during the period of stoppage. Within ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, the JBE shall either (i) cancel the Stop Work Order; or (ii) terminate the Work covered by the Stop Work Order as provided for in this Agreement.

**9.2** If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume the performance of the Work. The JBE shall make an equitable adjustment in the delivery schedule and the Purchase Order shall be modified, in writing, accordingly, if:

- A.** The Stop Work Order results in an increase in the time required for performance of any part of the Purchase Order; and
- B.** Contractor requests an equitable adjustment within thirty (30) days after the end of the period of stoppage.

**9.3** The JBEs shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this provision.

## **10. Acceptance or Rejection.**

All Goods, Services and Deliverables are subject to acceptance by each JBE. The JBE may reject any Goods, Services or Deliverables that (i) fail to meet applicable requirements or specifications, including acceptance criteria, (ii) are not as warranted, or (iii) are performed or



delivered late (without prior consent by the JBE). If the JBE rejects any Goods, Service or Deliverable (other than for late performance or delivery), Contractor shall modify such rejected Good, Service or Deliverable at no expense to the JBE to correct the relevant deficiencies and shall redeliver such Good, Service or Deliverable to the JBE within ten (10) business days after the JBE's rejection, unless otherwise agreed in writing by the JBE. Thereafter, the parties shall repeat the process set forth in this section until the JBE accepts such corrected Service or Deliverable. The JBE may terminate the portion of the Purchase Order that relates to a rejected Service or Deliverable at no expense to the JBE if the JBE rejects that Service or Deliverable (i) for late performance or delivery, or (ii) on at least two (2) occasions for other deficiencies.

## **APPENDIX B**

### **PAYMENT PROVISIONS**

#### **1. General.**

Subject to the terms of this Agreement, Contractor shall invoice the JBE, and the JBE shall compensate Contractor, as set forth in this Appendix B. The amounts specified in this Appendix B shall be the total and complete compensation to be paid to Contractor for its performance under this Agreement. Contractor shall bear, and the JBE shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature that Contractor incurs.

All pricing for Goods, including shipping, installation and training, set forth in this Appendix B shall remain fixed for at least the initial two (2) year term of this Master Agreement, as set forth in section 2 of the coversheet of this Master Agreement. All pricing for maintenance service will remain fixed for the Term of this Agreement. If the Judicial Council elects to extend the term of this Master Agreement, the Judicial Council will send a Notice to Contractor per Appendix C, General Provisions, Section 5, Option Terms. The Judicial Council will issue an amendment to this Agreement extending the Term and any agreed upon price adjustments for Goods, shipping, installation and training. In no event will such price adjustment exceed three percent (3%) of the current price.

#### **2. Compensation for Goods and Services.**

**2.1 Goods and Services.** Contractor will invoice the following amounts for Goods and Services that the JBE has accepted.

**Magnetometer, model HIPE Plus/PZ**

Product, including 24 month warranty beginning at the time of installation	Model number: <b>HIPEPlus/PZ</b> Pre-tax price: \$ 2,625.00
Shipping (flat rate)	\$ 175.00
Installation	\$ 250.00
Training	\$ 0 (Included in Installation)
Three Year Maintenance/Service Agreement - continuous years after warranty expiration	\$ 0 (On-Site Parts & Labor Included)
The JBE's may have the option to purchase one-year maintenance agreements after the expiration of the warranty period. Such agreements would be purchased on an annual basis and priced according to the age of the equipment:	
<ul style="list-style-type: none"> <li>• One Year Maintenance/Service Agreement – Equipment Age 3 Years</li> </ul>	\$ 0 (Included as part of warranty)
<ul style="list-style-type: none"> <li>• One Year Maintenance/Service Agreement – Equipment Age 4 Years</li> </ul>	\$ 0 (Included as part of warranty)
<ul style="list-style-type: none"> <li>• One Year Maintenance/Service Agreement – Equipment Age 5 Years</li> </ul>	\$ 0 (Included as part of warranty)
<ul style="list-style-type: none"> <li>• One Year Maintenance/Service Agreement – Equipment Age 6 Years</li> </ul>	\$ 715.00
<ul style="list-style-type: none"> <li>• One Year Maintenance/Service Agreement – Equipment Age 7 Years</li> </ul>	\$ 715.00
<ul style="list-style-type: none"> <li>• One Year Maintenance/Service Agreement – Equipment Age 8 Years</li> </ul>	\$ 715.00
Other costs (please list)	\$ Shipping/Freight of Accessory Options)
Option: matching assistants side table	\$ 467.50
Option: floor anchor system	\$ 0 (Silicone or Concrete Anchors)
Option: wheel attachments	\$ 272.00 (Short Range)
Option: battery back-up	\$ 595.00 (MBSU-2)
Option: remote viewing accessory	\$ 552.00 (RCU2)

