



## Attachment F & G

**STANDARD TERMS & CONDITIONS**

**SPECIAL TERMS AND CONDITIONS**

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Paint and Paint Related Supplies

Facilities Operations



ADMINISTRATIVE OFFICE  
OF THE COURTS

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OFFICE OF COURT CONSTRUCTION  
AND MANAGEMENT

## ATTACHMENT F

### STANDARD TERMS AND CONDITIONS

#### 1. Indemnification

The Contractor agrees, to the fullest extent permitted by law, to indemnify, defend (with counsel satisfactory to the State), and hold harmless (collectively, "Indemnify") the State, the Judicial Council of California, the Administrative Office of the Courts, the State's trial courts, appellate courts, justices, judges, subordinate judicial officers, court executive officers, court administrators, and any and all of their officers, agents, contractors, representatives, volunteers and employees (individually, an "Indemnified Party") from any and all claims, lawsuits, losses, costs (including attorney fees and costs), liabilities, and damages arising from, related to or in connection with, in whole or in part, any of the following:

- (a) the Contractor's acts, errors or omissions committed or alleged to have been committed which arise out of rendering or failure to render the professional Services provided under the terms of this Agreement
- (b) the Contractor's breach of its obligations under this Agreement,
- (c) the Contractor's violation of any applicable law, rule, or regulation, and
- (d) a claim from or lawsuit by a third party, contractor, subcontractor, supplier, or worker, or any other person, firm, or corporation, (i) furnishing or supplying Services, Services, materials, or supplies in connection with the performance of this Agreement, or (ii) who may be injured or damaged by the Contractor or its agents or employees arising from, related to, or in connection with, the Contractor's performance of this Agreement.

This paragraph does not require the Contractor to Indemnify an Indemnified Party for such portion of any loss, cost, liability, or damage that arises solely from the negligence or intentional misconduct of the Indemnified Party.

#### 2. Relationship of Parties

The Contractor and the agents and employees of the Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

#### 3. Termination for Cause

The State may terminate this Agreement and be relieved of the payment of any consideration to the Contractor if the Contractor fails to perform the provisions of this Agreement at the time and in the manner provided. If the Agreement is terminated, the State may proceed with the Services in any manner it deems proper. The cost to the State to perform this Agreement

shall be deducted from any sum due the Contractor under this Agreement or any other agreement, and the balance, if any, shall be paid to the Contractor upon demand.

4. No Assignment

Without the written consent of the State, the Contractor shall not assign this Agreement in whole or in part.

5. Validity of Alterations

Alteration or variation of the terms of this Agreement shall not be valid unless made in writing and signed by the parties, and an oral understanding or agreement that is not incorporated shall not be binding on any of the parties.

END OF ATTACHMENT F

## ATTACHMENT G

### SPECIAL TERMS AND CONDITIONS

1. Purpose

The purpose of this Master Agreement is to set forth the terms and conditions that apply to Contractor furnishing paint and paint related supplies, as requested in RFP No. TBD (“RFP”) to the AOC and to its purchasing partners. Purchasing partners will be defined as the following groups and is not all inclusive: courts, general subcontractors, maintenance contractors, and other designated subcontractors, referred to collectively as “Using Agencies”.

2. Term

The initial term of this Agreement is five (5) years, with two (2) two-year options to extend the term, which options may be exercised by the AOC in its sole discretion any time prior to the expiration of the initial term. If the AOC elects to extend the term of this Master Agreement, the AOC may negotiate price adjustments applicable during the option period(s) and any agreed-upon price adjustments will be set forth in a written amendment to this Master Agreement.

3. Relationship of Parties

The AOC has the authority to enter into master agreements for goods and services on behalf of the Using Agencies. Individual members of the Using Agencies may elect to utilize this Master Agreement by placing orders, as set forth herein, in which case the terms and conditions of this Master Agreement shall govern such purchase. Any Using Agency member that is not a signatory to this Master Agreement is, and is intended to be, a third party beneficiary of this Master Agreement and has the right to enforce all terms and conditions of this Master Agreement that affect it.

4. Pricing

Contractor shall provide paint and paint related supplies to the Using Agencies pursuant to the terms and conditions of this Agreement. The description and pricing for paint and paint related supplies are set forth in Exhibit D, Pricing Sheets.

5. Ordering

The Using Agencies members may place orders for paint and paint related supplies pursuant to this Agreement by issuance of a Purchase Order. All orders will reference this Master Agreement No. TBD. The form and format of an order form may vary. The Using Agencies will be responsible for receipt of goods and payment pursuant to the terms and conditions set forth in this Agreement. Orders placed by Using Agencies shall be construed as a separate, independent contract between the Contract and such Using

Agency. Any additional or supplemental terms 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 Master Agreement as it relates to a Purchase Order will not be deemed part of such contract.

