

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 5-23-70-40-02	PURCHASING AUTHORITY NUMBER (If Applicable)
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1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of General Services, Procurement Division

CONTRACTOR NAME

West Publishing Corporation dba West, A Thomson Reuters Business

2. The term of this Agreement is:

START DATE

July 1, 2023

THROUGH END DATE

June 30, 2028, with two (2) optional two (2) year extensions.

3. The maximum amount of this Agreement is:

\$0.00

Zero Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Statement of Work	15
Exhibit B	Budget Detail and Payment Provisions	1
Exhibit C	General Provisions - Information Technology GSPD-401IT (Effective 06/21/2022) (As Modified)	29
Exhibit D	Cloud Computing SaaS General Provisions (Effective 06/21/2022)	31
Exhibit E	Cloud Computing SaaS Special Provisions (Effective 03/15/2018)	6
Exhibit F	Insurance Requirements	2
Exhibit G	West Proposal and Pricing	30
Exhibit G Attachments I - IV	West General Terms and Conditions, Westlaw Schedule A, Clear Services Schedule A, Account Validation and Certification	65

Items shown with an asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto.*

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

West Publishing Corporation dba West, A Thomson Reuters Business

CONTRACTOR BUSINESS ADDRESS

610 Opperman Drive

CITY

Eagan

STATE

MN

ZIP

55123

PRINTED NAME OF PERSON SIGNING


John S. Nelson

TITLE

Assistant Secretary/Director

CONTRACTOR AUTHORIZED SIGNATURE

John S. Nelson

 Digitally signed by John S. Nelson
Date: 2023.07.28 20:17:55 -05'00'

DATE SIGNED

07/28/2023

Transmittal 2

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 5-23-70-40-02	PURCHASING AUTHORITY NUMBER (If Applicable)
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STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of General Services, Procurement Division

CONTRACTING AGENCY ADDRESS

707 Third Street

CITY

West Sacramento

STATE

CA

ZIP

95605

PRINTED NAME OF PERSON SIGNING

Carol Bangs

TITLE

Chief, Acquisitions Branch

CONTRACTING AGENCY AUTHORIZED SIGNATURE

Carol Bangs

 Digitally signed by Carol Bangs
Date: 2023.07.28 21:39:39 -07'00'

DATE SIGNED

7/28/2023

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

EXHIBIT A: STATEMENT OF WORK

1. STATEMENT OF WORK

- A. The State of California, Department of General Services (DGS" or the State) and West Publishing Corporation dba West, A Thomson Reuters Business ("Contractor" or "West/Westlaw"), agree that Contractor will provide Electronic Information Library Services (EILS) to California state agencies including the Judicial and Legislative branches, and all California political subdivisions/local governments (collectively, "User Agencies) to access proprietary legal research, information, news databases, and print products as set forth in this Statement of Work (SOW). The Master Service Agreement (MSA, Contract or Agreement), which includes this SOW and applicable terms, shall refer to the EILS Contract between DGS and Contractor. User Agreements shall refer to purchase orders or contracts established under the MSA between User Agencies and the Contractor.
- B. A political subdivision/local government is defined as any city, county, city and county, district, or other local governmental body or corporation, including California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds. Each political subdivision/local government should make its own determination whether or not the use of the MSA is consistent with its procurement policies and regulations.
- C. The State reserves the right to revise this SOW in the future to include additional EILS options. Any revisions to the SOW or the Terms and Conditions will be made by amendment to this Agreement as mutually agreed upon by the State and Contractor.

2. TERM

- A. The term of this MSA is for a five (5) year period with two (2) optional extensions to extend for two (2) years. Extensions will be made by amendment to the MSA upon mutual agreement between Contractor and the State at the same rates, terms, and conditions.
- B. In addition to any other provision of this Agreement, the State may terminate this Agreement or cancel a portion of the service(s) for any reason with thirty (30) days written notice. This State's right to terminate for convenience under the Contract does not apply to print program User Agreements, however, print program User Agreements are subject to Exhibit B, paragraph 1, BUDGET CONTINGENCY CLAUSE.
- C. If Contractor fails to commence work at the agreed upon time, the State, upon five (5) days written notice to the Contractor, reserves the right to terminate the Agreement. In addition, the Contractor shall be liable to the State for the actual cost of engaging another contractor to perform the work.

- D. User Agencies' agreements executed before the end of the MSA term may continue for up to twelve (12) months beyond the MSA.

3. ORDER OF PRECEDENCE

- A. In the event of a discrepancy and/or inconsistency between the articles, attachments, or provisions which constitutes this Agreement, the following descending order of precedence shall apply:
- 1) State of California Standard Agreement (STD 213)
 - 2) Exhibit C: General Provisions – Information Technology GSPD-401IT (Effective 06/21/2022) (As Modified)
 - 3) Exhibit D: Cloud Computing General Provisions (Effective 06/21/2022)
 - 4) Exhibit E: Cloud Computing Special Provisions (Effective 03/15/2018)
 - 5) Exhibit A: Statement of Work
 - 6) Exhibit B: Budget Detail and Payment Provisions
 - 7) Exhibit F: Insurance Provisions
 - 8) Exhibit G: West Proposal and Pricing
 - 9) Exhibit G Attachments I – IV: West General Terms and Conditions, Westlaw Schedule A, Clear Services Schedule A, Account Validation and Certification

The order of precedence cannot be amended in any other exhibit, attachment, addendum, or ordering document to this Agreement and shall only be amended upon written amendment by the Department of General Service's Procurement Division and Contractor. Neither Contractor nor any User Agency may amend the order of precedence in its agreement with Contractor.

4. CONTRACT ADMINISTRATORS

- A. All inquiries during the term of this Agreement will be directed to the representatives listed below:

State Contract Administrator	Contractor Contract Administrator
<i>Louis Han 707 3rd Street, 2nd Floor, MS-202 West Sacramento, CA 95605 Phone: (279) 799-3981 Email: Louis.Han@dgs.ca.gov</i>	<i>Mark Martin, Enterprise Business Director, Government 610 Opperman Drive Eagan, MN 55123 Phone: (415) 974-6275 Email: mark.martin@tr.com</i>

- B. Should a representative change, the party shall provide written notice within fourteen (14) calendar days of such change, without need for amendment.

5. RESPONSIBILITIES

- A. Contractor

Contractor is responsible for the following:

1. Perform and deliver the services and/or goods under the MSA as described herein.
2. Respond to orders from User Agencies.
3. Shall not provide any services or products to User Agencies, except those services or products that are specifically within the scope of the MSA as defined in Exhibit G West Proposal, Pricing, and Attachments I - IV.
4. Agree to payment terms and conditions prior to providing a subscribed service or delivery of goods. Payment will be made in accordance with and within the time specified in Government Code, Chapter 4.5 (commencing with Section 927).
5. Local Agency Incentive Fee
 - a. Contractor agrees to remit to DGS an incentive fee of an amount equal to 1.25 percent of quarterly invoiced sales to all local government agencies. This fee shall be added to the Contractor billing and recovered from all local agencies.
 - b. This incentive fee shall not be included in the User Agency's purchase price, nor invoiced separately to the User Agency. All prices quoted to a local agency shall reflect MSA pricing, including any and all applicable discounts, and shall not include add-on fees.
 - c. The Contractor is required to pay to DGS the local agency fee in the form of an electronic payment using DGS-PD LPA Payment Portal or by submitting a check payable to: Department of General Services (DGS), Procurement Division (PD). Contractor must include the Master Agreement Number on the check.
 - d. To submit Incentive Fees through PD EPAY, users must register on the DGS-PD LPA Payment Portal (<https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Access-LPA-Payment-Portal>).
 - e. Contractor's payment of the local agency incentive fee is due whether or not the local agency has paid the Contractor for services.
 - f. Local agency fee checks are due for each quarter as follows:

Department of General Services
Electronic Information Library Services (EILS)

Reporting Period	Due Date
JAN 1 to MAR 31	APR 30
APR 1 to JUN 30	JUL 31
JUL 1 to SEP 30	OCT 31
OCT 1 to DEC 31	JAN 31

g. Local agency fee checks shall be submitted to:

State of California
Department of General Services, Procurement Division
Attention: Master Agreements Program
707 3rd Street, 2nd Floor, MS 2-202
West Sacramento, CA 95605

B. User Agency Responsibilities

The User Agency is responsible for the following:

1. Develop User Agreements and Purchase Orders that include, but are not limited to:
 - a. Scope, budget, schedule, and term;
 - b. Services/Goods required;
 - c. Authorized User information and Locations;
 - d. Deliverables; and
 - e. Payment terms and conditions.
2. Provide business information and data to facilitate the Contractor's work.
3. Designate individual(s) able to make decisions regarding the User Agency's program needs and requirements.
4. Execute and administer the User Agreement.

C. DGS Responsibilities

DGS is responsible for the following:

1. Execute and administer the EILS MSA.
2. Monitor quarterly invoice reports.

3. Collect the Local Agency Fee.

6. PURCHASING

The following terms and conditions apply to purchases made under this MSA.

- A. User Agreement – Prior to rendering services, Contractor and State Agencies and Local Agencies must execute a separate User Agreement that incorporates all the terms of this MSA by reference and may contain additional agency specific terms and conditions, none of which may alter, rescind or conflict with the terms and conditions of this MSA.

For State Agencies, such User Agreement shall be in the form of the Standard Agreement, STD 213 and/or Purchase Order, and for Local Agencies shall be the appropriate equivalent contract form as determined by its procurement policies and regulations. All STD 213s, and/or Purchase Orders, and Local Agency forms must include the MSA number and incorporate by reference all the terms and conditions of the MSA.

- B. User Instructions – User Agencies may purchase under this MSA by following the User Instructions published at the Cal eProcure website:
<https://www.caleprocure.ca.gov/pages/index.aspx>.

- C. Options – Contractor shall provide the following services under this MSA:

Fixed Rate Plans:

1. Option 1 – Legal Research
2. Option 2 – Investigative Research
3. Option 3 – Correctional

Customized Plan:

1. Option 4 – Legal Print Publications Plan
2. Option 5 – Custom Packages

- D. New Databases, Features, Services and Platforms – West may provide new databases, features, services, or platforms released during the term of this MSA (whether “third-party” databases or not). Prior to the Contractor making any new offerings available to the User Agencies, for which there will be additional charges, the State Contract Administrator will be notified of such changes to determine if the changes are a material change to the scope of the MSA and if an MSA Amendment is needed.

Charges for new databases, features, services and platforms may be separate from and/or in addition to the Fixed Monthly Charge. Such charges (if any) shall not be greater than the charges at which such databases, features, services, or platforms are made generally available to West's other government subscribers under Exhibit G, West Attachment 2, Westlaw Schedule A. If any new databases, features, services, or platforms released during the term of this MSA are made generally available to government subscribers as part of their fixed rate agreement for the same subscription content, West will also make these same new databases, features, services, or platforms available to all User Agencies at no extra cost.

- E. Locations – Unless otherwise negotiated with Contractor in the User Agreement, each User Agency location must subscribe separately and access is limited to the agency's personnel at that location. User Agency and Contractor may agree upon multiple location access provided pricing does not exceed pricing detailed under sub-section C, above, Options 1-3.
- F. Authorized Users – Only users as authorized by the User Agency may access and use West products under the terms of this Agreement, and such use must be solely for purposes directly related to the User Agency's research and work.
- G. Passwords – Each user will be assigned a separate password. Passwords may only be used by the person to whom the password is issued. Sharing of passwords between or among users is prohibited. If West learns that the product has been used by a person other than the person to whom the password has been issued, West may suspend, cancel or seek an amendment to the User Agreement to change the number of users in accordance with the Monthly Charge per User pricing detailed under sub-section C, above, Options 1-3.
- H. Password Rates – The Monthly Charge per User under each option will not be prorated. Requests for passwords by new Subscribers or requests for additional passwords by current Subscribers that are processed by West by the last day of a month will be billed the entire Monthly Charge per User for each password request during such month. The Monthly Charge per User for Subscribers that amend their User Agreement to change from one option to another will be effective on the first day of the month following receipt of an executed STD 213 or appropriate equivalent contract form for Local Agencies.
- I. Excluded Charges – User Agencies will receive content packages under sub-section C, above, Options 1A-1D, 2A-2G, and Option 5 as described in this MSA, and specified in the individual User Agreement. Access to and usage of any other databases, features, and services are excluded and will be billed separately as excluded charges.
 - 1. When a user tries to access excluded databases, features, and services, a warning screen will open with a message similar to the following: *Notice:*

[Database name] is not included in your current plan. If you access [database name], you will incur an additional charge.

2. If the user proceeds through the warning screen, the excluded databases, features, and services will be billed to the User Agency as incurred at the applicable then-current MSA rates provided in Exhibit G.
3. Contractor shall provide quarterly invoice reports detailing excluded charges by User Agency. State Agencies with excluded charges in excess of \$4,999.99 may be subject to DGS review of their purchasing activities.

West may make certain databases, features, or services excluded charges if contractually required by a third party data provider. Prior to the Contractor notifying the User Agencies of changes for which there will be additional charges, the State Contract Administrator will be notified of such changes to determine if the changes are a material change to the scope of the MSA and if an MSA Amendment is needed. User Agencies will receive online notification of the change. If this change constitutes a material change, the User Agency may renegotiate the terms of their User Agreement or terminate their User Agreement.

- J. CLEAR Usage – This MSA allows for CLEAR usage up to ten times the CLEAR monthly charges in User Agreements for User Agencies who select subsection C, Option 2 above.. CLEAR usage is calculated by using then-current MSA rates provided in Exhibit G West Attachment III. Agency administrators may view their account's usage via the account tool, QuickView+. In the event the User Agency's CLEAR usage exceeds the CLEAR monthly charges set forth in this subsection J, searching and reporting may continue but Contractor may, at its option:
 1. Limit the User Agency's access to live gateways for the remainder of the month; or
 2. Request that the parties enter into good faith negotiations for a User Agreement amendment to incorporate an adjusted fixed rate or plan change at rates not to exceed those described in Exhibit G.
 3. User Agency and Contractor cannot come to agreement under J.2, then Contractor may terminate the User Agreement with 30-days written notice to User Agency.
- K. Westlaw Public Records Usage – If the transactional value of a User Agency's Westlaw Public Records usage exceeds the Westlaw monthly charges by more than 20 times in any month, Contractor may:
 1. Limit access to live gateways for the remainder of the month; or

2. Request the parties enter into good faith renegotiations for a User Agreement amendment to incorporate excess usage at rates described in Exhibit G.
3. If User Agency and Contractor cannot come to an agreement under Section K.1 or K.2, Contractor may terminate the User Agreement with 30-days written notice to User Agency.

Transactional value of your Westlaw Public Records usage is calculated based upon then-current rates in Exhibit G, Attachment II.

L. Print & Print Programs – Contractor shall provide the following Products and Services:

1. **Print:** West will provide User Agencies a discount of a minimum of 10% off the current listed rate Web pricing (<http://legalsolutions.thomsonreuters.com/law-products/law-books>) for purchase of eligible new print titles, with or without a Westlaw subscription. User Agencies must work with their local sales representative at the time of purchase to receive the discount.
2. **Multi Year Subscription Print Programs:** User Agencies may be eligible for additional discounts from Web pricing (<http://legalsolutions.thomsonreuters.com/law-products/law-books>) through Multi Year Subscription Print Programs such as Assured Print Pricing (APP), Library Management Arrangements (LMA), and West Complete. These Multi Year Subscription Print Programs offer discounts based on purchase volume and length of subscription term. User Agencies must work with their local sales representative to purchase.

M. Ordering Documents – User Agencies shall complete a STD 213, and/or Purchase Order, or appropriate equivalent contract form for Local Agencies, when placing orders. All STD 213s, and/or Purchase Orders, and Local Agency forms must include the MSA number and incorporate by reference all the terms and conditions of the MSA.

In addition to providing a completed, signed STD 213 and/or Purchase Order or similar local agency form, access to and usage of CLEAR under Option 2 requires completion of a current Account Validation and Certification (AVC) Form. A copy of the form is available from the West Representative. Samples of the AVC can be acquired from West before executing User Agreements.

The General Terms and Conditions – Thomson Reuters Legal Products, as modified for this MSA, is attached to Exhibit G and applies to all subscriptions, except software subscriptions. Software subscriptions are governed by the General Provisions – Information Technology GSPD-401IT (Effective 6/21/2022 – As Modified), attached as Exhibit C.