### Magnetometer, model PMD2Plus/PZ

Product, including 24 month warranty beginning at the time of installation	Model number: <b>PMD2Plus/PZ</b> Pre-tax price: \$ 4,825.00
Shipping (flat rate)	\$ 175.00
Installation	\$ 250.00
Training	\$ 0 (Included in Installation)
Three Year Maintenance/Service Agreement - continuous years after warranty expiration	\$ 0 (On-Site Parts & Labor Included)
The JBE's may have the option to purchase one-year maintenance agreements after the expiration of the warranty period. Such agreements would be purchased on an annual basis and priced according to the age of the equipment:	
• One Year Maintenance/Service Agreement – Equipment Age 3 Years	\$ 0 (Included as part of warranty)
• One Year Maintenance/Service Agreement – Equipment Age 4 Years	\$ 0 (Included as part of warranty)
• One Year Maintenance/Service Agreement – Equipment Age 5 Years	\$ 0 (Included as part of warranty)
• One Year Maintenance/Service Agreement – Equipment Age 6 Years	\$ 715.00
• One Year Maintenance/Service Agreement – Equipment Age 7 Years	\$ 715.00
• One Year Maintenance/Service Agreement – Equipment Age 8 Years	\$ 715.00
Other costs (please list)	\$ Shipping/Freight of Accessory Options)
Option: matching assistants side table	\$ 467.50
Option: floor anchor system	\$ 0 (Silicone or Concrete Anchors)
Option: wheel attachments	\$ 272.00 (Short Range)
Option: battery back-up	\$ 595.00 (MBSU-2)
Option: remote viewing accessory	\$ 552.00 (RCU2)

### Miscellaneous Services Pricing

Training hourly rate	\$ 120.00
Hourly labor rate for any services provided outside of regular business hours	\$ 150.00

- 3. Expenses.** Except as set forth in this section, no expenses relating to the Goods, Services or Deliverables shall be reimbursed by the JBEs.
- 3.1 Allowable Expenses.** Contractor may submit for reimbursement, without mark-up, only the following categories of expense:
- No allowable expenses under this Agreement
- 3.2 Required Certification.** Contractor must include with any request for reimbursement from the JBE a certification that Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Contractor incurs costs or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the JBE was sought for these costs, and Contractor will provide those records to the Attorney General upon request.

#### **4. Invoicing and Payment.**

**4.1 Invoicing.** Each JBE will be responsible for payment of Goods and Services ordered by the JBE under this Agreement. Contractor shall submit invoices to the individual JBEs in arrears no more frequently than monthly. The JBE has no obligation to pay for Goods or Services until one original and two copies of a correct, itemized invoice is received at the address shown on the JBE's Purchase Order. Each invoice must be printed on Contractor's standard printed bill form, and must include at a minimum (i) the Purchase Order number, (ii) Contractor's name and remit address, (iii) the nature of the invoiced charge, (iv) the total invoiced amount, and (v) such detail as is reasonably necessary to permit JBE to evaluate the Work provided, including without limitation the number of hours worked and the applicable hourly rate. Contractor shall adhere to reasonable billing guidelines issued by the JBE from time to time. Amounts owed to the JBE due to rejections of Goods or, Services or discrepancies in an invoice will be, at the JBE's option, fully credited against future invoices payable by the JBE, or paid by Contractor within thirty days from Contractor's receipt of a debit memo or other written request for payment by the JBE.

**4.2 Payment.** The JBE will pay each correct, itemized invoice received from Contractor after acceptance of the applicable Goods or Services, in accordance with the terms of this Agreement and the applicable Purchase Order. Payment is due thirty days from receipt of a correct, itemized invoice. Notwithstanding any provision to the contrary, payments to Contractor are contingent upon the timely and satisfactory performance of Contractor's obligations.

**4.3 No Advance Payment.** The JBEs will not make any advance payments.

**4.4 No Implied Acceptance.** Payment does not imply acceptance of Contractor's invoice, Goods or Services. Contractor shall immediately refund any payment made in error. The JBE shall have the right at any time to set off any amount owing from Contractor to the JBE against any amount payable by the JBE to Contractor under this Agreement.