6. Warranties

Contractor shall pass through all manufacturer supplied end-user warranties to the Purchasing Group member on all goods provided pursuant to this Agreement. Contractor further warrants that all services shall be rendered in a good and workmanlike manner by skilled personnel in compliance with all applicable laws and regulations.

7. Risk of Loss

Contractor shall bear the risk of loss or damage to the ordered products until Contractor delivers the products to the place of business and, if specified by the Using Agency member, the Inside Delivery location indicated on the issued Purchase Order.

8. Packaging and Labeling

All paints and related items must be packed in commercial containers of the type, size and kind appropriate for the product it contains and must be constructed to insure safe delivery and acceptance. All packing and shipping practices are to be in complete compliance with all applicable federal, state and local laws and regulations. All products must comply with pertinent OSHA rules, regulations and guidelines. Violations of shipping and packaging requirements may be grounds for contract cancellation.

All packing of paints and related items, including finishes, solvents, etc., must be labeled with and include the following information:

- Quantity enclosed
- Materials shall be delivered to Project Site in original, new and unopened packages and containers bearing manufacturer's name and label and the following information:
- Name or title of material.
- Product Description (Generic Classification or Binder Type).
- Fed Spec. number, if applicable.
- Manufacturer's stock number and date of manufacturer.
- Manufacturer's name.
- Contents by volume, for major pigment and vehicle constituents.
- Thinning instructions.
- Application instructions.
- Color name and number.

- VOC Content
- EPA # (where applicable)
- CAS # (where applicable)
- Directions for use
- Recommended storage precautions
- The chemical or common name of substances listed in the "Right to Know Workplace Hazardous Substances List" and the names of other substances that are among the five most predominant substances in the container.
- The identity of any product that poses potential hazards to personnel or property; such substances must have a warning label which conforms to all Federal and State requirements and the Worker and Community Right to Know Act. An antidote statement must be included where required. All products must comply with pertinent OSHA rules, regulations and guidelines.

9. Agreement Administration/Communication

- A. Under this Agreement, the State's Project Manager, (PM Name), shall monitor and evaluate the Contractor's performance. All requests and communications about the Services to be performed under this Agreement shall be made through the Project Manager and Acceptance of the Services shall only be made by State's Project Manager. Any Notice from the Contractor to the State shall be in writing and shall be delivered to the State Project Manager as follows:

Project Manager  
 Office of Court Construction and Management  
 Judicial Council of California  
 Administrative Office of the Courts

- B. Notice to the Contractor shall be directed in writing to:

Tel.:  
 Fax:  
 e-mail: Subcontracting

No party to this Agreement shall in any way contract on behalf of or in the name of another party to this Agreement.

10. Changes and Amendments

Changes or Amendments to any component of the Contract Documents can be made only with prior written approval from the State's Senior Manager of Business Services. Requests for changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. After the Project Manager reviews the request, a written decision shall be provided to the Contractor. Amendments to the Agreement shall be authorized via bilateral execution of a State Standard Agreement.

11. Termination Other Than Cause

In addition to termination for cause under Attachment F, Standard Terms and Conditions, paragraph 3, the State may terminate this Agreement at any time upon providing the Contractor written Notice at least ten (10) Days before the effective date of termination.

12. Accounting System Requirement

The Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP.

13. Retention of Records

The Contractor shall 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, a minimum retention period being no less than three (3) years. The retention period starts from the date of the submission of the final payment request. The Contractor is also obligated to protect Data adequately against fire or other damage.

14. Audit

The Contractor shall permit the authorized representative of the State or its designee or both at any reasonable time to inspect or audit all Data relating to performance and billing to the State under this Agreement. The Contractor further agrees to maintain such Data for a period of three (3) years after final payment under this Agreement.

15. Insurance Requirements

Contractor agrees, warrants and represents to each of the Purchasing Group members that Contractor will maintain adequate insurance to cover any liabilities described in this Agreement. Contractor further warrants and represents that Contractor will maintain adequate insurance to cover any public liability, property damage and/or automobile liability for any damage incurred with Contractor's performance of any work on or about the premises or third-party premises to which the goods and services are to be delivered

as indicated on the Purchase Order. Contractor shall maintain proper Workers' Compensation Insurance covering all employees performing under this Agreement.