N. Contractor Information – For the purposes of User Agreements, the Contractor shall be:

Legal Contracting Entity:	West Publishing Corporation
Doing Business As (DBA):	West, a Thomson Reuters Business
Corporate Address:	610 Opperman Drive, Eagan, MN 55123
Remittance Address:	P.O. Box 6292, Carol Stream, IL 60197-6292
Federal Tax ID #:	41-1426973
DUNS #:	14-850-8286
Cage Code:	89101

O. Processing – Orders will be processed as follows:

1. Option 4 & Library Management Arrangements (LMA): Service will begin the first day of the first month following receipt of the executed STD 213 and/or Purchase Order, or appropriate equivalent contract form for Local Agencies, provided adequate time is available for implementing the contract. In general, to implement a contract Contractor must receive the fully executed STD 213 and/or Purchase Order, or appropriate equivalent contract form for Local Agencies, no later than five (5) business days prior to the end of the month preceding the start of service.
2. Options 1, 2, 3, 5 & non-Library Management Arrangements (LMA): Service will begin 5-7 days following receipt of a fully executed STD 213, or appropriate equivalent contract form for Local Agencies, and after any necessary credentialing has been completed.

7. DELIVERABLES

The Contractor shall provide the following products and services:

- Descriptions and pricing of Subscription Services and Printed Products are provided in Exhibit G.

8. PRICE ESCALATIONS AND DECLINES

A. Online Subscriptions – Options 1, 2, and 3

1. Price Escalation

Prices shall be fixed for one (1) year starting from MSA effective date. The State and the Contractor have agreed to two percent (2%) annual price increases thereafter. The annual increases are reflected in the MSA pricing listed in Exhibit G. Price increases shall be effective on the first day of each one-year period after the initial MSA 1-year period.

2. Prior to rendering services, Contractor and a California State Agency or Optional User (as applicable) must execute a separate participating agreement that incorporates all of the terms of this MSA by reference and may contain additional specific terms and conditions, none of which may alter,

rescind, or be in conflict with the terms and conditions of this MSA.

B. Print Products

1. Price Escalations

Prices shall be fixed for one (1) year starting from MSA effective date. The State and the Contractor have agreed to annual price increases thereafter. All price increases will reflect a discount of a minimum of 10% off the listed Web pricing for initial purchases. Only one price escalation shall be allowed within any twelve (12) month period.

2. Optional Extensions

The annual increases will also apply to the two (2) optional two-year extensions, if executed. Extensions will be executed by amendment to this Agreement.

C. Print Program Subscriptions (APP & LMA)

Price Escalations

Prices shall be fixed for one (1) year. The State and the Contractor have agreed to six percent (6%) annual price increases for any two (2) year print term or five percent (5%) annual price increases for any three (3) year print term. If Contractor's actual price increases are less than the agreed upon annual six percent (6%) or five percent (5%), the State and all User Agencies will receive full benefit of the lesser increase. Only one price escalation shall be allowed within any twelve (12) month period.

D. Price Decrease – Online Subscriptions, Print Products, and Print Program Subscriptions

Price decreases shall become effective immediately upon any public notification of decreases. Should a price decrease be announced by the Contractor after Contract award, and prior to the State utilizing the services and/or goods, then the Contractor shall pass the savings in total to the State. Any interest, finance, or other charges based on the Contract price will be recomputed using the original bid rates and the differences will also be passed to the State in total. Contractor shall notify the State Contract Administrator with a written notice of price decreases. The price decrease will become effective by amendment to this Agreement.

9. TECHNICAL SUPPORT

A. Contractor shall provide technical and customer support 24/7 at no additional cost.

- B. Contractor shall provide Technical Support to User Agencies 24/7 via phone at 1-800-937-8529. If the phone number changes, Contractor shall notify the State and User Agencies online or in writing, as soon as practical or within five (5) business days.

10. TRAINING

Onsite training, web-based training and online self-training modules will be provided at no charge for all appropriate personnel. All training will be provided for authorized users with a current subscription and an assigned password for no additional charge.

11. SETTLEMENT OF DISPUTES

In the event of a dispute, Contractor shall file a "Notice of Dispute" with the User Agency's Director or their designee within ten (10) days of discovery of the problem.

- A. Except where the State has specifically retained the right in this Agreement to make the final decision on a matter which the Contractor must accept as final, any dispute concerning a question of fact arising under the terms of this Agreement which is not disposed of within a reasonable period of time by the Contractor and the User Agency Contract Administrator shall be brought to the attention of the Chief Executive Officer (or designated representative) of the User Agency for joint resolution. At the request of either party, the State shall provide a forum for discussion of the disputed item(s), at which time the Deputy Director, Procurement Division of the Department of General Services, or a representative, shall be available to assist in the resolution by providing advice to both parties to the State's policies and procedures. If agreement cannot be reached, either party may assert its other rights and remedies under this Agreement or with a court of competent jurisdiction.
- B. The rights and remedies of the State above are not be exclusive and are in addition to any other rights and remedies provided by law or under the Agreement. Contractor shall continue with the responsibilities under this Agreement during any dispute.

12. CANCELLATION/TERMINATION

The State may terminate this Agreement for cause and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

- A. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the Contract.
- B. Contract termination or cancellation shall be effective as of the date indicated in the State's notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.

- C. Notwithstanding any other provision of this Agreement or of law, if during the term and any extensions of this Agreement, the US government adopts or promulgates a law, regulation or policy prohibiting the State from entering into the contractual arrangement described in the Agreement, this Agreement shall immediately become void and of no further effect. Any sums otherwise due to the Contractor under this Agreement or by any other remedy of law for services performed shall be forfeited.

13. REPORTING

- A. Contractor shall submit quarterly invoice reports in an Excel spreadsheet for all User Agencies to the State's Contract Administrator no later than the end of the month following the quarterly period.
- B. Contractor shall remit a quarterly report to the Department of General Services for service performed and/or goods purchased under this Agreement. The quarterly reports include, but are not limited to, the following information:
1. Date of each agency transaction
 2. User Agency name (department, agency, etc.)
 3. State or Local Agency
 4. Invoice number issued by the Contractor
 5. Corresponding User Agency User Agreement, Purchase Order or Contract number
 6. Plan or option purchases
 7. Add-on Content
 8. Excluded Charges
 9. Type of Service or Product purchased
 10. List Price, Contract Price, and total amount of invoice
 11. Local Agency Fee

The State reserves the right to request additional reporting information or to change the reporting requirements and/or format at any time without an amendment to this Agreement.

- C. Tax must not be included in the report, even if it is on the Purchase Order. Reports are due each quarter as follows:

Reporting Period	Due Date
JAN 1 to MAR 31	APR 30
APR 1 to JUN 30	JUL 31
JUL 1 to SEP 30	OCT 31
OCT 1 to DEC 31	JAN 31

- D. The State Contract Administrator will provide Contractor with a reporting template upon award. The State reserves the right to modify the reporting template or require Contractor to provide additional User Agreement information during the term of this MSA.
- E. Reports are required even if there is no activity during the reporting period.
- F. Any reports that do not follow the required format or that exclude information will be deemed incomplete. Contractor will be responsible for submitting corrected reports within five (5) business days of the date of written notification from the State. Failure to submit accurate reports and/or check payments on a timely basis may constitute grounds for contract suspension.

14. EXECUTIVE ORDER N-6-22 – RUSSIA SANCTIONS

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

15. Specific Statutory Reference

Any reference to certain statutes in this Agreement shall not relieve the Contractor from the responsibility of complying with all other statutes applicable to the service furnished thereunder.

16. Employment Of Undocumented Workers

Contractor certifies that it has not, in the preceding five (5) years, been convicted of violating a state or federal law regarding the employment of undocumented workers.

17. Federal Debarment

The US Department of Labor requires that State Agencies which are expending federal funds of twenty-five thousand dollars (\$25,000) or more, have in the contract file, a certification by the Contractor that it has not been debarred or suspended from doing business with the fUS government. Each Contractor must provide this documentation upon request.

18. Severability

If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision, which most closely approximates the intent and economic effect of the invalid provision.

19. Publicity and Acknowledgement

The Contractor agrees that it will acknowledge User Agency support whenever projects funded, in whole or in part, by this Agreement are publicized in any news media, brochures, or other type of promotional material. Contract must obtain written approval from the State is required for the Contractor prior to making public releases pertaining to the Agreement or User Agreement, unless otherwise specified by the State.

20. Waste Reduction

In the performance of this Agreement, the Contractor shall take all reasonable steps to ensure that materials purchased or consumed in the course of the project are utilized both effectively and efficiently to minimize the generation of waste. The steps should include, but not necessarily be limited to, the use of reusable products, the use of recyclable and compostable products, discretion in the amount of materials used, the provision of alternatives to disposal for materials consumed, and the practice of other waste reduction measures where feasible and appropriate.

21. Health and Safety

A. Contractor and all subcontractors shall abide by all health and safety mandates issued by federal, state, and local governments and/or public health officers as well as those issued by DGS, and worksite specific mandates. If multiple mandates exist, the Contractor and subcontractors shall abide by the most restrictive mandate. The term

“employee”, “worker”, “state worker” or “state employee” in health and safety mandates includes Contractor’s and subcontractor’s personnel.

B. Costs associated with adhering to health and safety mandates are the responsibility of the Contractor. Contractor is responsible for the tracking and compliance of health and safety mandates and may be audited upon written request.

22. Small Businesses (SB) and Disabled Veteran Business Enterprise (DVBE) Certification

If Contractor bid as a certified SB or DVBE, Contractor shall remain SB or DVBE certified for the entire term of the MSA. Failure to maintain SB or DVBE certification may result in termination of the MSA.

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EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS

1. BUDGET CONTINGENCY CLAUSE

It is mutually agreed that if the budget act of the current fiscal year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the budget act for purposes of this program, the State shall have the option to either: cancel this Agreement with no liability incurred by the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

2. INVOICES

A. Submission of Invoices

The Contractor shall submit itemized invoices to the User Agency contact person at the address contained in the User Agency's Subsidiary Agreement. The information is mandatory information to be provided for all invoices:

1. DGS MSA Contract Number
2. User Agency Purchase Order Number
3. User Agency Billing Code
4. User Agency Name
5. User Agency Address
6. Description of services ordered (specific services purchased, tier number, total number of Eligible Persons, etc.)
7. Appropriate pricing information, which shall not exceed rates listed in Exhibit G.

B. The User Agency contact person will verify and approve, or disapprove, the invoiced items. If the User Agency does not approve the invoiced items, the invoice will be disputed and returned to the Contractor for correction.

3. PAYMENT

Payment for services performed under this Contract will be made upon satisfactory completion of services rendered and receipt of goods. The Contractor shall invoice User Agencies monthly in arrears.

4. PROMPT PAYMENT CLAUSE

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

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- 1. Definitions:** Unless otherwise specified in the Statement of Work, the following terms shall be given the meaning shown, unless context requires otherwise.
- a) “Acceptance Tests” means those tests performed during the Performance period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.
 - b) “Application Program” means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.
 - c) “Attachment” means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment manufacturer that is not connected by the Contractor.
 - d) “Business entity” means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability company, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
 - e) “Buyer” means the State’s authorized contracting official.
 - f) “Commercial Hardware” means Hardware developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
 - g) “Commercial Software” means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
 - h) “Contract” or “Agreement” means this Contract or Agreement (including any purchase order), by whatever name known or in whatever format used.
 - i) “Custom Software” means Software that does not meet the definition of Commercial Software.
 - j) “Contractor” means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with “supplier”, “vendor” or other similar term.
 - k) “Data Processing Subsystem” means a complement of Contractor furnished individual Machines, including the necessary controlling elements (or the functional equivalent), Operating Software and Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor supplied power and/or signal

GENERAL PROVISIONS – INFORMATION TECHNOLOGY (As Modified)

cables, e.g., direct access controller and drives, a cluster of terminals with their controller, etc.

- l) "Data Processing System (System)" means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors), Operating Software which are acquired to operate as an integrated group.
- m) "Deliverables" means Goods, Software, Information Technology, telecommunications technology, Hardware, and other items (e.g. reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.
- n) "Designated CPU(s)" means for each product, if applicable, the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific "Designated CPU(s)" are specified on the Contract, the term shall mean any and all CPUs located at the site specified therein.
- o) "Documentation" means manuals and other printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Work Product if such materials are required by the Statement of Work.
- p) "Equipment" is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software (if any).
- q) "Equipment Failure" is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment's intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment's intended functions shall be deemed to be an Equipment Failure.
- r) "Facility Readiness Date" means the date specified in the Statement of Work by which the State must have the site prepared and available for Equipment delivery and installation.
- s) "Goods" means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).
- t) "Hardware" usually refers to computer Equipment and is contrasted with Software. See also Equipment.
- u) "Installation Date" means the date specified in the Statement of Work by which the Contractor must have the ordered Equipment ready (certified) for use by the State.
- v) "Information Technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.
- w) "Machine" means an individual unit of Data Processing System or Subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical,

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- electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc.
- x) "Machine Alteration" means any change to a Contractor-supplied Machine which is not made by the Contractor, and which results in the Machine deviating from its physical, mechanical, electrical, or electronic (including microcode) design, whether or not additional devices or parts are employed in making such change.
 - y) "Maintenance Diagnostic Routines" means the diagnostic programs customarily used by the Contractor to test Equipment for proper functioning and reliability.
 - z) "Manufacturing Materials" means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.
 - aa) "Mean Time Between Failure (MTBF)" means the average expected or observed time between consecutive failures in a System or component.
 - bb) "Mean Time to Repair (MTTR)" means the average expected or observed time required to repair a System or component and return it to normal operation.
 - cc) "Operating Software" means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
 - dd) "Operational Use Time" means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operational Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.
 - ee) "Period of Maintenance Coverage" means the period of time, as selected by the State, during which maintenance services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.
 - ff) "Preventive Maintenance" means that maintenance, performed on a scheduled basis by the Contractor, which is designed to keep the Equipment in proper operating condition.
 - gg) "Principal Period of Maintenance" means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.
 - hh) "Programming Aids" means Contractor-supplied programs and routines executable on the Contractor's Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base management systems, and utility routines (tape-to-disk routines, disk-to-print routines, etc.).

GENERAL PROVISIONS – INFORMATION TECHNOLOGY (As Modified)

- ii) "Program Product" means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.
- jj) "Remedial Maintenance" means that maintenance performed by the Contractor which results from Equipment (including Operating Software) failure, and which is performed as required, i.e., on an unscheduled basis.
- kk) "Software" means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.
- ll) "Software Failure" means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.
- mm) "State" means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.
- nn) "System" means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.
- oo) "U.S. Intellectual Property Rights" means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

2. CONTRACT FORMATION:

- a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor's bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
- b) If this Contract results from a solicitation other than described in paragraph a), above, the Contractor's quotation or proposal is deemed a firm offer and this Contract document is the State's acceptance of that offer.
- c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.

- 3. **COMPLETE INTEGRATION:** This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.

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4. **SEVERABILITY:** The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
 - a) The State and the Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California. The Contractor agrees to indemnify the State against any loss, cost, damage or liability by reason of the Contractors violation of this provision.
 - b) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - c) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
 - d) If this Contract is in excess of \$554,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
 - e) To the extent that this Contract falls within the scope of Government Code Section 11135, the Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.
8. **CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, the Contractor avers that it will not enter into any

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arrangement with any third party which might abridge any rights of the State under this Contract.

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

9. ASSIGNMENT: This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State in the form of a formal written amendment. The State's consent shall not be unreasonably withheld or delayed. For the purpose of this paragraph, the State will not unreasonably prohibit the Contractor from freely assigning its right to payment, provided that the Contractor remains responsible for its obligations hereunder.