#### **5. Taxes.**

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

## APPENDIX C

### GENERAL PROVISIONS

#### 1. Provisions Applicable to Services

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

#### 2. Contractor Certification Clauses.

Contractor certifies to the JBEs that the following representations and warranties, which shall apply to this Agreement and any Purchase Order, are true. Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly notify the JBEs if any representation and warranty becomes untrue. Contractor represents and warrants as follows:

- 2.1 **Authority.** Contractor has authority to enter into and perform its obligations under this Agreement and any Purchase Order, and Contractor's signatory has authority to bind Contractor to this Agreement and any Purchase Order.
- 2.2 **Not an Expatriate Corporation.** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC 10286.1, and is eligible to contract with the JBEs.
- 2.3 **No Gratuities.** Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement (or any Purchase Order) or securing favorable treatment with respect to any determinations concerning the performance of this Agreement (or any Purchase Order).
- 2.4 **No Conflict of Interest.** Contractor has no interest that would constitute a conflict of interest under PCC sections 10365.5, 10410 or 10411; Government Code sections 1090

et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.

- 2.5 No Interference with Other Contracts.** To the best of Contractor's knowledge, this Agreement and any Purchase Order does not create a material conflict of interest or default under any of Contractor's other contracts.
- 2.6 No Litigation.** No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened that may adversely affect Contractor's ability to perform its obligations.
- 2.7 Compliance with Laws Generally.** Contractor complies with all laws, rules, and regulations applicable to Contractor's business and its obligations under this Agreement and any Purchase Order.
- 2.8 Drug Free Workplace.** Contractor provides a drug free workplace as required by California Government Code sections 8355 through 8357.
- 2.9 No Harassment.** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement (and any Purchase Order), and Contractor takes all reasonable steps to prevent harassment from occurring.
- 2.10 Noninfringement.** The Goods, Services, Deliverables, and Contractor's performance under this Agreement (and any Purchase Order) do not infringe, or constitute an infringement, misappropriation or violation of, any third party's intellectual property right.
- 2.11 Nondiscrimination.** Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor will notify in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of nondiscrimination.
- 2.12 National Labor Relations Board Orders.** No more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.

### 3. Insurance

- 3.1 Basic Coverage.** Contractor shall provide to each JBE and maintain at the Contractor's expense the following insurance during the Term:

- 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 is required only if Contractor has employees. The policy must include workers’ compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer’s liability bodily injury at minimum limits of \$1,000,000 per accident or disease.
  - C. *Automobile Liability.* This policy is required only if Contractor uses an automobile or other vehicle in the performance of this Agreement. The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in Contractor’s performance of this Agreement whether owned, non-owned, leased, or hired. The policy must provide combined single limits of at least \$1,000,000 per occurrence.
- 3.2 Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.
- 3.3 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.
- 3.4 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.
- 3.5 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.
- 3.6 Certificates of Insurance.** Before Contractor begins performing Services, 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.



- 3.7 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.
- 3.8 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, the Judicial Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees for loss or damage.
- 3.9 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.
- 3.10 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.
- 4. Indemnity.** Contractor will defend (with counsel satisfactory to the JBE or its designee), indemnify and hold harmless the Judicial Branch Entities and the Judicial Branch Personnel against all claims, losses, and expenses, including attorneys' fees and costs, that arise out of or in connection with: (i) a latent or patent defect in any Goods; (ii) an act or omission of Contractor, its agents, employees, independent contractors, or subcontractors in the performance of this Agreement; (iii) a breach of a representation, warranty, or other provision of this Agreement or any Purchase Order; and (iv) infringement of any trade secret, patent, copyright or other third party intellectual property. 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 Purchase Order, and acceptance of any Goods, Services, or Deliverables. 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.
- 5. Option Terms.** The Establishing JBE may elect to extend this Agreement for up to three consecutive one-year terms (each an "Option Term"), at the end of which Option Terms this Agreement shall expire. In order to exercise an Option Term, the Establishing JBE must send Notice to Contractor at least thirty (30) days prior to the end of the Initial Term (or the then-

current Option Term). The Establishing JBE will issue an amendment to this Agreement extending the Term and any agreed upon price adjustments allowed in this Agreement.

6. **Tax Delinquency.** Contractor must provide notice to the JBEs immediately if Contractor has reason to believe it may be placed on either (i) the California Franchise Tax Board's list of 500 largest state income tax delinquencies, or (ii) the California Board of Equalization's list of 500 largest delinquent sales and use tax accounts. The Establishing JBE may terminate this Agreement immediately "for cause" pursuant to this Appendix C, Section 7.2, Termination for Cause, (and each JBE may terminate its Purchase Order immediately "for cause" pursuant to Section 7.2) if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.