16. Confidentiality

- A. Both the State and the Contractor acknowledge and agree that in the course of performing the Services under this Agreement, the State may disclose Confidential Information to the Contractor.
- B. The Contractor agrees not to disclose the Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that the Contractor may disclose the State's Confidential Information on a "need to know" basis to the Contractor's employees and, as directed by the Project Manager, representatives of the State that are working on any Project. All such employees of the Contractor shall have executed a confidentiality agreement with the Contractor requiring a promise of confidentiality concerning the Contractor's clients and business.
- C. The Contractor shall acquire no right or title to the Confidential Information. The Contractor agrees not to use the Confidential Information for any purpose except as contemplated pursuant to this Agreement. Notwithstanding the foregoing, the Contractor may disclose the Confidential Information (i) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it; (ii) as appropriate to respond to any summons or subpoena applicable to it; or (iii) to the extent necessary to enforce its rights under this Agreement.

17. Conflict of Interest

- A. The Contractor and employees of the Contractor shall not participate in proceedings that involve the use of State funds or that are sponsored by the State if the person's partner, family, or organization has a financial interest in the outcome of the proceedings. The Contractor and employees of the Contractor shall also avoid actions resulting in or creating the appearance of (1) use of an official position with the government for private gain; (2) preferential treatment to any particular person associated with this Agreement or the Services of this Agreement; (3) loss of independence or impartiality; (4) a decision made outside official channels; or (5) adverse effects on the confidence of the public in the integrity of the government or this Agreement.

- B. The Contractor certifies and shall require any Subcontractor to certify to the following:

Former State employees will not be awarded a contract for two (2) years from the date of separation if that employee had any part of the decision making process relevant to the contract, 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 contract within the twelve (12) month period of his or her separation from state service.



18. Covenant Against Gratuities

The Contractor warrants by signing this Agreement that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the Contractor or any agent, director, or representative of the Contractor, to any officer, official, agent, or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State will have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring, on the open market, any items which the Contractor agreed to supply, shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

19. National Labor Relations Board

By executing this Agreement, the Contractor certifies under penalty of perjury under the laws of the State of California that no more than one (1) final, un-appealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two (2) year period because of the Contractor's failure to comply with an order of the National Labor Relations Board.

20. Drug-Free Work Places

The Contractor certifies that it will provide drug-free work places for all of its operations as required by California Government Code, Sections 8355 through Section 8357.

21. Nondiscrimination/No Harassment Clause

- A. During the performance of this Agreement, the Contractor and any Subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. The Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- B. During the performance of this Agreement, the Contractor and any Subcontractors shall not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom the Contractor or any Subcontractors interact in the performance of this Agreement. The Contractor and any Subcontractors shall take all reasonable steps to prevent harassment from occurring.
- C. The Contractor shall comply with applicable provisions of the Fair Employment and Housing Act, California Government Code, Sections 12990 et seq., and the applicable regulations promulgated under California Code of Regulations, title 2, Sections 7285 et seq. The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code, Section

12990, set forth in chapter 5 of division 4 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full.

- D. The Contractor and any Subcontractors shall give written Notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- E. The Contractor shall include the nondiscrimination/no harassment and compliance provisions of this clause in any and all subcontracts issued to perform Services under the Agreement.

22. Americans with Disabilities Act

By signing this Agreement, Contractor assures the State that it complies with applicable provisions of the Americans with Disabilities Act (“ADA”) of 1990 (42 U.S.C. Sections 012101 et seq.), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.

23. California Law

This Agreement shall be governed by California law without regard to any conflict of law rules that would direct the application of the laws of any other jurisdiction. The Contractor irrevocably consents to personal jurisdiction in California.

24. Severability

If any term or provision of this Agreement is found to be illegal or unenforceable, this Agreement shall remain in full force and effect and that term or provision shall be deemed stricken.

25. Waiver

The omission by either party at any time to enforce any default or right, or to require performance of any of this Agreement's terms, covenants, or provisions by the other party at the time designated, shall not be a waiver of the default or right, nor shall it affect the right of the party to enforce those provisions later.

26. Signature Authority

The parties signing this Agreement certify that they have proper authorization to do so.

27. Survival

The termination or expiration of the Agreement shall not relieve either party of any obligation or liability accrued hereunder prior to or subsequent to such termination or expiration, nor affect or impair the rights of either party arising under the Agreement prior to or subsequent to such termination or expiration, except as expressly provided herein.

28. Entire Agreement

This Agreement, consisting of all documents as defined herein, constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties. No waiver, alteration, modification of, or addition to the terms and conditions contained herein shall be binding unless expressly agreed in writing by a duly authorized representative of the State.

END OF ATTACHMENT G