10. WAIVER OF RIGHTS: Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

11. PACKING AND SHIPMENT:

- a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
 - i. show the number of the container and the total number of containers in the shipment; and
 - ii. the number of the container in which the packing sheet has been enclosed.
- b) All shipments by the Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.
- c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

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- 12. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.
- a) The Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.
 - b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
 - c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, the Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.
- 13. DELIVERY:** The Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If the Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess Deliverables, and may return them to Contractor at the Contractor's expense or utilize any other rights available to the State at law or in equity.
- 14. SUBSTITUTIONS:** Substitution of Deliverables may not be tendered without advance written consent of the Buyer. The Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.
- 15. INSPECTION, ACCEPTANCE AND REJECTION:** Unless otherwise specified in the Statement of Work:
- a) When acquiring Commercial Hardware or Commercial Software, the State shall rely on Contractor's existing quality assurance system as a substitute for State inspection and testing. For all other acquisitions, Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and services under this Contract and will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. The Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. The Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of the Contractor's

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- quality assurance System or other similar business practices related to performance of the Contract.
- b) All Deliverables may be subject to inspection and test by the State or its authorized representatives.
 - c) The Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. The Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
 - d) Subject to subsection 15 (a) above, all Deliverables may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
 - e) The State shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the Deliverables do not substantially conform to their specifications. If the State does not provide such notice of rejection within fifteen (15) days of delivery for purchases of Commercial Hardware or Commercial Software or thirty (30) days of delivery for all other purchases, such Deliverables and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.
 - f) Unless otherwise specified in the Statement of Work, title to Equipment shall remain with the Contractor and assigns, if any, until such time as successful acceptance testing has been achieved. Title to a special feature installed on a Machine and for which only a single installation charge was paid shall pass to the State at no additional charge, together with title to the Machine on which it was installed.

16. SAMPLES:

- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the Contract.
- b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at the Contractor's expense.

17. WARRANTY:

- a) Unless otherwise specified in the Statement of Work, the warranties in this subsection a) begin upon delivery of the goods or services in question and end one (1) year thereafter. The Contractor warrants that (i) Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and

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- incorporated the same or equivalent in the Statement of Work directly or by reference, the Contractor will warrant that its Deliverables provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, the Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.
- b) The Contractor warrants that Deliverables furnished hereunder (i) will be free, at the time of delivery, of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, the Contractor will, upon the State's request, provide a new or clean install of the Software.
- c) Unless otherwise specified in the Statement of Work:
- i. The Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.
 - ii. The Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by the Contractor, (B) use of Software in combination with or on products other than as specified by the Contractor, or (C) misuse by the State.
 - iii. Where the Contractor resells Commercial Hardware or Commercial Software it purchased from a third party, Contractor, to the extent it is legally able to do so, will pass through any such third-party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth above.
- d) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.
- e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and the Contractor's sole obligation will be limited to:
- i. re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or service; or
 - ii. should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or services of equivalent capability, function, and performance. The payment obligation in

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subsection (e)(ii) above will not exceed the limits on the Contractor's liability set forth in the Section entitled "Limitation of Liability."

- f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, THE CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

18. SAFETY AND ACCIDENT PREVENTION: In performing work under this Contract on State premises, the Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. The Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

19. INSURANCE: The Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance required under the Contract. The Contractor shall furnish insurance certificate(s) evidencing required insurance coverage acceptable to the State, including endorsements showing the State as an "additional insured" if required under the Contract. Any required endorsements requested by the State must be separately provided; merely referring to such coverage on the certificates(s) is insufficient for this purpose. When performing work on State owned or controlled property, Contractor shall provide a waiver of subrogation in favor of the State for its workers' compensation policy.

20. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, the Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any services supplied to the State under this Contract, and relieve the State of any further obligation therefore.
- b) The State agrees that if it appears likely that subsection a) above will be invoked, the State and Contractor shall agree to take all reasonable steps to prioritize work and Deliverables and minimize the incurrence of costs prior to the expiration of funding for this Contract.
- c) THE STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, COMMERCIAL HARDWARE AND SOFTWARE THAT HAS NOT BEEN PAID FOR SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. THE STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO THE CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY (As Modified)**21. TERMINATION FOR THE CONVENIENCE OF THE STATE:**

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - i. Stop work as specified in the Notice of Termination.
 - ii. Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continuing portion of the Contract.
 - iii. Terminate all subcontracts to the extent they relate to the work terminated.
 - iv. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts;
- c) After termination, the Contractor shall submit a final termination settlement proposal to the State in the form and with the information prescribed by the State. The Contractor shall submit the proposal promptly, but no later than 90 days after the effective date of termination, unless a different time is provided in the Statement of Work or in the Notice of Termination.
- d) The Contractor and the State may agree upon the whole or any part of the amount to be paid as requested under subsection (c) above.
- e) Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience, the State will pay the Contractor the following amounts; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed:
 - i. The Contract price for Deliverables or services accepted or retained by the State and not previously paid for, adjusted for any savings on freight and other charges; and
 - ii. The total of:
 - A. The reasonable costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but excluding any cost attributable to Deliverables or services paid or to be paid;
 - B. The reasonable cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract; and
 - C. Reasonable storage, transportation, demobilization, unamortized overhead and capital costs, and other costs reasonably incurred by the Contractor in winding down and terminating its work.

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- f) The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

22. TERMINATION FOR DEFAULT:

- a) The State may, subject to the clause titled “Force Majeure” and to sub-section d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
 - i. Deliver the Deliverables or perform the services within the time specified in the Contract or any amendment thereto;
 - ii. Make progress, so that the lack of progress endangers performance of this Contract; or
 - iii. Perform any of the other provisions of this Contract.
- b) The State’s right to terminate this Contract under sub-section a) above, may be exercised only if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State’s cure notice, which in no event will be less than fifteen (15) days, unless the Statement of Work calls for a different period.
- c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire, under terms and in the manner the Buyer considers appropriate, Deliverables or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Deliverables and services, including without limitation costs third party vendors charge for Manufacturing Materials (but subject to the clause entitled “Limitation of Liability”). However, the Contractor shall continue the work not terminated.
- d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed by the Buyer, any:
 - i. completed Deliverables,
 - ii. partially completed Deliverables, and,
 - iii. subject to provisions of sub-section e) below, Manufacturing Materials related to the terminated portion of this Contract. Nothing in this sub-section d) will be construed to grant the State rights to Deliverables that it would not have received had this Contract been fully performed. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.
- e) The State shall pay Contract price for completed Deliverables delivered and accepted and items the State requires the Contractor to transfer under section (d) above. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and Buyer shall attempt to agree on the amount of payment for Manufacturing Materials and other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will

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constitute a dispute under the Disputes clause. The State may withhold from these amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

- f) If, after termination, it is determined by a final decision that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) Both parties, State and Contractor, upon any termination for default, have a duty to mitigate the damages suffered by it.
- h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled "Limitation of Liability."

23. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

24. FORCE MAJEURE: Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

25. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

- a) In the event any Deliverables furnished or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.
- b) In addition to any other rights and remedies the State may have, the State may require the Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.

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- c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor (but subject to the clause entitled “Limitation of Liability”).
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to the Contractor or to make a claim against the Contractor.

26. LIMITATION OF LIABILITY:

- a) Except as may be otherwise approved by the Department of General Services Deputy Director, Procurement Division or their designee, Contractor’s liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price. For purposes of this sub-section a), “Purchase Price” will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), “Purchase Price” will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that the Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply (i) to any liability under the General Provisions entitled “Compliance with Statutes and Regulations” (ii) to liability under the General Provisions, entitled “Patent, Copyright, and Trade Secret Indemnity” or to any other liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for death, bodily injury to persons or damage to real or tangible personal property caused by the Contractor’s negligence or willful misconduct; or (iv) to costs or attorney’s fees that the State becomes entitled to recover as a prevailing party in any action.
- c) The State’s liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State’s sovereign immunity or any other immunity from suit provided by law.
- d) In no event will either the Contractor, third party or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that the Contractor’s liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that the Contractor’s liability for such damages arises out of sub- section b)(i), b)(ii), or b)(iv) above.
- e) Damages are limited to the total price of the User Agency’s purchase order for the deliverable(s) or service(s) that gave rise to the claim, such that the Contractor will have a separate limitation of liability for each purchase order.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY (As Modified)**27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:**

- a) The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
- b) The Contractor shall not be liable for damages arising out of or caused by an alteration or an Attachment not made or installed by the Contractor, or for damage to alterations or Attachments that may result from the normal operation and maintenance of the Deliverables provided by the Contractor during the Contract.

28. INDEMNIFICATION: The Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of the Contractor or any of its affiliates, agents, subcontractors, employees, suppliers, or laborers furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

29. REQUIRED PAYMENT DATE: Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than forty-five (45) days after (i) the date of acceptance of Deliverables or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

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- 30. TAXES:** Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.
- 31. NEWLY MANUFACTURED GOODS:** All Goods furnished under this Contract shall be newly manufactured Goods or certified as new and warranted as new by the manufacturer; used or reconditioned Goods are prohibited, unless otherwise specified.
- 32. CONFIDENTIALITY OF DATA:** All financial statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the state and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession without obligation of confidentiality, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.
- 33. NEWS RELEASES:** Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Contract shall not be made without prior written approval of the Department of General Services.
- 34. DOCUMENTATION:**
- a) The Contractor agrees to provide to the State, at no charge, all Documentation as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the Equipment or Software provided hereunder. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.
 - b) If the Contractor is unable to perform maintenance or the State desires to perform its own maintenance on Equipment purchased under this Contract then upon written notice by the State the Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the State to maintain the Equipment based on the Contractor's methodology. The Contractor agrees that the State may reproduce such Documentation for its own use in maintaining the Equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the State may have hired to maintain the Equipment to use the

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above noted Documentation. The State agrees to include the Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by the Contractor.

35. RIGHTS IN WORK PRODUCT:

- a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including the Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be the Contractor's exclusive property. The provisions of this sub-section a) may be revised in a Statement of Work.
- b) Software and other materials developed or otherwise obtained by or for the Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If the Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Section 35 will be construed to interfere with the Contractor's or its affiliates' ownership of Pre-Existing Materials.
- c) The State will have Government Purpose Rights to the Work Product as Deliverable or delivered to the State hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any State government purpose. Such recipients of the Work Product may include, without limitation, State Contractors, California local governments, the U.S. federal government, and the State and local governments of other states. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.
- d) The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by the Contractor or jointly by the Contractor and the State may be used by either party without obligation of notice or accounting.
- e) This Contract shall not preclude the Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

36. SOFTWARE LICENSE: Unless otherwise specified in the Statement of Work, the Contractor hereby grants to the State and the State accepts from the Contractor, subject to the terms and conditions of this Contract, a perpetual, irrevocable, royalty free, non-exclusive license to use the Software Products in this Contract (hereinafter referred to as "Software Products").

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- a) The State may use the Software Products in the conduct of its own business, and any division thereof.
- b) The license granted above authorizes the State to use the Software Products in machine-readable form on the Computer System located at the site(s) specified in the Statement of Work. Said Computer System and its associated units (collectively referred to as CPU) are as designated in the Statement of Work. If the designated CPU is inoperative due to malfunction, the license herein granted shall be temporarily extended to authorize the State to use the Software Products, in machine-readable form, on any other State CPU until the designated CPU is returned to operation.
- c) By prior written notice, the State may redesignate the CPU in which the Software Products are to be used provided that the redesignated CPU is substantially similar in size and scale at no additional cost. The redesignation shall not be limited to the original site and will be effective upon the date specified in the notice of redesignation.
- d) Acceptance of Commercial Software (including third party Software) and Custom Software will be governed by the terms and conditions of this Contract.

37. PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA:

- a) The State agrees that all material appropriately marked or identified in writing as proprietary, and furnished hereunder are provided for the State's exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of the Contractor. The State agrees to take all reasonable steps to insure that such proprietary data are not disclosed to others, without prior written consent of the Contractor, subject to the California Public Records Act.
- b) The State will insure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed.
- c) The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to licensed software and other proprietary data to satisfy its obligations in this Contract with respect to use, copying, modification, protection and security of proprietary software and other proprietary data.

38. RIGHT TO COPY OR MODIFY:

- a) Any Software Product provided by the Contractor in machine-readable form may be copied, in whole or in part, in printed or machine-readable form for use by the State with the designated CPU, to perform one-time benchmark tests, for archival or emergency restart purposes, to replace a worn copy, to understand the contents of such machine-readable material, or to modify the Software Product as provided below; provided, however, that no more than the number of printed copies and machine-readable copies as specified in the Statement of Work will be in existence under this Contract at any time without prior written consent of the Contractor. Such consent shall not be unreasonably withheld by the Contractor. The original, and any copies of the Software Product, in whole or in part, which are made hereunder shall be the property of the Contractor.
- b) The State may modify any non-personal computer Software Product, in machine-readable form, for its own use and merge it into other program material. Any portion of the Software

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Product included in any merged program material shall be used only on the designated CPUs and shall be subject to the terms and conditions of the Contract.

39. FUTURE RELEASES: Unless otherwise specifically provided in this Contract, or the Statement of Work, if improved versions, e.g., patches, bug fixes, updates or releases, of any Software Product are developed by the Contractor, and are made available to other licensees, they will be made available to the State at no additional cost only if such are made available to other licensees at no additional cost. If the Contractor offers new versions or upgrades to the Software Product, they shall be made available to the State at the State's option at a price no greater than the Contract price plus a price increase proportionate to the increase from the list price of the original version to that of the new version, if any. If the Software Product has no list price, such price increase will be proportionate to the increase in average price from the original to the new version, if any, as estimated by the Contractor in good faith.

40. ENCRYPTION/CPU ID AUTHORIZATION CODES:

- a) When Encryption/CPU Identification (ID) authorization codes are required to operate the Software Products, the Contractor will provide all codes to the State with delivery of the Software.
- b) In case of inoperative CPU, the Contractor will provide a temporary encryption/CPU ID authorization code to the State for use on a temporarily authorized CPU until the designated CPU is returned to operation.
- c) When changes in designated CPUs occur, the State will notify the Contractor via telephone and/or facsimile/e-mail of such change. Upon receipt of such notice, the Contractor will issue via telephone and/or facsimile/e-mail to the State within twenty-four (24) hours, a temporary encryption ID authorization code for use on the newly designated CPU until such time as permanent code is assigned.

41. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY:

- a) Contractor will indemnify, defend, and save harmless the State, its officers, agents, and employees, from any and all third-party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any Intellectual Property Right by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this Section). The provisions of the preceding sentence apply only to third party computer Hardware or Software sold as a distinct unit and accepted by the State.

Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this Section will be conditional upon the following:

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- i. The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - ii. The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (a) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (b) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise which approval will not unreasonably be withheld or delayed; and (c) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Should the Deliverables, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall permit the Contractor, at its option and expense, either to procure for the State the right to continue using the Deliverables, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Deliverables by the State shall be prevented by injunction the Contractor agrees to take back such Deliverables and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other Deliverables acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables and refund any sums the State has paid the Contractor less any reasonable amount for use or damage.
- c) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
- i. The combination or utilization of Deliverables furnished hereunder with Equipment, Software or devices not made or furnished by the Contractor; or,
 - ii. The operation of Equipment furnished by the Contractor under the control of any Operating Software other than, or in addition to, the current version of Contractor-supplied Operating Software; or
 - iii. The modification initiated by the State, or a third party at the State's direction, of any Deliverable furnished hereunder; or
 - iv. The combination or utilization of Software furnished hereunder with non-contractor supplied Software.

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- d) The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

42. DISPUTES:

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Contractor shall submit to the contracting Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. The contracting Department Director or designee shall have thirty (30) days after receipt of Contractor's written demand invoking this Section "Disputes" to render a written decision. If a written decision is not rendered within thirty (30) days after receipt of the Contractor's demand, it shall be deemed a decision adverse to the Contractor's contention. If the Contractor is not satisfied with the decision of the contracting Department Director or designee, the Contractor may appeal the decision, in writing, within fifteen (15) days of its issuance (or the expiration of the thirty (30) day period in the event no decision is rendered by the contracting department), to the Department of General Services, Deputy Director, Procurement Division, who shall have forty-five (45) days to render a final decision. If the Contractor does not appeal the decision of the contracting Department Director or designee, the decision shall be conclusive and binding regarding the dispute and the Contractor shall be barred from commencing an action in court, or with the Victims Compensation Government Claims Board, for failure to exhaust Contractor's administrative remedies.
- b) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the State's instructions regarding this Contract. Contractor's failure to diligently proceed in accordance with the State's instructions regarding this Contract shall be considered a material breach of this Contract.
- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Deputy Director, Procurement Division if an appeal was made. If the Deputy Director, Procurement Division fails to render a final decision within forty-five (45) days after receipt of the Contractor's appeal for a final decision, it shall be deemed a final decision adverse to the Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days

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following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

- d) For disputes involving purchases made by the Department of General Services, Procurement Division, the Contractor shall submit to the Department Director or designee a written demand for a final decision, which shall be fully supported in the manner described in subsection a) above. The Department Director or designee shall have thirty (30) days to render a final decision. If a final decision is not rendered within thirty (30) days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contention. The final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- e) The dates of decision and appeal in this section may be modified by mutual consent, as applicable, excepting the time to commence an action in a court of competent jurisdiction.
- f) Except for State's intellectual property infringement or a Suspension event as provided in Section 9(b) of the Contractor's Thomson Reuters General Terms and Conditions, Contractor shall continue with the responsibilities under this Agreement during any dispute.

43. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period up to forty-five (45) days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the 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 work stoppage. Within a period of forty-five (45) days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
 - i. Cancel the Stop Work Order; or
 - ii. Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
 - i. The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
 - ii. The Contractor asserts its right to an equitable adjustment within 60 days after the end of the period of work stoppage; provided, that if the State decides the facts

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justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.

- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Contractor for loss of profits because of a Stop Work Order issued under this clause.

44. EXAMINATION AND AUDIT: The Contractor agrees that the State or its designated representative shall have the right to review and copy any records and supporting documentation directly pertaining to performance of this Contract. The Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. The Contractor agrees to allow the auditor(s) access to such records during normal business hours and in such a manner so as to not interfere unreasonably with normal business activities and to allow interviews of any employees or others who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract. The State shall provide reasonable advance written notice of such audit(s) to the Contractor.

45. FOLLOW-ON CONTRACTS:

- a) If the Contractor or its affiliates provides Technical Consulting and Direction (as defined below), the Contractor and its affiliates:
 - i. will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction; and
 - ii. will not act as consultant to any person or entity that does receive a Contract described in sub-section (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.
- b) "Technical Consulting and Direction" means services for which the Contractor received compensation from the State and includes:
 - i. development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;
 - ii. development or design of test requirements;
 - iii. evaluation of test data;
 - iv. direction of or evaluation of another Contractor;
 - v. provision of formal recommendations regarding the acquisition of Information Technology products or services; or
 - vi. provisions of formal recommendations regarding any of the above. For purposes of this Section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by,

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controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.

- c) To the extent permissible by law, the Director of the Department of General Services, or designee, may waive the restrictions set forth in this Section by written notice to the Contractor if the Director determines their application would not be in the State's best interest. Except as prohibited by law, the restrictions of this Section will not apply:
 - i. to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
 - ii. where the State has entered into a master agreement for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.
- d) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

46. COVENANT AGAINST GRATUITIES: The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer 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 shall 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 clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

47. NONDISCRIMINATION CLAUSE:

- a) During the performance of this Contract, the Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave.
- b) During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic

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information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

- c) The Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. The Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- d) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

48. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: The Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.

49. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

- a) The Government Code Chapter on Antitrust claims contains the following definitions:
- i. "Public purchase" means a purchase by means of competitive bids of Goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - ii. "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
- b) In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body 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

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Division 7 of the Business and Professions Code), arising from purchases of Goods, materials or other items, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

- c) If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

50. DRUG-FREE WORKPLACE CERTIFICATION: The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace;
 - ii. the person's or organization's policy of maintaining a drug-free workplace;
 - iii. any available counseling, rehabilitation and employee assistance programs; and,
 - iv. penalties that may be imposed upon employees for drug abuse violations.
- c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
 - i. will receive a copy of the company's drug-free policy statement; and,
 - ii. will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

51. FOUR-DIGIT DATE COMPLIANCE: Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty

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terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

52. SWEATFREE CODE OF CONDUCT:

- a) Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the Contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.
- b) The Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine the Contractor's compliance with the requirements under paragraph (a).

53. RECYCLED CONTENT REQUIREMENTS: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material (as defined in the Public Contract Code (PCC) Section 12200-12209), in products, materials, goods, or supplies offered or sold to the State that fall under any of the statutory categories regardless of whether the product meets the requirements of Section 12209. The certification shall be provided by the Contractor, even if the product or good contains no postconsumer recycled material, and even if the postconsumer content is unknown. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205 (b)(2)). A state agency contracting officer may waive the certification requirements if the percentage of postconsumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet web site. Contractors are to use, to the maximum extent economically feasible in the performance of the contract work, recycled content products (PCC 12203(d)). With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

54. ELECTRONIC WASTE RECYCLING ACT OF 2003: The Contractor certifies that it complies with the applicable requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code. The Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

55. AMERICANS WITH DISABILITIES ACT: The Contractor assures the State that the Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

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- 56. USE TAX COLLECTION:** In accordance with PCC Section 10295.1, the Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise the State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
- 57. EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1, and is eligible to contract with the State.
- 58. DOMESTIC PARTNERS:** For contracts over \$100,000 executed or amended after January 1, 2007, the Contractor certifies that the Contractor is in compliance with Public Contract Code Section 10295.3.
- 59. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**
- a) If for this Contract the Contractor made a commitment to achieve small business participation, then the Department requires the Contractor upon completion of this Contract (or within such other time period as may be specified elsewhere in this Contract) to report the actual percentage of small business participation that was achieved. (Govt. Code § 14841)
 - b) If for this Contract the Contractor made a commitment to achieve the disabled veteran business enterprise (DVBE) participation goal, then, pursuant to Mil. & Vets. Code § 999.5(d), upon completion of this Contract, the Department requires the Contractor to certify using the Prime Contractor's Certification – DVBE Subcontracting Report (STD 817), all of the following:
 - i. the total amount the prime Contractor received under the Contract;
 - ii. the name, address, Contract number and certification ID number of the DVBE(s) that participated in the performance of this Contract;
 - iii. the amount and percentage of work the prime Contractor committed to provide to one or more DVBE(s) under the requirements of the Contract and the total payment each DVBE received from the prime Contractor;
 - iv. that all payments under the Contract have been made to the DVBE(s); and
 - v. the actual percentage of DVBE participation that was achieved. Upon request,
 - vi. the prime Contractor shall provide proof of payment for the work.

If for this Contract the Contractor made a commitment to achieve the DVBE participation goal, the Department will withhold \$10,000 from the final payment, or the full final payment if less than \$10,000, until the Contractor complies with the certification requirements above. A Contractor that fails to comply with the certification requirement shall, after written notice, be allowed to cure the defect. Notwithstanding any other law, if, after at least 15 calendar days but not more than 30 calendar days from the date of written notice, the prime contractor refuses to comply with the certification requirements, the Department shall permanently deduct \$10,000 from the final payment, or the full payment if less than \$10,000. (Mil. & Vets. Code § 999.7)

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A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841)

Contractor agrees to comply with the rules, regulations, ordinances, and statutes that apply to the DVBE program as defined in Section 999 of the Mil. & Vets. Code, including, but not limited to, the requirements of Section 999.5(d). (PCC Code § 10230)

- 60. APPROVAL:** This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
- 61. AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
- 62. CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
- 63. TIMELINESS:** Time is of the essence in this Agreement.
- 64. COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
- 65. CHILD SUPPORT COMPLIANCE ACT:** For any Agreement in excess of \$100,000, the Contractor acknowledges in accordance with Public Contract Code 7110, that:
- a) The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - b) The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 66. PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
- 67. LOSS LEADER:** If this Contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

GENERAL PROVISIONS – INFORMATION TECHNOLOGY – CLOUD COMPUTING – SOFTWARE as a SERVICE (SaaS)

THESE CLOUD COMPUTING – SOFTWARE AS A SERVICE (SaaS) GENERAL PROVISIONS ARE ONLY TO BE USED FOR SOFTWARE AS A SERVICE, AS DEFINED BELOW, AND ANY ANCILLARY SERVICES. THE CLOUD COMPUTING SERVICES SPECIAL PROVISIONS ARE INCORPORATED BY REFERENCE UNLESS SPECIFICALLY MODIFIED AND ATTACHED HERETO. THIS CONTRACT SHALL BE ACCOMPANIED BY A STATEMENT OF WORK (SOW) AND SERVICE LEVEL AGREEMENT (SLA), IN ADDITION TO STANDARD EXHIBITS.

1. DEFINITIONS:

Unless otherwise specified in the Statement of Work, the following terms shall be given the meaning shown, unless context requires otherwise.

- a) **"Application Program"** means a computer program that is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application Programs are developed or otherwise acquired by the User of the Hardware/Software system, but they may be supplied by the Contractor.
- b) **"Buyer"** means the State's authorized contracting official.
- c) **"Contract"** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
- d) **"Contractor"** means the business entity with whom the State enters into this Contract. Contractor shall be synonymous with supplier, vendor, Reseller, Service Provider, or other similar term.
- e) **"Customer"** means the State or an Eligible Public Entity using the Contractor's or the Service Provider's Services.
- f) **"Deliverables"** means the tangible products or works of authorship and other items (e.g. reports) to be delivered pursuant to this Contract, including any such items furnished that are incidental to the provision of Services.
- g) **"Documentation"** means manuals and other published materials necessary or useful to the State in its use or maintenance of the products and Services provided hereunder and includes online materials, virtual help, and help desk where available. In addition, manuals and other published materials customized for the State hereunder constitute Work Product as defined below.

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- h) **“Eligible Public Entity”** means each of the non-State public entities authorized to purchase the Deliverables and Services offered hereunder. “Eligible Public Entity” includes the county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the State. “Eligible Public Entity” also includes a federally-recognized tribal entity acting in its tribal governmental capacity.
- i) **“Goods”** means all types of tangible personal property, including but not limited to materials, supplies, and equipment (including computer and telecommunications equipment).
- j) **“Hardware”** refers to computer equipment and is contrasted with Software.
- k) **“Information Technology”** includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite system controls, simulation, electronic commerce, and all related interaction between people and machines.
- l) **“Maintenance”** includes: i) remedial maintenance performed by the Contractor which results from a Services failure and which is performed as required, i.e., on an unscheduled basis; and ii) the maintenance performed on a scheduled basis by the Contractor.
- m) **“Reseller”** means the agent(s) of the Service Provider or the business entity authorized by the Service Provider to resell the Services or perform aspects of this Contract as specified herein including, but not limited to sales, fulfillment, invoicing, returns, and customer service.
- n) **“Service Provider”** means the Contractor, subcontractors, agents, Resellers, third parties and affiliates of the Contractor, the cloud service provider, or managed service provider who may provide the Services agreed to under the Contract.
- o) **“Services”** means the cloud computing services, including Software as a Service (but not Infrastructure as a Service or Platform as a Service), and any related services, offered to the State by the Contractor herein.
- p) **“Software”** means an all-inclusive term which refers to any computer

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programs, routines, or subroutines supplied by the Contractor, including operating Software, Application Programs, and enabling software (“Software Products”) that the State downloads to the State’s systems to facilitate use of the Service.

- q) **“Software as a Service (SaaS)”** is the capability provided to the Customer to use applications made available by the Service Provider running on a cloud infrastructure. The applications are accessible from various client devices through a thin client interface such as a web browser (e.g., web-based email). The Customer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
- r) **“State”** means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.
- s) **“State Data”** means all data owned by the State, and submitted to, processed by, or stored by the Service Provider under this Contract and includes, but is not limited to, all data that originated with the State or Users, all data provided by the State or Users, and data generated, manipulated, produced, reported by or otherwise emanating from or by applications run by the State or Users on the Services. For clarity, State Data is synonymous with “Customer Data”, “Customer Content”, or similar terms, as used in various provisions of the service agreements and incorporated into the Contract and includes the following:
 - i. **“Non-Public Data”** means data submitted to the Service Provider, other than Personal Data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the State because it contains information that may be exempt by statute, regulation, or policy from access by the general public as public information.
 - ii. **“Personal Data”** means Personal Information as defined by the California Information Practices Act (Civil Code sections 1798 et seq.) submitted to the Service Provider.

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- iii. "Public Information" means any information prepared, owned, used, or retained by the State and not specifically exempt from the disclosure requirements of the California Public Records Act (Government Code section 6250 et. seq.) or other applicable state or federal laws. For clarity, "Public Information" is also interchangeable with "Public Data".
- t) "**Statement of Work**" (or "**SOW**") means a document provided by the State which defines the timeline, and specifies the objectives, Services, Deliverables and tasks that the Contractor is expected to perform, their responsibilities and expectations, indicating the type, level and quality of service that is expected, all of which form a contractual obligation upon the Contractor in providing Services to the State. The SOW includes detailed technical requirements and pricing, with permitted modifications ("carve-outs") to the SaaS General and Special Provisions.
- u) "**User**" means any authorized end user of the Services under this Contract and includes Customer's employees, subcontractors, or any system utilized by the Customer to access the Services, whose compliance with the terms of this Contract is the responsibility of the Customer.
- v) "**U.S. Intellectual Property Rights**" means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

2. CONTRACT FORMATION:

- a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with section 10290), 3 (commencing with section 12100), and 3.6 (commencing with section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor's bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
- b) If this Contract results from a solicitation other than described in paragraph a), above, the Contractor's quotation or proposal is deemed a firm offer and this Contract document is the State's acceptance of that offer.
- c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.

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3. COMPLETE INTEGRATION:

This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.

4. SEVERABILITY:

The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.

5. INDEPENDENT CONTRACTOR:

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

6. APPLICABLE LAW:

This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

7. COMPLIANCE WITH STATUTES AND REGULATIONS:

- a) The State and the Contractor warrant and certify that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California, including the California Information Practices Act (Civil Code sections 1798 et seq.). The Contractor agrees to indemnify, defend, and save harmless the State against any loss, cost, damage or liability by reason of the Contractor's violation of this provision.
- b) The State will notify the Contractor of any such claim in writing and tender the defense thereof within reasonable time.
- c) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its

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own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services or the Department of Technology, as applicable, will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and

(iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

- d) If this Contract is in excess of \$554,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
- e) To the extent that this Contract falls within the scope of Government Code section 7405, the Contractor will be responsible to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or Services. The State shall designate an authorized representative who will be responsible for submission to Contractor of complaints received by the State regarding the accessibility of Contractor's products and Services. Contractor shall be responsible to review and respond to all complaints regarding accessibility brought to the attention of the State. The State and Contractor shall work together to determine a reasonable response and resolution of all complaints. The State acknowledges that Contractor can satisfy its duty to respond to and resolve complaints under this provision by taking action it deems appropriate under the circumstances, which may in some instances include no further action beyond responding to the complaint.

8. CONTRACTOR'S POWER AND AUTHORITY:

The Contractor warrants that it has full power and authority to grant the rights herein granted and will reimburse the State for any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty.

Further, the Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this Contract.

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its

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own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services or the Department of Technology, as applicable, will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and

(iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

9. ASSIGNMENT:

This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. The State's consent shall not be unreasonably withheld or delayed. For the purpose of this paragraph, the State will not unreasonably prohibit the Contractor from freely assigning its right to payment, provided that the Contractor remains responsible for its obligations hereunder.

10. WAIVER OF RIGHTS:

Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. Except as specifically set forth in Section 13 (Warranty) below, the rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

11. ORDER OF PRECEDENCE:

In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:

- a) These Cloud Computing - Software as a Service General Provisions (In the instances provided herein where the paragraph begins: "Unless otherwise specified in the Statement of Work" provisions specified in the Statement of Work replacing these paragraphs shall take precedence over the paragraph referenced in these General Provisions);
- b) Contract form, e.g., Purchase Order STD 65, Standard Agreement STD 213, FI\$Cal generated Purchase Order, etc., and any amendments thereto;
- c) The Cloud Computing Special Provisions – Software as a Service (hereafter referred to as, the "SaaS Special Provisions"), which are incorporated by

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reference unless specifically modified and attached hereto, and other Special Provisions;

- d) Statement of Work, including any specifications incorporated by reference herein;
- e) Cost worksheets;
- f) The Service Provider's service agreement and attachments; and
- g) All other attachments incorporated in the Contract by reference.

12. INSPECTION, ACCEPTANCE AND REJECTION:

Unless otherwise specified in the Statement of Work:

- a) When acquiring SaaS, the State shall rely on Contractor's existing quality assurance system as a substitute for State inspection and testing.
- b) For all other acquisitions, Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and Services under this Contract and will tender to the State only those Deliverables and Services that have been inspected and found to conform to this Contract's requirements. The Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. The Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of the Contractor's quality assurance system or other similar business practices related to performance of the Contract.
- c) In the event any Goods or Deliverables furnished by the Contractor in the performance of the Contract should fail to conform to the requirements herein, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly without expense to the State.