## 7. Termination

- 7.1 **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 Purchase Order) for convenience upon thirty (30) days prior Notice. After receipt of such Notice, and except as otherwise directed by the Establishing JBE (and regarding a Purchase Order, except as otherwise directed by the JBE), Contractor shall immediately: (a) stop Services (or development of Deliverables) as specified in the Notice; and (b) stop the delivery or manufacture of Goods as specified in the Notice.
- 7.2 **Termination for Cause.** The Establishing JBE may terminate this Agreement, in whole or in part, immediately "for cause" (and a JBE may terminate a Purchase Order, 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 Purchase Order, 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 Purchase Order) any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading.
- 7.3 **Termination for 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 Purchase Order. Funding beyond the current appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement (including a Purchase Order). The Establishing JBE may terminate this Agreement (and any JBE may terminate a Purchase Order), 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 Purchase Order) has become infeasible due to changes in applicable laws.

#### **7.4 Rights and Remedies.**

- A. *Nonexclusive Remedies.*** All remedies provided in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Establishing JBE and the affected Participating Entities immediately if Contractor is in default, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement (or a Purchase Order). If Contractor is in default: (i) a JBE may withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement; (ii) a JBE may require Contractor to enter into nonbinding mediation; (iii) the Establishing JBE may exercise, following Notice, the Establishing JBE's right of early termination of this Agreement (and a JBE may exercise its right of early termination of a Purchase Order) as provided herein; and (iv) a JBE may seek any other remedy available at law or in equity.
- B. *Replacement.*** If the Establishing JBE terminates this Agreement (or if a JBE terminates a Purchase Order) in whole or in part for cause, the JBE may acquire from third parties, under the terms and in the manner the JBE considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the JBE for any excess costs for those goods or services. Notwithstanding any other provision, in no event shall the excess cost to the JBEs for such goods and services be excluded as indirect, incidental, special, exemplary, punitive or consequential damages of the JBEs. Contractor shall continue any Work not terminated.
- C. *Delivery of Materials.*** In the event of any expiration or termination of this Agreement (or a Purchase Order), Contractor shall promptly provide the applicable JBE or JBEs with all originals and copies of the Deliverables for such JBE, including any partially-completed Deliverables-related work product or materials, and any JBE-provided materials in its possession, custody, or control. In the event of any termination of this Agreement or Purchase Order, the JBEs shall not be liable to Contractor for compensation or damages incurred as a result of such termination.
- D. *Purchase Order.*** The termination of this Agreement shall not result in the termination of any outstanding Purchase Order that has not been terminated by a JBE, and this Agreement shall continue to apply to any such Purchase Order until such time as all Work under such Purchase Order has been completed by its terms or is terminated as provided in this Section 7; provided, however, that the effective date of such Purchase Order may not exceed the expiration date of this Agreement. Issuance and acknowledgement of any Purchase Order must be completed before the termination or expiration of this Agreement.

- 7.5 *Survival.*** Termination or expiration of this Agreement shall not affect the rights and obligations of Contractor, the Establishing JBE, and the Participating Entities which arose prior to any such termination or expiration (unless otherwise provided herein) and such rights and obligations shall survive any such termination or expiration. Rights and obligations that by their nature should survive shall remain in effect after termination or expiration of this Agreement, including any section of this Agreement that states it shall survive such termination or expiration.

- 8. Assignment and Subcontracting.** Contractor may not assign or subcontract its rights or duties under this Agreement (including any Purchase Order), in whole or in part, whether by operation of law or otherwise, without the prior written consent of the Establishing JBE. Consent may be withheld for any reason or no reason. Any assignment or subcontract made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the parties and their permitted successors and assigns.
- 9. Notices.** Notices must be sent to the following address and recipient:

<b>If to Contractor:</b>	<b>If to the Establishing JBE:</b>
CEIA USA Ltd. Attn: Al Tucker 9155 Dutton Drive Twinsburg, OH 44087	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.

- 10. Provisions Applicable to Certain Agreements.** The provisions in this section are applicable to this Agreement and to any Purchase Order, provided, however that if this Agreement or a Purchase Order is not of the type described in the first sentence of a subsection, then that subsection does not apply to this Agreement or such Purchase Order.

- 10.1 Union Activities Restrictions.** *If the Contract Amount is over \$50,000, this section is applicable.* Contractor agrees that no JBE funds received under this Agreement or any Purchase Order 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.
- 10.2 Domestic Partners, Spouses, Gender, and Gender Identity Discrimination.** *If the Contract Amount is \$100,000 or more, this section is applicable.* Contractor is in compliance with, and throughout the Term will remain in compliance with: (i) PCC 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) PCC 10295.35, which places limitations on contracts with contractors that discriminate in the provision of benefits on the basis of an employee's or dependent's actual or perceived gender identity.
- 10.3 Child Support Compliance Act.** *If the Contract Amount is \$100,000 or more, this section is applicable.* Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the Term) all applicable state and federal laws relating to child and family support enforcement, including disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq. Contractor provides the names of all

new employees to the New Hire Registry maintained by the California Employment Development Department.

- 10.4 Priority Hiring.** *If the Contract Amount is over \$200,000 and this Agreement is for services (other than Consulting Services), this section is applicable.* Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.
- 10.5 Iran Contracting Act.** *If the Contract Amount is \$1,000,000 or more and Contractor did not provide to the Establishing JBE an Iran Contracting Act certification as part of the solicitation process, this section is applicable.* Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“Iran List”) created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending \$20,000,000 or more in credit to another person, for forty-five (45) days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the Establishing JBE to enter into this Agreement (and written permission from each JBE to enter into the applicable Purchase Order) pursuant to PCC 2203(c).
- 10.6 Loss Leader Prohibition.** *If this Agreement (including any Purchase Order) involves the purchase of goods, this section is applicable.* Contractor shall not sell or use any article or product as a “loss leader” as defined in section 17030 of the Business and Professions Code.
- 10.7 Federal Funding Requirements.** *If this Agreement (or a Purchase Order) is funded in whole or in part by the federal government, this section is applicable.* It is mutually understood between the parties that this Agreement (or a Purchase Order) may have been written for the mutual benefit of both parties (or Participating Entities) before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if this Agreement (or a Purchase Order) were executed after that determination was made. This Agreement (or a Purchase Order) is valid and enforceable only if sufficient funds are made available to the Establishing JBE (or the applicable Participating Entity) by the United States Government for the fiscal year in which they are due and consistent with any stated programmatic purpose, and this Agreement (or a Purchase Order) 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 (or a Purchase Order) in any manner. The parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement (or a Purchase Order) is intended to be paid, this Agreement (or Purchase Order) shall be deemed amended without any further action of the parties to reflect any reduction in funds. The Establishing JBE may invalidate this Agreement (and a JBE may invalidate a Purchase Order) under the termination for convenience or cancellation clause (providing for no more than thirty (30) days’ Notice of termination or cancellation), or amend this Agreement (or Purchase Order) to reflect any reduction in funds.

- 10.8 DVBE Commitment.** This section is applicable if Contractor received a disabled veteran business enterprise (“DVBE”) incentive in connection with this Agreement. Contractor’s failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of the Agreement. If Contractor used DVBE subcontractor(s) in connection with this Agreement (or a Purchase Order): (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the Establishing JBE approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must, within sixty (60) days of receiving final payment under each Purchase Order, certify in a report to the applicable JBE: (1) the total amount of money Contractor received under the Purchase Order; (2) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Purchase Order; (3) the amount each DVBE subcontractor received from Contractor in connection with the Purchase Order; and (4) that all payments under the Purchase Order have been made to the applicable DVBE subcontractors. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.
- 10.9 Antitrust Claims.** *If this Agreement resulted from a competitive solicitation, this section is applicable.* Contractor shall assign to the applicable 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 Contractor. If the JBE receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, 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 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. Upon demand in writing by Contractor, the JBE shall, within one (1) year from such demand, reassign the cause of action assigned under this part if 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.
- 10.10 Good Standing.** *If Contractor is a corporation, limited liability company, or limited partnership, and this Agreement (and any Purchase Order) is performed in whole or in part in California, this section is applicable.* Contractor is, and will remain for the Term, qualified to do business and in good standing in California.
- 10.11 Equipment Purchases.** *If this Agreement (or any Purchase Order) includes the purchase of equipment, this section is applicable.* The JBE may, at its option, repair any damaged or replace any lost or stolen items and deduct the cost thereof from Contractor’s invoice to the JBE, or require Contractor to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the JBE at no expense to the JBE. If a theft occurs, Contractor must file a police report immediately.

**10.12 Four-Digit Date Compliance.** *If this Agreement (or any Purchase Order) includes the purchase of systems, software, or instrumentation with imbedded chips, this section is applicable.* Contractor represents and warrants that it will provide only Four-Digit Date Compliant deliverables and services to the JBEs. “Four-Digit Date Compliant” deliverables and services can accurately process, calculate, compare, and sequence date data, including 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 or any Purchase Order.

**10.13 Small Business Preference Commitment.** This section is applicable if Contractor received a small business preference in connection with this Agreement. Contractor’s failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement (and any Purchase Order). Contractor must within sixty (60) days of receiving final payment under this Agreement (and any Purchase Order) report to the 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 seventy-five percent (75%) of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement (and any Purchase Order).

## **11. Miscellaneous Provisions.**

**11.1 Independent Contractor.** Contractor is an independent contractor to the JBEs. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the JBEs. Contractor has no authority to bind or incur any obligation on behalf of the JBEs. If any governmental entity concludes that Contractor is not an independent contractor, the Establishing JBE may terminate this Agreement (and a JBE may terminate a Purchase Order) immediately upon notice.