13. WARRANTY:

- a) Limited Warranty for Services. Unless otherwise specified in the Statement of Work, Contractor warrants that Services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and:
 - i. Services will be performed in accordance with the Contract; and

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- ii. All customer support for Services will be performed with professional care and skill.
- b) **Duration of Limited Warranty.** The limited warranty will be for the duration of State's use of the Services, unless the underlying Service Provider's warranty is shorter in duration, in which case the parties will specify the length of the applicable limited warranty in the Statement of Work. This limited warranty is subject to the following limitations:
 - i. any implied warranties, guarantees, or conditions not able to be disclaimed as a matter of law last for one year from the start of the limited warranty;
 - ii. the limited warranty does not cover problems caused by the State's accident, abuse or use in a manner inconsistent with this Contract or any applicable service agreement, or resulting from events beyond Contractor's reasonable control;
 - iii. the limited warranty does not apply to components of Software that the State may be permitted to redistribute;
 - iv. the limited warranty does not apply to free, trial, pre-release, or beta Services; and
 - v. the limited warranty does not apply to problems caused by the State's failure to meet minimum system requirements.
- c) **Remedies for breach of Limited Warranty.** Unless otherwise specified in the Statement of Work, if Contractor fails to meet any of the above limited warranties and the State notifies Contractor within the warranty period, then the State's remedy and the Contractor's obligation will be re-performance, repair, replacement, or refund of fees paid. In the event the Contractor fails to re-perform, repair, replace, or refund fees paid for the products and/or Services as appropriate, the State may terminate the Contract.
- d) **Warranty for Software Products.** Any Software Products provided by the Service Provider shall be covered by the developer's consumer warranty that will be passed to the Customer.
- e) **DISCLAIMER OF OTHER WARRANTIES.** OTHER THAN THIS LIMITED WARRANTY, CONTRACTOR PROVIDES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS. CONTRACTOR DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES, OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR

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PURPOSE, SATISFACTORY QUALITY, OR TITLE. THESE DISCLAIMERS WILL APPLY UNLESS APPLICABLE LAW DOES NOT PERMIT THEM.

- f) Contractor shall ensure that the Service Provider shall apply anti-malware controls to the Services to help avoid malicious software gaining unauthorized access to State Data, including malicious software originating from public networks. Such controls shall at all times equal or exceed the controls consistent with the industry standards for such data, but in no event less than the controls that Contractor applies to its own internal corporate electronic data of like character.
- g) Unless otherwise specified elsewhere in the Contract:
 - i. The Contractor does not warrant that any Services provided hereunder is error-free or that it will run without immaterial interruption; and
 - ii. The Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from:
 - a. a modification made by the State, unless such modification is approved or directed by the Contractor,
 - b. use of Services in combination with software or services other than as specified by the Contractor, or
 - c. misuse by the State.
- h) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or Services.

14. SAFETY AND ACCIDENT PREVENTION:

In performing work under this Contract on State premises, the Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. The Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

15. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature or the United States Congress, if

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applicable. If funds to effect such continued payment are not appropriated, the Contractor agrees to terminate any services supplied to the State under this Contract, and relieve the State of any further obligation therefor.

- b) The State agrees that if it appears likely that subsection a) above will be invoked, the State and Contractor shall agree to take all reasonable steps to prioritize work and minimize the incurrence of costs prior to the expiration of funding for this Contract.

16. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, or the Department of Technology, Deputy Director, Statewide Technology Procurement, or designee, as applicable, shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof, which shall be no less than fifteen (15) days from the Notice of Termination date.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately stop work as specified in the Notice of Termination, regardless of any delay in determining or adjusting any amounts due under this clause.
- c) After termination, the Contractor shall submit a final termination settlement proposal to the State in the form and with the information prescribed by the State except that in no instance shall the Contractor seek nor will the State pay for Services not utilized or costs not specified on an order for Services regardless of Contractors' liability or costs for materials, equipment, Software, facilities, or sub-contracts. The Contractor shall submit the proposal promptly, but no later than thirty (30) days after the effective date of termination, unless a different time is provided in the Statement of Work or in the Notice of Termination.
- d) The Contractor and the State may agree upon the whole or any part of the amount to be paid or refunded as requested under subsection (c) above;
- e) Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience.
 - i. The State will pay the Contractor the Contract price for Services accepted or utilized by the State; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been

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fully performed.

- f) The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

17. TERMINATION FOR DEFAULT:

- a) The State may, subject to the clause titled “**18. Force Majeure**”, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
 - i. Perform the Services within the time specified in the Contract or any amendment thereto;
 - ii. Make progress, so that the lack of progress endangers performance of this Contract; or
 - iii. Perform any of the other provisions of this Contract.
- b) The State's right to terminate this Contract under subsection a) above, may be exercised only if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State's cure notice, which in no event will be less than thirty (30) days, unless otherwise provided.
- c) Both parties, State and Contractor, upon any termination for default, have a duty to mitigate the damages suffered by it. The State shall pay Contract price for completed and accepted Deliverables and Services.
- d) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled “**20. Limitation of Liability.**”

18. FORCE MAJEURE:

Except for defaults of subcontractors at any tier, and any Contractor responsibilities concerning disaster recovery and/or business continuity, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and

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- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

19. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

- a) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any subsequent loss or damage sustained by the State in procuring any Deliverables or Services which the Contractor agreed to supply shall be borne and paid for by the Contractor (but subject to the clause entitled "Limitation of Liability"); and
- b) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to the Contractor or to make a claim against the Contractor therefore.

20. LIMITATION OF LIABILITY:

- a) Except as may be otherwise approved by the Department of General Services Deputy Director, Procurement Division or their designee, or the Department of Technology, Deputy Director, Statewide Technology Procurement, or designee, as applicable, Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price. For purposes of this subsection a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or Service(s) that gave rise to the loss, such that the Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply:
 - i. to any liability under provisions herein entitled "Compliance with Statutes and Regulations";
 - ii. to liability under provisions herein entitled "Patent, Copyright, and Trade Secret Indemnity" or to any other liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights;

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- iii. to claims arising under provisions herein calling for indemnification for third party claims against the State for death, bodily injury to persons or damage to real or tangible personal property caused by the Contractor's negligence or willful misconduct;
 - iv. to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action; or
 - v. to direct costs of mitigation, remediation, and/or notification obligations set forth in the SaaS Special Provisions, resulting from any Data Breach as defined therein, and resulting from the Contractor's failure to perform or negligent acts of its personnel.
- c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.
- d) IN NO EVENT WILL EITHER THE CONTRACTOR OR THE STATE BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES, EVEN IF NOTIFICATION HAS BEEN GIVEN AS TO THE POSSIBILITY OF SUCH DAMAGES, EXCEPT (I) TO THE EXTENT THAT THE CONTRACTOR'S LIABILITY FOR SUCH DAMAGES IS SPECIFICALLY SET FORTH IN THE STATEMENT OF WORK OR (II) TO THE EXTENT THAT THE CONTRACTOR'S LIABILITY FOR SUCH DAMAGES ARISES OUT OF SUBSECTION b) (i), b)(ii), OR b)(iv) ABOVE.

21. INDEMNIFICATION:

The Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of the Contractor or any of its affiliates, agents, subcontractors, employees, suppliers, or laborers furnishing or supplying work, Services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim

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and all negotiations for its settlement or compromise; provided that

- i. when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability);
- ii. where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services or the Department of Technology, as applicable, will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and
- iii. the State will reasonably cooperate in the defense and in any related settlement negotiations.

22. INVOICES:

Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the Contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

23. REQUIRED PAYMENT DATE:

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code section 927 et. seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than forty-five (45) days after:

- a) the date of acceptance of Deliverables or performance of Services; or
- b) receipt of an undisputed invoice, whichever is later.

24. TAXES:

Unless otherwise required by law:

- a) the State of California is exempt from Federal excise taxes; and
- b) the State will only pay for any applicable State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.

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25. CONTRACT MODIFICATION:

- a) No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.
- b) Notwithstanding subsection a) above, service agreements may be modified by Contractor from time to time, but any such modifications will not degrade the functionality or security features of the SaaS. Service agreements shall be subject to section 11(f) Order of Precedence.

26. CONFIDENTIALITY OF DATA:

- a) All Customer Data made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure by use of the same or more effective confidentiality requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's confidentiality requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. Any additional requirements to ensure confidentiality of data shall be set forth in the SOW. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession without obligation of confidentiality, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties. Contractor shall sign a security and confidentiality statement. Contractor is responsible for all Contractor personnel assigned to this Contract and will have appropriate agreements in place to enable Contractor to meet its obligations hereunder.
- b) The parties acknowledge information transmitted by the State to the Contractor and/or Service Provider may inadvertently contain Federal Tax Information (FTI). The State will use all reasonable efforts to prevent the transmittal of FTI to Contractor and/or Service Provider under this Contract. The State further acknowledges that the Contractor and/or Service Provider does not require any "access" to, or "receipt" or "storage" of FTI to perform the Services under the

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Contract. The Contractor and/or Service Provider further acknowledges that Contractor and/or Service Provider shall not knowingly access or permit access to such FTI, unless directed by the State. Access to FTI is out-of-scope of the Services. To the extent that Contractor's and/or Service Provider's access to FTI is "incidental" to Contractor's provision of Services, it is the parties' view that such incidental exposure should not legally subject Contractor and/or Service Provider to the Internal Revenue Service (IRS) requirements set forth in IRS Publication 1075, section 11.2. If, however, the IRS ultimately takes a contrary position, and determines that Contractor, Service Provider and/or the State should have nevertheless complied with the requirements of IRS Publication 1075, the parties will immediately commence an evaluation of the feasibility of continued performance under the Contract.

27. NEWS RELEASES:

Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Contract shall not be made without prior written approval of the Department of General Services.

28. DOCUMENTATION:

The Contractor agrees to provide to the State, at no charge, all Documentation as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the equipment, Services, or Software provided hereunder. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.

29. RIGHTS IN WORK PRODUCT:

- a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, customized software, and other Documentation or improvements thereto, and including the Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be the Contractor's exclusive property. The provisions of this subsection "a)" may be revised in a Statement of Work.
- b) Software, other components of SaaS, and materials developed or otherwise obtained by or for the Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If the Contractor creates derivative works of Pre-Existing Materials, the elements of

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such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Section 29 will be construed to interfere with the Contractor's or its affiliates' ownership of Pre- Existing Materials.

- c) The State will have Government Purpose Rights to the Work Product as Deliverable or delivered to the State hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any State government purpose. Such recipients of the Work Product may include, without limitation, State contractors, California local governments, the U.S. federal government, and the state and local governments of other states. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose. This subsection and the rights thereunder may be modified as required for federally funded SaaS pursuant to federal law or regulations, including, but not limited to, 7 CFR 277.18 and 45 CFR 95.617.
- d) The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by the Contractor or jointly by the Contractor and the State, may be used by either party without obligation of notice or accounting.
- e) This Contract shall not preclude the Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

30. SOFTWARE LICENSE:

A Service may require the use of Software Products to facilitate use of the Service. Unless otherwise specified in the Statement of Work, the Contractor hereby grants to the State and the State accepts from the Contractor, subject to the terms and conditions of this Contract, a royalty-free, non-exclusive license to use the Software

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Products in this Contract. The State may use the Software Products only in connection with use of the Service and according to any licensing terms if specified in a Statement of Work or otherwise in the Contract. Acceptance of Software (including third party Software) will be governed by the terms and conditions of this Contract.

31. PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA:

- a) The State agrees that all material appropriately marked or identified in writing as proprietary and furnished hereunder by the Contractor are provided for the State's exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of the Contractor. The State agrees to take all reasonable steps to ensure that such proprietary data are not disclosed to others, without prior written consent of the Contractor, subject to the California Public Records Act, or other lawful process (e.g., in response to a subpoena);
- b) The State will ensure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed; and
- c) The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to proprietary data to satisfy its obligations in this Contract with respect to use, copying, modification, protection and security of proprietary materials and data, subject to the California Public Records Act and other applicable law.

32. FUTURE RELEASES:

Unless otherwise specifically provided in the Statement of Work, if improved versions (e.g., patches, bug fixes, updates or releases) or upgrades of any SaaS versions or Software Product are developed by the Contractor, and are made available to other customers, they will be made available to the State at no additional cost only if such are made available to other customers at no additional cost.

33. ENCRYPTION AND AUTHORIZATION KEYS:

Upon initiation of Service, Contractor will provide all encryption and authorization keys required by the State to operate or access the Software Products or Services.

34. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY:

- a) Contractor will indemnify, defend, and save harmless the State, its officers, agents, and employees, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Right by any product or service provided hereunder. With

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respect to claims arising from Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this Section).

Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this Section will be conditional upon the following:

- i. The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - ii. The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (a) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (b) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services or the Department of Technology, as applicable, will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (c) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Should the Software Products or Services, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall, subject to prior approval, permit the Contractor, at its option and expense, either to procure for the State the right to continue using the Services, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Services by the State shall be prevented by injunction, the State shall then have the option of terminating this Contract, or applicable portions thereof, without penalty or termination charge and the Contractor shall refund any sums the State has paid the Contractor less any reasonable amount for use or damage.
- c) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement

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which is based upon:

- i. The combination or utilization of Deliverables furnished hereunder with Goods or Software not made or furnished by the Contractor; or
 - ii. The combination or utilization of Software or Services not made or furnished by the Contractor, and introduced into the States computing environment; or
 - iii. The modification initiated by the State, or a third party at the State's direction, of any Software or Service furnished hereunder; or
 - iv. The combination or utilization of Software furnished hereunder with non-Contractor supplied Software.
- d) The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of Software in violation of any U.S. Intellectual Property laws.

35. DISPUTES:

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Contractor shall submit to the contracting Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. The contracting Department Director or designee shall have thirty (30) days after receipt of Contractor's written demand invoking this Section "Disputes" to render a written final decision. If a written decision is not rendered within thirty (30) days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contention.
- b) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of Services in accordance with the State's instructions regarding this Contract. Contractor's failure to diligently

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proceed in accordance with the State's instructions regarding this Contract shall be considered a material breach of this Contract.

- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the contracting Department Director, or designee. The State's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- d) For disputes involving purchases made by the Department of General Services, Procurement Division, the Contractor shall submit to the Department Director or designee a written demand for a final decision, which shall be fully supported in the manner described in subsection a) above. The Department Director or designee shall have thirty (30) days to render a final decision. If a final decision is not rendered within thirty (30) days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contention. The final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- e) The dates of decision in this section may be modified by mutual consent, as applicable, excepting the time to commence an action in a court of competent jurisdiction.

36. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the called for by this Contract in the Statement of Work for a period up to forty-five (45) days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the 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 work stoppage. Within a period of forty-five (45) days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
 - i. Cancel the Stop Work Order; or

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- ii. Terminate the work covered by the Stop Work Order as provided for in the Termination for Default or the Termination for Convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
 - i. The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
 - ii. The Contractor asserts its right to an equitable adjustment within sixty (60) days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Contractor for loss of profits because of a Stop Work Order issued under this clause.

37. EXAMINATION AND AUDIT:

The Contractor agrees that the State or its designated representative shall have the right to review and copy any records and supporting documentation directly pertaining to performance of this Contract. The Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. The Contractor agrees to allow the auditor(s) access to such records during normal business hours and in such a manner so as to not interfere unreasonably with normal business activities and to allow interviews of any employees or others who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract. The State shall provide reasonable advance written notice of such audit(s) to the Contractor.

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38. FOLLOW-ON CONTRACTS:

- a) If the Contractor or its affiliates provides Technical Consulting and Direction (as defined below), the Contractor and its affiliates:
 - i. will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction;
and
 - ii. will not act as consultant to any person or entity that does receive a Contract described in subsection (1). This prohibition will continue for one (1) year after termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.
- b) “Technical Consulting and Direction” means services for which the Contractor received compensation from the State and includes:
 - i. development of or assistance in the development of work statements, specifications, solicitations, feasibility studies, or project approval documentation;
 - ii. development or design of test requirements;
 - iii. evaluation of test data;
 - iv. direction of or evaluation of another Contractor;
 - v. provision of formal recommendations regarding the acquisition of Information Technology products or services; or
 - vi. provisions of formal recommendations regarding any of the above. For purposes of this Section, “affiliates” are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.
- c) To the extent permissible by law, the Director of the Department of General Services, or designee, may waive the restrictions set forth in this Section by written notice to the Contractor if the Director determines their application would not be in the State’s best interest. Except as prohibited by law, the restrictions of this Section will not apply:

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- i. to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
 - ii. where the State has entered into a master agreement for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.
- d) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

39. PRIORITY HIRING CONSIDERATIONS:

If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC section 10353.