**11.2 GAAP Compliance.** Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles.

**11.3 Audit.** Contractor must allow the JBEs or their designees to review and audit Contractor’s (and any subcontractors’) documents and records relating to this Agreement (including any Purchase Order), and Contractor (and its subcontractors) shall retain such documents and records for a period of four (4) years following final payment under this Agreement. If an audit determines that Contractor (or any subcontractor) is not in compliance with this Agreement (including any Purchase Order), Contractor shall correct errors and deficiencies by the twentieth (20th) day of the month following the review or audit. If an audit determines that Contractor has overcharged the JBE five percent (5%) or more during the time period subject to audit, Contractor must reimburse the JBE in an amount equal to the cost of such audit. This Agreement (and any Purchase Orders) are subject to examinations and audit by the State Auditor for a period of three (3) years after final payment.

**11.4 Licenses and Permits.** Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by applicable law for the performance of

the Services (including Deliverables) or the delivery of the Services. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any applicable law.

- 11.5 Confidential Information.** During the Term and at all times thereafter, Contractor will: (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement, and (c) refrain from disclosing or permitting others to disclose any Confidential Information to any third party without obtaining the JBE's express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to its employees or contractors who need to know that information in order to perform Services hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this section. The provisions of this section shall survive the expiration or termination of this Agreement and any Purchase Order. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than the greater of reasonable care and industry-standard care. Each JBE owns all right, title and interest in its Confidential Information. Contractor will notify the affected JBE promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the JBE to protect such Confidential Information. Upon a JBE's request and upon any termination or expiration of this Agreement or a Purchase Order, Contractor will promptly (a) return to the JBE or, if so directed by the JBE, destroy all such JBE's Confidential Information (in every form and medium), and (b) certify to the JBE in writing that Contractor has fully complied with the foregoing obligations. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations under this section, that any such breach will likely result in irreparable harm, and that upon any breach or threatened breach of the confidentiality obligations, the JBEs shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.
- 11.6 Ownership of Deliverables.** Unless otherwise agreed in this Agreement, regarding any Deliverables or any other work product to be provided to a JBE, Contractor hereby assigns to such JBE all rights, title, and interest (and all intellectual property rights, including but not limited to copyrights) in and to such Deliverables and work product, any partially-completed Deliverables, and related materials. Contractor agrees not to assert any rights at common law, or in equity, or establish a copyright claim in any of these materials. Contractor shall not publish or reproduce any Deliverable or other work product in whole or part, in any manner or form, or authorize others to do so, without the written consent of the JBE.
- 11.7 Publicity.** Contractor shall not make any public announcement or press release about this Agreement (or any Purchase Order) without the prior written approval of the Establishing JBE (and with respect to any Purchase Order, the prior written approval of the applicable JBE).



- 11.8 Choice of Law and Jurisdiction.** California law, without regard to its choice-of-law provisions, governs this Agreement (including any Purchase Order). The Contractor and the applicable JBEs shall attempt in good faith to resolve informally and promptly any dispute that arises. Jurisdiction for any legal action arising from this Agreement shall exclusively reside in state or federal courts located in California, and the parties hereby consent to the jurisdiction of such courts.
- 11.9 Negotiated Agreement.** This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654.
- 11.10 Amendment and Waiver.** Except as otherwise specified in this Agreement, no amendment or change to this Agreement will be effective unless expressly agreed in writing by a duly authorized officer of the Establishing JBE. A waiver of enforcement of any of this Agreement's terms or conditions by the Establishing JBE is effective only if expressly agreed in writing by a duly authorized officer of the Establishing JBE. Any waiver or failure by a JBE to enforce any provision of this Agreement or Purchase Order on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- 11.11 Follow On Contracting.** No person, firm, or subsidiary who has been awarded a Consulting Services agreement may submit a bid for, nor be awarded an agreement for the providing of services, procuring goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of this Agreement.
- 11.12 Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.
- 11.13 Headings; Interpretation.** All headings are for reference purposes only and do not affect the interpretation of this Agreement. The word "including" means "including, without limitation." Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.
- 11.14 Time of the Essence.** Time is of the essence in Contractor's performance under this Agreement.
- 11.15 Counterparts.** This Agreement may be executed in counterparts, each of which is considered an original.