40. COVENANT AGAINST GRATUITIES:

The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer 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 shall have the right to terminate the Contract, either in whole or in part and any loss or damaged 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 clause shall not be exclusive and are in addition to any other rights and remedies provided in law or equity.

41. NONDISCRIMINATION CLAUSE:

- a) During the performance of this Contract, the Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. The Contractor and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

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The Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. The Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement; and

- b) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

42. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

The Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC section 10296.

43. ASSIGNMENT OF ANTITRUST ACTIONS:

Pursuant to Government Code sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State 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. 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, material or other items, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tender's final payment to the supplier;
- b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of

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the recovery; and

- c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and:
 - i. the assignee has not been injured thereby, or
 - ii. the assignee declines to file a court action for the cause of action.

44. DRUG-FREE WORKPLACE CERTIFICATION:

The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code section 8355(a);
- b) Establish a Drug-Free Awareness Program as required by Government Code section 8355(b) to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace;
 - ii. the person's or organization's policy of maintaining a drug-free workplace;
 - iii. any available counseling, rehabilitation and employee assistance programs; and,
 - iv. penalties that may be imposed upon employees for drug abuse violations.
- c) Provide, as required by Government Code section 8355(c), that every employee who works on the proposed or resulting Contract:
 - i. will receive a copy of the company's drug-free policy statement; and
 - ii. will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

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45. FOUR-DIGIT DATE COMPLIANCE:

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and Services to the State. "Four-Digit Date Compliant" Deliverables and Services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

46. SWEATFREE CODE OF CONDUCT:

- a) Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the Contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Contractor further declares under penalty of perjury that they adhere to the Sweat free Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code section 6108; and
- b) The Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine the Contractor's compliance with the requirements under paragraph (a).

47. RECYCLED CONTENT REQUIREMENTS:

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material (as defined in the Public Contract Code (PCC) section 12200-12209), in products, materials, goods, or supplies offered or sold to the State that fall under any of the statutory categories regardless of whether the product meets the requirements of Section 12209. The certification shall be provided by the contractor, even if the product or good contains no post-consumer recycled material, and even if the post-consumer content is unknown. With respect to printer or duplication cartridges that comply with the requirements of section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205 (b)(2)). A state agency contracting officer may waive the certification requirements if the percentage of

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post-consumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet web site.

Contractors are to use, to the maximum extent economically feasible in the performance of the contract work, recycled content products (PCC 12203(d)).

48. CHILD SUPPORT COMPLIANCE ACT:

For any Contract in excess of \$100,000, the Contractor acknowledges in accordance with PCC section 7110, that:

- a) The Contractor recognizes the importance of child and family support obligations and shall fully
- b) comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- c) The Contractor, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

49. AMERICANS WITH DISABILITIES ACT AND PUBLIC WEBSITE ACCESSIBILITY

- a) The Contractor assures the State that the Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). The State is responsible for ensuring that public websites are accessible to both the general public and that internal electronic and Information Technology systems are accessible by state employees, including persons with disabilities. Contractor shall assist the State in meeting its responsibilities.
- b) In accordance with Cal. Gov. Code section 7405(b), the Contractor shall have an ongoing obligation to promptly respond to and resolve any complaint regarding accessibility of its electronic and Information Technology products and Services that is brought to the attention of the Contractor, pursuant to Section 7(e) above.

50. ELECTRONIC WASTE RECYCLING ACT OF 2003:

The Contractor certifies that it complies with the applicable requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with section 42460 of the Public Resources Code. The Contractor shall

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maintain documentation and provide reasonable access to its records and documents that evidence compliance.

51. USE TAX COLLECTION:

In accordance with PCC section 10295.1, the Contractor certifies that it complies with the requirements of section 7101 of the Revenue and Taxation Code.

Contractor further certifies that it will immediately advise the State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC section 10295.1.

52. EXPATRIATE CORPORATIONS:

Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC sections 10286 and 10286.1, and is eligible to contract with the State.

53. DOMESTIC PARTNERS:

For contracts over \$100,000 executed or amended after January 1, 2007, the Contractor certifies that the Contractor is in compliance with Public Contract Code section 10295.3.

54. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- a) If for this Contract, the Contractor made a commitment to achieve small business participation, then the Department requires the Contractor upon completion of this Contract (or within such other time period as may be specified elsewhere in this Contract) to report the actual percentage of small business participation that was achieved. (Govt. Code § 14841); and
- b) If for this Contract, the Contractor made a commitment to achieve the disabled veteran business enterprise (DVBE) participation goal, then, pursuant to Mil. & Vets. Code § 999.5(d), upon completion of this Contract, the Department requires the Contractor to certify using the Prime Contractor's Certification - DVBE Subcontracting Report (STD 817), all of the following:
 - c) the total amount the prime Contractor received under the Contract;
 - d) the name, address, Contract number and certification ID number of the DVBE(s) that participated in the performance of this Contract;
 - e) the amount and percentage of work the prime Contractor committed to provide to one or more DVBE(s) under the requirement of the Contract and the total payment each DVBE

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received from the prime Contractor;

- f) that all payments under the Contract have been made to the DVBE(s); and
- g) the actual percentage of DVBE participation that was achieved. Upon request, the prime Contractor shall provide proof of payment for the work.

If, for this Contract, Contractor made a commitment to achieve the DVBE participation goal, the Department will withhold \$10,000 from the final payment, or the full final payment if less than \$10,000, until the Contractor complies with the certification requirements above. A Contractor that fails to comply with the certification requirement shall, after written notice, be allowed to cure the defect. Notwithstanding any other law, if, after at least 15 calendar days but not more than 30 calendar days from the date of written notice, the prime Contractor refuses to comply with the certification requirements, the Department shall permanently deduct \$10,000 from the final payment, or the full payment if less than \$10,000. (Mil. & Vets. Code § 999.7)

A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841)

Contractor agrees to comply with the rules, regulations, ordinances, and statutes that apply to the DVBE program as defined in Section 999 of the Mil. & Vets. Code, including, but not limited to, the requirements of Section 999.5(d). (PCC Code § 10230)

55. LOSS LEADER:

It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in section 17030 of the Business and Professions Code. (PCC 12104.5(b)).

56. EXECUTIVE ORDER N-6-22-RUSSIA SANCTIONS:

The Contractor shall comply with Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

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THESE SPECIAL PROVISIONS ARE ONLY TO BE USED FOR SOFTWARE AS A SERVICE (SaaS), AS DEFINED BELOW. THESE SPECIAL PROVISIONS ARE TO BE ATTACHED TO THE GENERAL PROVISIONS – INFORMATION TECHNOLOGY AND SHOULD BE ACCOMPANIED BY, A STATEMENT OF WORK (SOW) AND SERVICE LEVEL AGREEMENT (SLA). SECURITY REQUIREMENTS DESIGNATED IN THIS DOCUMENT ARE ASSUMING A NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY (NIST) LOW CLASSIFICATION, UNLESS OTHERWISE SET FORTH IN THE SOW. A HIGHER CLASSIFICATION MAY REQUIRE DIFFERENT SECURITY REQUIREMENTS. STATE AGENCIES MUST FIRST:

- A. CLASSIFY THEIR DATA PURSUANT TO THE CALIFORNIA STATE ADMINISTRATIVE MANUAL (SAM) 5305.5;
- B. CONSIDER THE FACTORS TO BE TAKEN INTO ACCOUNT WHEN SELECTING A PARTICULAR TECHNOLOGICAL APPROACH, IN ACCORDANCE WITH SAM 4981.1, 4983 AND 4983.1 AND THEN;
- C. MODIFY THESE SPECIAL PROVISIONS THROUGH THE SOW AND/OR SLA TO MEET THE NEEDS OF EACH ACQUISITION.

1. Definitions

- a) **"Cloud Software as a Service (SaaS)"** - The capability provided to the consumer is to use applications made available by the provider running on a cloud infrastructure. The applications are accessible from various client devices through a thin client interface such as a web browser (e.g., web-based email). The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
- b) **"Cloud Platform as a Service (PaaS)"** - The capability provided to the consumer is to deploy onto the cloud infrastructure consumer-created or acquired applications created using programming languages and tools supported by the provider. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, or storage, but has control over the deployed applications and possibly application hosting environment configurations.
- c) **"Cloud Infrastructure as a Service (IaaS)"** - The capability provided to the consumer is to provision processing, storage, networks, and other fundamental computing resources where the consumer is able to deploy and run arbitrary software, which can include operating systems and applications. The consumer does not manage or control the underlying cloud infrastructure but has control over operating systems; storage, deployed applications, and possibly limited control of select networking components (e.g., host firewalls).
- d) **"Data"** - means any information, formulae, algorithms, or other content that the State, the State's employees, agents and end users upload, create or modify using the SaaS pursuant to this Contract. Data also includes user identification information and metadata which may contain Data or from which the State's Data may be ascertainable.
- e) **"Data Breach"** - means any access, destruction, loss, theft, use, modification or disclosure of Data by an unauthorized party or that is in violation of Contract terms and/or applicable state or federal law.
- f) **"Encryption"** - Conversion of plaintext to ciphertext through the use of a Federal Information Processing Standards (FIPS) validated cryptographic algorithm. [FIPS 140-2]
- g) **"Recovery Point Objective (RPO)"** - means the point in time to which Data can be recovered and/or systems restored when service is restored after an interruption. The Recovery Point Objective is expressed as a length of time between the interruption and the most proximate backup of Data immediately preceding the interruption. The RPO is detailed in the SLA.

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- h) **"Recovery Time Objective (RTO)"** - means the period of time within which information technology services, systems, applications and functions must be recovered following an unplanned interruption. The RTO is detailed in the SLA.

Terms

2. SaaS AVAILABILITY: Unless otherwise stated in the Statement of Work,

- a) The SaaS shall be available twenty-four (24) hours per day, 365 days per year (excluding agreed-upon maintenance downtime).
- b) If SaaS monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), the State shall be entitled to recover damages, apply credits or use other contractual remedies as set forth in the Statement of Work.
- c) If SaaS monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), for three (3) or more months in a rolling twelve-month period, the State may terminate the contract for material breach in accordance with the Termination for Default provision in the General Provisions – Information Technology.
- d) Contractor shall provide advance written notice to the State in the manner set forth in the Statement of Work of any major upgrades or changes that will affect the SaaS availability.

3. DATA AVAILABILITY: Unless otherwise stated in the Statement of Work,

- a) The Data shall be available twenty-four (24) hours per day, 365 days per year (excluding agreed-upon maintenance downtime).
- b) If Data monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), the State shall be entitled to recover damages, apply credits or use other contractual remedies as set forth in the Statement of Work if the State is unable to access the Data as a result of:
 - 1) Acts or omission of Contractor;
 - 2) Acts or omissions of third parties working on behalf of Contractor;
 - 3) Network compromise, network intrusion, hacks, introduction of viruses, disabling devices, malware and other forms of attack that can disrupt access to Contractor's server, to the extent such attack would have been prevented by Contractor taking reasonable industry standard precautions;
 - 4) Power outages or other telecommunications or Internet failures, to the extent such outages were within Contractor's direct or express control.
- c) If Data monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), for three (3) or more months in a rolling twelve-month period, the State may terminate the contract for material breach in accordance with the Termination for Default provision in the General Provisions – Information Technology.

4. SaaS and DATA SECURITY:

- a) In addition to the Compliance with Statutes and Regulations provision set forth in the General Provisions – Information Technology, Contractor shall certify to the State:
 - 1) The sufficiency of its security standards, tools, technologies and procedures in providing SaaS under this Contract;
 - 2) Compliance with the following:
 - i. The California Information Practices Act (Civil Code Sections 1798 et seq.);
 - ii. Current NIST special publications 800-171 Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations. Third party audit results and Contractor's plan to correct any negative findings shall be made available to the State upon request ;

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- iii. Undergo an annual Statement on Standards for Attestation Engagements (SSAE) No. 16 Service Organization Control (SOC) 2 Type II audit. Third party audit results and Contractor's plan to correct any negative findings and implementation progress reports shall be made available to the State upon request; and
- iv. Privacy provisions of the Federal Privacy Act of 1974;
- 3) Compliance with industry standards and guidelines applicable to the SaaS services being provided. Relevant security provisions may include, but are not limited to: Health Insurance Portability and Accountability Act of 1996, IRS 1075, Health Information Technology for Economic and Clinical (HITECH) Act, Criminal Justice Information Services (CJIS) Security Policy, Social Security Administration (SSA) Electronic Information Exchange Security Requirements, and the Payment Card Industry (PCI) Data Security Standard (DSS) as well as their associated Cloud Computing Guidelines.
- b) Contractor shall implement and maintain all appropriate administrative, physical, technical and procedural safeguards in accordance with section a) above at all times during the term of this Contract to secure such Data from Data Breach, protect the Data and the SaaS from hacks, introduction of viruses, disabling devices, malware and other forms of malicious or inadvertent acts that can disrupt the State's access to its Data.
- c) Contractor shall allow the State reasonable access to SaaS security logs, latency statistics, and other related SaaS security data that affect this Contract and the State's Data, at no cost to the State.
- d) Contractor assumes responsibility for the security and confidentiality of the Data under its control.
- e) No Data shall be copied, modified, destroyed or deleted by Contractor other than for normal operation or maintenance of SaaS during the Contract period without prior written notice to and written approval by the State.
- f) Remote access to Data from outside the continental United States, including remote access to Data by authorized SaaS support staff in identified support centers, is prohibited unless approved in advance in writing by:
 - 1) the Agency Information Security Officer, with written notice to the State Chief Information Security Officer, or
 - 2) in the absence of an Agency Information Security Officer, the State Chief Information Security Officer.

5. ENCRYPTION: Confidential, sensitive or personal information shall be encrypted in accordance with California State Administrative Manual 5350.1 and California Statewide Information Management Manual 5305-A.

- 6. DATA LOCATION:** Unless otherwise stated in the Statement of Work and approved in advance in writing by:
- 1) the Agency Information Security Officer, with written notice to the State Chief Information Security Officer, or
 - 2) in the absence of an Agency Information Security Officer, the State Chief Information Security Officer,

the physical location of Contractor's data center where the Data is stored shall be within the continental United States.

7. RIGHTS TO DATA: The parties agree that as between them, all rights, including all intellectual property rights, in and to Data shall remain the exclusive property of the State, and Contractor has a limited, non-exclusive license to access and use the Data as provided to Contractor solely for performing its obligations under the Contract. Nothing herein shall be construed to confer any license or right to the Data, including user tracking and exception Data within the system, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third party. Unauthorized use of Data by Contractor or third parties is prohibited. For the purposes of this requirement,

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the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security or service delivery analysis that is not explicitly authorized.

8. TRANSITION PERIOD:

- a) Unless otherwise stated in the SOW, for ninety (90) days prior to the expiration date of this Contract, or upon notice of termination of this Contract, Contractor shall assist the State in extracting and/or transitioning all Data in the format determined by the State ("Transition Period").
- b) The Transition Period may be modified in the SOW or as agreed upon in writing by the parties in a contract amendment.
- c) During the Transition Period, SaaS and Data access shall continue to be made available to the State without alteration.
- d) Contractor agrees to compensate the State for damages or losses the State incurs as a result of Contractor's failure to comply with this section in accordance with the Limitation of Liability provision set forth in the General Provisions - Information Technology.
- e) Unless otherwise stated in the SOW, the Contractor shall permanently destroy or render inaccessible any portion of the Data in Contractor's and/or subcontractor's possession or control following the expiration of all obligations in this section. Within thirty (30) days, Contractor shall issue a written statement to the State confirming the destruction or inaccessibility of the State's Data.
- f) The State at its option, may purchase additional transition services as agreed upon in the SOW.

9. DATA BREACH: Unless otherwise stated in the Statement of Work,

- a) Upon discovery or reasonable belief of any Data Breach, Contractor shall notify the State by the fastest means available and also in writing, with additional notification provided to the Chief Information Security Officer or designee of the contracting agency. Contractor shall provide such notification within forty-eight (48) hours after Contractor reasonably believes there has been such a Data Breach. Contractor's notification shall identify:
 - 1) The nature of the Data Breach;
 - 2) The Data accessed, used or disclosed;
 - 3) The person(s) who accessed, used, disclosed and/or received Data (if known);
 - 4) What Contractor has done or will do to quarantine and mitigate the Data Breach; and
 - 5) What corrective action Contractor has taken or will take to prevent future Data Breaches.
- b) Contractor will provide daily updates, or more frequently if required by the State, regarding findings and actions performed by Contractor until the Data Breach has been effectively resolved to the State's satisfaction.
- c) Contractor shall quarantine the Data Breach, ensure secure access to Data, and repair SaaS as needed in accordance with the SLA. Failure to do so may result in the State exercising its options for assessing damages or other remedies under this Contract.
- d) Notwithstanding anything to the contrary in the General Provisions - Information Technology, in performing services under this Contract, and to the extent authorized by the State in the Statement of Work, Contractor may be permitted by the State to use systems, or may be granted access to the State systems, which store, transmit or process State owned, licensed or maintained computerized Data consisting of personal information, as defined by Civil Code Section 1798.29 (g). If the Contractor causes or knowingly experiences a breach of the security of such Data, Contractor shall immediately report any breach of security of such system to the State following discovery or notification of the breach in the security of such Data. The State's Chief Information Security Officer, or designee, shall determine whether notification to the individuals whose Data has been lost or breached is appropriate. If personal information of any resident of California was, or is reasonably believed to have been acquired by an unauthorized person as a result of a

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security breach of such system and Data that is not due to the fault of the State or any person or entity under the control of the State, Contractor shall bear any and all costs associated with the State's notification obligations and other obligations set forth in Civil Code Section 1798.29 (d) as well as the cost of credit monitoring, subject to the dollar limitation, if any, agreed to by the State and Contractor in the applicable Statement of Work. These costs may include, but are not limited to staff time, material costs, postage, media announcements, and other identifiable costs associated with the breach of the security of such personal information.

- e) Contractor shall conduct an investigation of the Data Breach and shall share the report of the investigation with the State. The State and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the State, its agents and law enforcement.

10. DISASTER RECOVERY/BUSINESS CONTINUITY: Unless otherwise stated in the Statement of Work,

- a) In the event of disaster or catastrophic failure that results in significant Data loss or extended loss of access to Data, Contractor shall notify the State by the fastest means available and also in writing, with additional notification provided to the Chief Information Security Officer or designee of the contracting agency. Contractor shall provide such notification within twenty-four (24) hours after Contractor reasonably believes there has been such a disaster or catastrophic failure. In the notification, Contractor shall inform the State of:
 - 1) The scale and quantity of the Data loss;
 - 2) What Contractor has done or will do to recover the Data and mitigate any deleterious effect of the Data loss; and
 - 3) What corrective action Contractor has taken or will take to prevent future Data loss.
 - 4) If Contractor fails to respond immediately and remedy the failure, the State may exercise its options for assessing damages or other remedies under this Contract.
- b) Contractor shall restore continuity of SaaS, restore Data in accordance with the RPO and RTO as set forth in the SLA, restore accessibility of Data, and repair SaaS as needed to meet the performance requirements stated in the SLA. Failure to do so may result in the State exercising its options for assessing damages or other remedies under this Contract.
- c) Contractor shall conduct an investigation of the disaster or catastrophic failure and shall share the report of the investigation with the State. The State and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the State, its agents and law enforcement.

11. EXAMINATION AND AUDIT: In addition to the Examination and Audit provision set forth in the General Provisions - Information Technology, unless otherwise stated in the Statement of Work:

- a) Upon advance written request, Contractor agrees that the State or its designated representative shall have access to Contractor's SaaS, operational documentation, records and databases, including online inspections, that relate to the SaaS purchased by the State.
- b) The online inspection shall allow the State, its authorized agents, or a mutually acceptable third party to test that controls are in place and working as intended. Tests may include, but not be limited to, the following:
 - 1) Operating system/network vulnerability scans,
 - 2) Web application vulnerability scans,
 - 3) Database application vulnerability scans, and
 - 4) Any other scans to be performed by the State or representatives on behalf of the State.
- c) After any significant Data loss or Data Breach or as a result of any disaster or catastrophic failure, Contractor will at its expense have an independent, industry-recognized, State-approved third party perform an information security audit. The audit results shall be shared with the State within seven (7) days of Contractor's receipt of such results. Upon Contractor receiving the results of the audit, Contractor will

**STATE MODEL
CLOUD COMPUTING SERVICES SPECIAL PROVISIONS
(Software as a Service)**

provide the State with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Contract.

12. DISCOVERY: Contractor shall promptly notify the State upon receipt of any requests which in any way might reasonably require access to the Data of the State or the State's use of the SaaS. Contractor shall notify the State by the fastest means available and also in writing, with additional notification provided to the Chief Information Security Officer or designee of the contracting agency, unless prohibited by law from providing such notification. Contractor shall provide such notification within forty-eight (48) hours after Contractor receives the request. Contractor shall not respond to subpoenas, service of process, Public Records Act requests, and other legal requests directed at Contractor regarding this Contract without first notifying the State unless prohibited by law from providing such notification. Contractor agrees to provide its intended responses to the State with adequate time for the State to review, revise and, if necessary, seek a protective order in a court of competent jurisdiction. Contractor shall not respond to legal requests directed at the State unless authorized in writing to do so by the State.

EXHIBIT F – INSURANCE REQUIREMENTS

1. PROOF OF INSURANCE

Contractor shall provide proof of insurance, in the form of a certificate to the User Agency.

2. GENERAL PROVISIONS APPLYING TO ALL POLICIES

- A. Coverage Term** – Coverage needs to be in force for the complete term of the Agreement. If insurance expires during the term of the Agreement, a new certificate shall be sent to the State at least ten (10) days prior to the expiration of this insurance. Any new insurance must still comply with the original terms of the Agreement.
- B. Policy Cancellation or Termination & Notice of Non-Renewal** – Contractor is responsible to notify the State within five (5) business days before the effective date of any cancellation, non-renewal, or material change that affects required insurance coverage. Any cancellation, non-renewal, or material change that affects required insurance coverage is subject to written approval by the State to continue the Agreement. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, suspend or terminate this Contract upon thirty (30) day's notice from the occurrence of such event in which Contractor may remedy the lapsed insurance coverage in question, subject to the provisions of this Agreement.
- C. Deductible** – Contractor is responsible for any deductible or self-insured retention contained within their insurance program.
- D. Insurance Carrier Required Rating** – All insurance companies must carry an A.M Best rating of at least A-VII. If the Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
- E. Endorsements** – Any special requests such as additional insured status, waiver of subrogation, or other requirements must be included in the request for a certificate of insurance. A statement on the certificate in lieu of such endorsements will not be sufficient. Certificates shall be mailed or emailed directly to the State, unless other instructions are provided, to the contact name at the fax number, e-mail, and/or address listed in the relevant request for certificate of insurance.
- F. Inadequate Insurance** – Inadequate or lack of insurance does not negate the Contractor's obligations under the Agreement.

EXHIBIT F – INSURANCE REQUIREMENTS

G. Subcontractors - In the case of Contractor utilization of subcontractors to complete the contracted scope of work, Contractor shall require from subcontractors, and share copies of the provided, evidence of insurance or to the State, applicable to the work being done.

3. Commercial General Liability

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury, and property damage in a form and with coverages that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products, completed operations, and contractual liability coverage for the indemnity provided under this Agreement. Coverage shall be written on an occurrence basis in an amount not to be less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000. **The State of California, its officers, agents, officials, and employees are to be covered as additional insureds with respect to liability arising out of work or operations. This additional insured endorsement may be blanket or automatic and Contractor's insurance shall be primary and non-contributory.**

4. Auto Liability

Contractor shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned motor vehicles. **The policy must name The State of California, its officers, agents, and employees as additional insured, but only with respect to work performed under the Agreement.** If contractor will not have any commercially owned vehicles used during the life of this Agreement, by signing this Agreement, the Contractor certifies that the Contractor and any employees, subcontractors or servants possess valid automobile coverage in accordance with California Vehicle Code sections 16450 to 16457, inclusive. The State reserves the right to request proof at any time.

5. Workers' Compensation and Employer's Liability

Workers' Compensation insurance as required by the State of California, if applicable, shall require (A) Workers' Compensation Limit: Statutory and (B) Employer's Liability: (1) Bodily Injury by Accident, for Each Accident: \$1,000,000 (2) Bodily Injury for Each Employee by Disease: \$1,000,000 and (C) Policy Limit for Bodily Injury by Disease: \$1,000,000.

THOMSON REUTERS

Westlaw, CLEAR, & Print Products

for the State of California

Department of General Services, Procurement Division

PROPOSAL AND PRICING

SUBMITTED TO

Department of General Services
Procurement Division
707 Third Street
West Sacramento, CA 95605

SUBMITTED BY

Thomson Reuters
(West Publishing Corporation)

Mark Martin
Enterprise Business Director

Phone: 415.298.2081

Email: mark.martin@tr.com

SUBMITTAL DATE

May 30, 2023

Confidentiality Statement

This proposal includes proprietary information that shall not be duplicated, used, or disclosed outside of the State of California, Department of General Services, Procurement Division—in whole or in part—for any purpose other than evaluating this proposal. This information is deemed proprietary because it contains pricing and confidential corporate information that is of critical value to Thomson Reuters in a highly competitive market.



THOMSON REUTERS

Contractor Information

Any contract resulting from this proposal will be with West Publishing Corporation, d/b/a West, a Thomson Reuters business:

Legal Contracting Entity	West Publishing Corporation
Doing Business As (DBA)	West, a Thomson Reuters business
Corporate Address	610 Opperman Drive, Eagan, MN 55123
Remittance Address	P.O. Box 6292, Carol Stream, IL 60197-6292
Federal Tax ID #	41-1426973
DUNS #	14-850-8286
Cage Code	89101
Company Size	Large

PROCUREMENT SUPPORT

For any questions, forwarding of amendments or modifications, or if our response requires further clarification, contact Mark Martin at 415.298.2081 or mark.martin@tr.com.

ALR, Am Jur, *Black's Law Dictionary*, CLEAR, *Corpus Juris Secundum*, Drafting Assistant, Graphical Statutes, KeyCite, KeySearch, Most Cited Cases, National Reporter System, Smart Tools, *Supreme Court Reporter*, ULA, *Uniform Laws Annotated*, *United States Code Annotated*, USCA, *U.S. Code Congressional and Administrative News*, West, WestClip, West Key Number System, Westlaw, Westlaw 50 State Surveys, Westlaw Profiler, and West's are registered trademarks of West Publishing Corporation.

Case Notebook and NewsRoom are trademarks of West Publishing Corporation.

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Overview

Thomson Reuters (West Publishing Corporation, hereinafter, 'West'), per the request of the California Department of General Services (DGS), provides the following proposal to renew the California Master Service Agreement (MSA).

After carefully reviewing and analyzing the purchasing patterns of the California agencies included under the previous MSA (Contract #5-17-70-11), West has designed a schedule that addresses User Agencies' needs. The schedule has been updated to include new product content and functionality, for greater ease of use and flexibility.

West is confident that it can continue to provide California User Agencies with the highest-quality online legal research, online investigative research, and print subscription services in the most cost-effective and efficient manner.

Below is a summary of the online legal and investigative research products, Thomson Reuters Westlaw and Thomson Reuters CLEAR. Detailed information regarding the proposed content, features, and services available to California User Agencies are provided in the following pages.

WESTLAW OVERVIEW

Thomson Reuters Westlaw is West's online legal, news, and business information research service. Westlaw provides editorially enhanced legal research materials; unparalleled coverage of news, business, financial, and general information; and a comprehensive collection of public records.

- **Westlaw is comprehensive**—Coverage includes legal information, news and business information, and public records.
- **Westlaw is current**—Westlaw resources are updated frequently so that information is kept current. For example, full-text U.S. Supreme Court opinions, including concurrences or dissents, are generally available on Westlaw within five minutes of the time they are issued.
- **Westlaw is accurate and reliable**—We employ a rigorous editorial process to ensure that every opinion available on Westlaw is correct and properly classified. Our attorney-editors use consistent language when writing synopses and headnotes. They also add synonyms, acronyms, terms of art, names of acts, generic names, and other research terms to ensure that Westlaw searches retrieve relevant cases that might otherwise be missed by searching just the text of the court opinion.
- **Westlaw is powerful**—More than 85 million links are added every year to documents on Westlaw, and nearly every word in Westlaw documents is a possible search indexing term. WestSearch, a search engine designed specifically for law, incorporates more than a century of proprietary analysis of the law and exclusive tools like the West Key Number System, KeyCite, headnotes, Notes of Decisions, indexes, and secondary sources to deliver documents relevant to a search query.
- **Westlaw is intelligent**—Our latest innovation, Westlaw Edge, provides legal professionals with the next generation of AI-driven legal search, exclusive new warnings for law that is no longer valid, unrivaled litigation analytics, and sophisticated new research tools that help legal professionals deliver results to clients faster and more accurately.

CLEAR

Thomson Reuters CLEAR provides current data sources, functionality, and exclusive offerings that comprise the most comprehensive investigative platform available. CLEAR increases the efficiency and the effectiveness of due diligence and investigations by providing:

- An easy-to-use online interface with dashboard presentation of results, including display with investigative tools such as Quick Analysis Flags and Address Map.
- Access to vast collections of public records, publicly available information, and proprietary records on persons and businesses.
- Access to Web information, such as social networking sites, blogs, and news.
- Live gateways to real-time data from primary sources, and unique data available only in CLEAR, such as cell phone data from carriers, and utilities records.
- Tools to optimize use of the data, such as mapping, link charts, customizable reports, compatibility with i2 Analyst's Notebook and other leading analytical platforms.
- Mobile access from most smart phones with Internet access.

Products and Pricing

Thomson Reuters (d/b/a West Publishing Corporation) is the foremost provider of integrated information solutions to the U.S. legal market. West has been providing legal, government, law enforcement, and information professionals with the highest-quality legal, news, business, public records, and law enforcement information, with the most innovative technology solutions and tools to manage them, for more than 145 years.

Recognizing that California User Agencies have diverse and unique online information research and solutions needs, West offers an extensive variety of options and packages, thus providing User Agencies with maximum flexibility to pick and choose the option and/or package that is best suited to their specific end users' needs.

West's Products and Pricing Schedule provides the following options:

- **Option 1—Legal Research.** This option allows purchasing agencies to pick and choose from four commonly requested online legal research packages (Options 1A-1D). Agencies may supplement these core legal research packages by choosing additional content from a select list of optional separately priced add-on libraries.
- **Option 2—Investigative Research.** This option provides online access to CLEAR content sets for government investigators, law enforcement personnel, and authorized users doing targeted investigative research (Options 2A-2G).
- **Option 3—Correctional.** This option provides online access to legal resources for inmates' use at correctional facilities.
- **Option 4—Legal Print Publications.** This option provides authorized agencies a discount off retail pricing for the purchase print titles.
- **Option 5—Custom Packages.** Custom packages allow agencies whose needs differ from or extend beyond the pre-packaged legal and investigative plans to create custom, agency-specific packages that are tailored to an individual agency's research needs, number of users, and contract length. A custom package allows an agency to enjoy the best value in terms of both price and content.

Products and pricing are detailed in the following pages.

Option 1—Legal Research (Per User)

Thomson Reuters Westlaw can meet the State's online legal research needs. Our offer consists of the following legal research packages:

- Option 1A: California State Primary with Edge*—see page 5
- Option 1B: National Primary—see page 6
- Option 1C: Westlaw Basic—see page 7
- Option 1D: Westlaw Precision*—see page 9

* Options 1A, 1B, and 1C provide access to **Westlaw Edge**, an advanced legal research platform that includes enhanced features and services.

Option 1D provides access to **Westlaw Precision, powered by trusted content, exclusive editorial enhancements, and cutting-edge technology. Westlaw Precision™ can significantly cut your research time. New capabilities deliver advanced speed and accuracy, providing you with greater confidence in your research.