## **APPENDIX D**

### **DEFINED TERMS**

As used in this Agreement, the following terms have the indicated meanings:

1. **“Agreement”** is defined on the Coversheet.
2. **“Contractor”** is defined on the Coversheet.
3. **“Confidential Information”** means: (i) any information related to the business or operations of each JBE, including information relating to its personnel and users; and (ii) all financial, statistical, personal, technical and other data and information of each JBE (and proprietary information of third parties provided to Contractor) which is designated confidential or proprietary, or that Contractor otherwise knows, or would reasonably be expected to know, is confidential. Confidential Information does not include information that Contractor demonstrates to the JBEs’ satisfaction that: (a) Contractor lawfully knew prior to the JBE’s first disclosure to Contractor, (b) a third party rightfully disclosed to Contractor free of any confidentiality duties or obligations, or (c) is, or through no fault of Contractor has become, generally available to the public.
4. **“Consulting Services”** refers to the services performed under “Consulting Services Agreements,” which are defined in PCC 10335.5, substantially, as contracts that: (i) are of an advisory nature; (ii) provide a recommended course of action or personal expertise; (iii) have an end product that is basically a transmittal of information, either written or oral, that is related to the governmental functions of state agency administration and management and program management or innovation; and (iv) are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type.
5. **“Contract Amount”** means the contract amount of any Purchase Order.
6. **“Coversheet”** refers to the first page of this Agreement.
7. **“Deliverables”** is defined in Appendix A.
8. **“Effective Date”** is defined on the Coversheet.
9. **“Establishing JBE”** is defined on the Coversheet.
10. **“Expiration Date”** is the later of (i) the day so designated on the Coversheet, and (ii) the last day of any Option Term. In the event any individual Purchase Order is in effect at the time of expiration, this Agreement shall remain in effect to govern those individual purchase orders.
11. **“Goods”** is defined in Appendix A.
12. **“Initial Term”** is the period commencing on the Effective Date and ending on the Expiration Date designated on the Coversheet.
13. **“JBEs”** and **“JBE”** are defined on the Coversheet.

14. **“Judicial Branch Entity”** or **“Judicial Branch Entities”** means the Establishing JBE and any other California superior or appellate court, the Judicial Council of California, and the Habeas Corpus Resource Center.
15. **“Judicial Branch Personnel”** means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.
16. **“Notice”** means a written communication from one party to another that is (a) delivered in person, (b) sent by registered or certified mail, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient set forth in Appendix C or in the JBE’s Purchase Order.
17. **“Option Term”** means a period, if any, through which this Agreement may be or has been extended by the Establishing JBE.
18. **“Purchase Order”** is defined in Appendix A.
19. **“Participating Entities”** and **“Participating Entity”** are defined on the Coversheet.
20. **“PCC”** refers to the California Public Contract Code.
21. **“Services”** is defined in Appendix A.
22. **“Stop Work Order”** is defined in Appendix B.
23. **“Term”** comprises the Initial Term and any Option Terms.
24. **“Work”** is defined in Appendix A.

## **APPENDIX E**

### **PREVAILING WAGE REQUIREMENTS**

- (1) The Contractor shall comply with all applicable provisions of the California Labor Code, Division 2, Part 7, Chapter 1, Articles 1 - 5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars (\$1,000). Copies of the prevailing rate of per diem wages are on file with the JBE. In addition, the Contractor and each subcontractor shall comply with Chapter 1 of Division 2, Part 7 of the California Labor Code, beginning with section 1720, and including section 1735 forbidding discrimination, section 1776 pertaining to payroll records, and sections 1777.5 and 1777.6 concerning the employment of apprentices by Contractor or subcontractors. Willful failure to comply may result in penalties, including loss of the right to bid on or receive public works contracts.
- (2) The Contractor and all subcontractors shall pay all workers on work performed pursuant to this Agreement not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed, pursuant to sections 1770 et seq. of the California Labor Code. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Agreement, as determined by Director of the State of California Department of Industrial Relations, are on file at the JBE's principal office. Prevailing wage rates are also available from the JBE or on the internet at (<http://www.dir.ca.gov>).
- (3) Contractor shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its certified payroll records to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations. Labor Code section 1771.1(a) states the following:

"A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by section 7029.1 of the Business and Professions Code or by section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."
- (4) Contractor shall, and shall ensure that all "subcontractors" (as defined by Labor Code section 1722.1), comply with Labor Code section 1725.5, including without limitation the registration requirements with the Department of Industrial Relations that are set forth in Labor Code section 1725.5. Contractor represents to the Judicial Council that all "subcontractors" (as defined by Labor Code section 1722.1) are registered pursuant to Labor Code section 1725.5. Contractor acknowledges that, for purposes of Labor Code section 1725.5, this work is a public work to which Labor Code section 1771 applies.

- (5) Projects under this Agreement are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall post job site notices, as prescribed by regulation. Contractor shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempted by the Labor Commissioner for the project.
- (6) Unless otherwise provided in this Agreement or a Purchase Order, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the work, whether temporary or permanent and whether or not incorporated or to be incorporated in the work. Materials, articles and equipment furnished by the Contractor for incorporation into the work shall be new unless otherwise specified in this Agreement or a Purchase Order.
- (7) Workers are limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week except that pursuant to Labor Code Section 1815, any work performed in excess of 8 hours per day and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of 8 hours per day at not less than 1-1/2 times the basic rate of pay. Pursuant to Labor Code section 1813, the Contractor shall pay the JBE twenty-five dollars (\$25) as a penalty for each worker for each calendar day worked in violation of the above limitations and restrictions.
- (8) The Contractor shall comply with the provisions of the Labor Code including sections 1770 to 1780, inclusive and specifically Section 1775. In accordance with Section 1775, the Contractor shall forfeit to the JBE the statutory amount, (currently not to exceed two hundred dollars (\$200) for each calendar day, or portion thereof), for each worker paid less than the prevailing rates, as determined by the JBE, for the work or craft in which that worker is employed for any work done under contract by Contractor or by any subcontractor.
  - (a) The amount of the penalty shall not be less than forty dollars (\$40) for each calendar day, or portion thereof, unless the failure of Contractor or subcontractor was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of Contractor.
  - (b) The amount of the penalty shall not be less than eighty dollars (\$80) for each calendar day or portion thereof, if Contractor or subcontractor has been assessed penalties within the previous three (3) years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.
  - (c) The amount of the penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, if the Labor Commissioner determines the Contractor or subcontractor willfully violated Labor Code section 1775.
  - (d) The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by Contractor or subcontractor.
- (9) Wage rates set forth are the minimum that may be paid by the Contractor. Nothing herein shall be construed as preventing the Contractor from paying more than the minimum rates set. No extra compensation whatsoever will be allowed by the JBE due to the inability of the Contractor to hire labor at minimum rates, nor for necessity for payment by the Contractor

of subsistence, travel time, overtime, or other added compensations, all of which possibilities are elements to be considered and ascertained to the Contractor's own satisfaction in preparing its proposal.

- (10) If it becomes necessary to employ a craft, classification or type of worker other than those listed on-line at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>, the Contractor shall contact the Division of Labor Statistics and Research to find the appropriate prevailing wage determination. If the Division of Labor Statistics and Research is unable to identify a determination that is applicable, the Contractor shall notify the JBE immediately, and the JBE will request a special determination from the Division of Labor Statistics and Research. The rate thus determined shall be applicable from the commencement of the project.
- (11) The Contractor and each subcontractor shall keep an accurate payroll record showing the names, addresses, social security numbers, work classifications, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor and/or subcontractor in connection with the work. Payroll records shall be certified and shall be on forms provided by the Division of Labor Standards Enforcement, or shall contain the same information as those forms. Upon written request by the JBE, the Contractor's and subcontractor's certified payroll records shall be furnished within ten (10) days. The Contractor's and subcontractor's certified payroll records shall be available for inspection at the principal office of the Contractor.
- (12) Contractor shall pay travel and subsistence payments to persons required to execute the work as travel and subsistence payments are defined in applicable collective bargaining agreements filed with the Department of Industrial Relations, pursuant to Labor Code, Sections 1773.1 and 1773.9.
- (13) Contractor acknowledges and agrees that, if this Agreement involves a dollar amount or any other threshold, if any, greater than those specified in Labor Code section 1777.5, then this Agreement is governed by the provisions of Labor Code section 1777.5. It shall be the responsibility of Contractor to ensure compliance with Labor Code section 1777.5 for all apprenticeship occupations. If Labor Code section 1777.5 applies, then:  
  
Contractor shall only employ properly registered apprentices in the execution of the work. Every apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which the apprentice is employed, and shall be employed only at the work of the craft or trade to which the apprentice is registered.

**APPENDIX F**

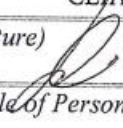
**UNRUH CIVIL RIGHTS ACT AND CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT CERTIFICATION**

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

**CERTIFICATIONS:**

1. We are in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);
2. We are 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); **and**
3. We do 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).

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 proposer/bidder/vendor to certifications made in this document.

<i>Company Name (Printed)</i> CEVA USA Ltd.	<i>Federal ID Number</i> 31-1504710
<i>By (Authorized Signature)</i> 	
<i>Printed Name and Title of Person Signing</i> Luca Cacioli, Director of Operations	
<i>Date Executed</i> 6/1/17	<i>Executed in the County of</i> <u>Summit</u> <i>in the State of</i> <u>Ohio</u>