Agencies may supplement these core legal research packages by choosing additional content from a select list of optional separately priced add-on libraries:

- Optional Add-On Content for Options 1A-1C—see page 8
- Optional Add-On Content for Option 1D—see page 10

Option 1A: California State Primary with Edge

This option provides access to state-specific primary law content on Westlaw Edge. Westlaw Edge includes Westlaw's standard features and services, plus additional enhanced functionality that helps legal professionals to practice with an unprecedented degree of certainty and confidence.

Content: California State Primary with Edge					
Research Platform: Thomson Reuters Westlaw Edge					
Fixed Monthly Charge: Monthly Per User Per Agency Location Pricing					
No. of Users	Year 1	Year 2	Year 3	Year 4	Year 5
1-25 Users	\$139	\$142	\$145	\$148	\$151
26-50 Users	\$132	\$135	\$138	\$141	\$144
51-100 Users	\$124	\$126	\$129	\$132	\$135
101-150 Users	\$118	\$120	\$122	\$124	\$126
151-200 Users	\$112	\$114	\$116	\$118	\$120
201+ Users	\$107	\$109	\$111	\$113	\$115

DESCRIPTION OF INCLUDED CONTENT, FEATURES, AND SERVICES

INCLUDED CONTENT

California State Primary—Core California primary law content includes cases, statutes, and administrative rules and regulations. In addition, Westlaw is the only online legal research service that includes West synopses, headnotes, and the West Key Number System.

INCLUDED FEATURES AND SERVICES

- KeyCite Citator Service
- West Key Number System
- Folder Analysis
- Alerts and WestClip
- Editorial Enhancements
- Research Recommendations
- Law Summaries
- Research Report
- Training (Initial and ongoing)
- Reference Attorneys (ongoing)
- Technical support (ongoing)
- Custom Pages
- Ability to download, email, and print content.
- Mobile access
- Account management tools

Option 1B: National Primary with Edge

This option provides access to state and federal primary law content.

Content: National Primary					
Research Platform: Thomson Reuters Westlaw					
Fixed Monthly Charge: Monthly Per User Per Agency Location Pricing					
No. of Users	Year 1	Year 2	Year 3	Year 4	Year 5
1-25 Users	\$148	\$151	\$154	\$157	\$160
26-50 Users	\$141	\$144	\$147	\$150	\$153
51-100 Users	\$134	\$137	\$140	\$142	\$145
101-150 Users	\$126	\$129	\$132	\$134	\$137
151-200 Users	\$120	\$122	\$124	\$127	\$130
201+ Users	\$114	\$116	\$118	\$121	\$123

DESCRIPTION OF INCLUDED CONTENT, FEATURES, AND SERVICES

INCLUDED CONTENT

National Primary—All state and federal case law and statutes (including the United States Code Annotated), administrative rules and regulations, coverage of every appellate and trial court case from all 50 states as well as the District of Columbia, and statutes from each state and documents passed by state legislative bodies. In addition, Westlaw is the only online legal research solution that includes West synopses, headnotes, and the West Key Number System.

INCLUDED FEATURES AND SERVICES

- KeyCite Citator Service
- West Key Number System
- Folder Analysis
- Alerts and WestClip
- Editorial Enhancements
- Research Recommendations
- Law Summaries
- Research Report
- Training (Initial and ongoing)
- Reference Attorneys (ongoing)
- Technical support (ongoing)
- Custom Pages
- Ability to download, email, and print content.
- Mobile access
- Account management tools

Option 1C: National Basic with Edge

This option provides access to national primary law, analytical, and other miscellaneous materials.

Content: Westlaw Basic Research Platform: Thomson Reuters Westlaw					
Fixed Monthly Charge: Monthly Per User Per Agency Location Pricing					
No. of Users	Year 1	Year 2	Year 3	Year 4	Year 5
1-25 Users	\$188	\$192	\$196	\$196	\$200
26-50 Users	\$177	\$181	\$185	\$189	\$193
51-100 Users	\$168	\$171	\$174	\$177	\$181
101-150 Users	\$160	\$163	\$166	\$169	\$172
151-200 Users	\$152	\$155	\$158	\$161	\$164
201+ Users	\$145	\$148	\$151	\$154	\$157

DESCRIPTION OF INCLUDED CONTENT, FEATURES, AND SERVICES

INCLUDED CONTENT

- **Federal and State Materials**
 - Cases and Judicial Materials
 - Statutes and Legislative Materials
 - Administrative Law and Regulations
 - Court Rules and Orders
 - Attorney General Opinions
- **Analytical Materials**
 - Law Reviews and Journals
 - Legal Texts
 - Practice Area Materials
- **Miscellaneous Materials**
 - Jury Verdicts and Summaries
 - Jury Instructions
 - Black's Law Dictionary
 - Uniform Laws Annotated

INCLUDED FEATURES AND SERVICES

- KeyCite Citator Service
- West Key Number System
- Folder Analysis
- Alerts and WestClip
- Editorial Enhancements
- Research Recommendations
- Law Summaries
- Research Report
- Training (Initial and ongoing)
- Reference Attorneys (ongoing)
- Technical support (ongoing)
- Custom Pages
- Ability to download, email, and print content
- Mobile access
- Account management to

Optional Add-On Content for Options 1A-1C

If an agency selects Option 1A, 1B, or 1C, the following optional separately priced add-on libraries are available. For any add-ons selected by the agency, the corresponding monthly per user charge will be added to the Legal Research package charge.

Option 1: Optional Add-On Content for 1A-1C					
Fixed Monthly Charge: Monthly Per User Per Agency Location Pricing					
Content Library Name	Year 1	Year 2	Year 3	Year 4	Year 5
State Analytical 42077865	\$20	\$20	\$20	\$20	\$20
ALR/AMJUR/CJS 42104421	\$23	\$23	\$23	\$23	\$23
Municipal Analytical 42030178	\$14	\$15	\$16	\$17	\$18
Criminal Analytical 42032004	\$14	\$15	\$16	\$17	\$18
Briefs 42059316	\$25	\$26	\$27	\$28	\$29
Pleading, Motions, & Memoranda 42060571	\$25	\$26	\$27	\$28	\$29
Jury Verdicts 42059330	\$20	\$20	\$20	\$20	\$20
Trial Court Orders 42059318	\$20	\$20	\$20	\$20	\$20
Practical Law 41984467	\$30	\$31	\$32	\$33	\$34

DESCRIPTIONS OF OPTIONAL ADD-ON CONTENT

State Analytical—Extensive collection of multiple states' analytical materials, including California. Includes treatises, forms, jury instructions, and more.

ALR/AMJUR/CJS—American Law Reports, American Jurisprudence, and Corpus Juris Secundum.

Municipal Analytical—Matthews Municipal Ordinances, McQuillin: The Law of Municipal Corporations, McQuillin Municipal Law Report; and Municipal law forms, clauses, and checklists.

Criminal Analytical—Comprehensive criminal analytical resources, including treatises, practice guides, journals and law reviews.

Briefs—Extensive and exclusive collection of appellate briefs and petitions libraries at both the federal and state levels.

Pleadings, Motions, and Memoranda—Court filings from select state trial courts, U.S. district courts and federal bankruptcy courts from across the U.S.

Jury Verdicts—Information from more than 500,000 federal and state jury verdict summaries.

Trial Court Orders—National and state trial court orders.

Practical Law—Legal know-how materials that help researchers to get up-to-speed on unfamiliar areas of the law quickly.

Option 1D: Westlaw Precision

This option provides access to national primary law and analytical content on Westlaw Precision. Powered by trusted content, exclusive editorial enhancements, improved searching technology and advanced organizational tools, Westlaw Precision™ can significantly cut research time.

Content: National Primary with Analytical Plus					
Research Platform: Thomson Reuters Westlaw Precision					
Fixed Monthly Charge: Monthly Per User Per Agency Location Pricing					
No. of Users	Year 1	Year 2	Year 3	Year 4	Year 5
1 User	\$595	\$607	\$619	\$632	\$644

DESCRIPTION OF INCLUDED CONTENT, FEATURES, AND SERVICES

INCLUDED CONTENT

National Primary—All state and federal case law and statutes (Including the United States Code Annotated), administrative rules and regulations, coverage of every appellate and trial court case from all 50 states as well as the District of Columbia, and statutes from each state and documents passed by state legislative bodies. In addition, Westlaw is the only online legal research solution that includes West synopses and headnotes, as well as the West Key Number System.

Analytical Plus—Thousands of secondary sources with broad coverage of practice areas and jurisdictions and extensive California materials. Includes forms, jury instructions, 50 state surveys, law reviews and journals, and news.

INCLUDED FEATURES AND SERVICES

- KeyCite Citator Service
- West Key Number System
- Folder Analysis
- Alerts and WestClip
- Editorial Enhancements
- Research Recommendations
- Law Summaries
- Research Report
- Training (Initial and ongoing)
- Reference Attorneys (ongoing)
- Technical support (ongoing)
- Custom Pages
- Ability to download, email, and print content
- Mobile access
- Account management tool

Optional Add-On Content for Option 1D

If an agency selects Option 1D, the following optional separately priced add-on libraries are available. For any add-ons selected by the agency, the corresponding monthly per user charge will be added to the Legal Research package charge.

Option 1: Optional Add-On Content for 1D/1E					
Fixed Monthly Charge: Monthly Per User Per Agency Location Pricing					
Content Library Name	Year 1	Year 2	Year 3	Year 4	Year 5
Public Records Collection (41984465)	\$254	\$259	\$264	\$269	\$274
Litigation Collection (41983880)	\$254	\$259	\$264	\$269	\$274
Corporate Litigation Analytics	\$279	\$285	\$291	\$297	\$303
Drafting Assistant (41986760)	\$197	\$201	\$205	\$209	\$213
Form Builder (41732388)	\$56	\$57	\$58	\$59	\$60
Case Notebook Suite (42018821)	\$197	\$201	\$205	\$209	\$213
Practical Law	\$197	\$201	\$205	\$209	\$213
West km	To be negotiated, but not to exceed the Westlaw Basic 1C rates.				

DESCRIPTIONS OF OPTIONAL ADD-ON CONTENT

Public Records Collection—Comprehensive and current collection of public records. Includes people locator resources, assets, adverse filings, licenses and registrations, and business and corporate records. Also includes tools for efficient searching.

Litigation Collection—Arbitration materials, briefs, court dockets, expert materials, jury verdicts, litigation reports, Profiler, trial court documents (pleadings, motions, and memoranda), trial court orders, and Case Evaluator.

Corporate Litigation Analytics—

Drafting Assistant—Information, research, and tools to help draft legal documents.

Form Builder—Document assembly tool that helps legal professionals create and complete forms faster through an interactive and automated assembly experience.

Case Notebook Suite—Electronic case file that lets legal professionals organize, analyze, and share essential case information such as research, transcripts, documents, and C.A. pleadings. Also includes Case Timeline and West Publisher.

Practical Law—Legal know-how materials that help researchers to get up-to-speed on unfamiliar areas of the law quickly.

West km—Powerful knowledge management solution that enables an agency's lawyers, professionals, and other researchers to search their internal document repositories or document management systems (DMS) to easily access, retrieve, update and use work products and internal documents across the organization.

Option 2—Investigative Research

Thomson Reuters CLEAR can meet the State's online investigative research needs. Our offer consists of the following CLEAR investigative research packages:

- Option 2A: CLEAR Investigations Basic
- Option 2B: CLEAR Investigations Advanced
- Option 2C: Fraud Detect
- Option 2D: Network Analysis
- Option 2E: I.D. Risk Analytics
- Option 2F: Customer Verification
- Option 2G: Fraud Recovery Solutions

Option 2A: CLEAR Investigations Basic

Option 2A provides access to CLEAR Investigations Basic. CLEAR Basic includes CLEAR's standard searching, reporting, and functionality. CLEAR standard search types include: Person, Business, Phone, Property, Vehicles, Watercraft, License, and Court. CLEAR Basic includes comprehensive Individual and Company reports, as well as more streamlined Contact and Basic reports. The dashboard display of results provides access to standard dashboard tools, such as Quick Analysis Flags and Address Map, and the Workspace feature provides link chart and mapping capabilities. (Excluded content: CLEAR Basic does not include the TransUnion credit header gateway, Vehicles gateway, Web Analytics feature, or Dashboard Tools, including Graphical Display, News, Associate Analytics, Map Analytics, or Company Family Tree.).

A summary description of the content, features, and services included in Option 2A is provided on the following page.

Content/Research Platform: CLEAR Investigations Basic					
Fixed Monthly Charge: Monthly Per Agency Location Pricing					
No. of Users	Year 1	Year 2	Year 3	Year 4	Year 5
1 User	\$127	\$130	\$132	\$135	\$138
2 Users	\$222	\$226	\$231	\$235	\$240
3 Users	\$295	\$301	\$307	\$313	\$320
4 Users	\$387	\$394	\$402	\$410	\$419
5 Users	\$470	\$479	\$489	\$498	\$508
6-7 Users	\$611	\$624	\$636	\$649	\$662
8-10 Users	\$822	\$838	\$855	\$872	\$890
11-15 Users	\$1,064	\$1,086	\$1,107	\$1,129	\$1,152
16-20 Users	\$1,388	\$1,416	\$1,444	\$1,473	\$1,503
21-25 Users	\$1,669	\$1,703	\$1,737	\$1,772	\$1,808
26-30 Users	\$2,002	\$2,042	\$2,083	\$2,125	\$2,168
31-35 Users	\$2,277	\$2,322	\$2,369	\$2,416	\$2,465
36-40 Users	\$2,601	\$2,653	\$2,706	\$2,761	\$2,817
41-45 Users	\$2,732	\$2,786	\$2,842	\$2,899	\$2,957
46-50 Users	\$2,994	\$3,054	\$3,115	\$3,177	\$3,241
51-55 Users	\$3,198	\$3,262	\$3,327	\$3,394	\$3,462
56-60 Users	\$3,388	\$3,456	\$3,525	\$3,596	\$3,668
61-65 Users	\$3,725	\$3,800	\$3,876	\$3,953	\$4,033
66-70 Users	\$3,890	\$3,968	\$4,048	\$4,128	\$4,211
71-75 Users	\$4,104	\$4,186	\$4,269	\$4,355	\$4,443
76-80 Users	\$4,310	\$4,396	\$4,484	\$4,573	\$4,665
81-85 Users	\$4,362	\$4,449	\$4,538	\$4,629	\$4,722
86-90 Users	\$4,465	\$4,554	\$4,645	\$4,738	\$4,833
91-95 Users	\$4,551	\$4,642	\$4,735	\$4,830	\$4,927
96-100 Users	\$4,705	\$4,799	\$4,895	\$4,993	\$5,093

OPTION 2A: CLEAR INVESTIGATIONS BASIC CONTINUED

DESCRIPTION OF INCLUDED CONTENT, FEATURES, AND SERVICES

INCLUDED DATA SOURCES

- Person Records
- Business Records
- Phone Records
- Asset Records
- License Records
- Court Records
- Real Property Records
- Intellectual Property Records
- Real-Time Live Data Gateways:
 - Reverse Phone Gateway
 - Experian Gateway

INCLUDED FEATURES AND SERVICES

- Sophisticated search technology
- Data source transparency
- Contact View
- Reports (Basic/Contact)
- Workspace
- Training (Initial and ongoing)
- Technical and research support
- Download, email, and print content
- Mobile access
- Account management tool

Option 2B: CLEAR Investigations Advanced

Option 2B provides access to CLEAR Investigations Advanced. CLEAR Investigations Advanced provides access to not only the standard searching, reporting, and functionality that are available in CLEAR Basic, but also provides access to the TransUnion credit header gateway, Vehicles gateway, and Web Analytics.

A summary description of the content, features, and services included in Option 2B is provided on the following page.

Content/Research Platform: CLEAR Investigations Advanced					
Fixed Monthly Charge: Monthly Per Agency Location Pricing					
No. of Users	Year 1	Year 2	Year 3	Year 4	Year 5
1 User	\$198	\$201	\$205	\$210	\$215
2 Users	\$339	\$346	\$353	\$360	\$368
3 Users	\$447	\$455	\$465	\$474	\$484
4 Users	\$580	\$592	\$603	\$615	\$628
5 Users	\$700	\$714	\$728	\$743	\$758
6-7 Users	\$899	\$917	\$936	\$954	\$974
8-10 Users	\$1,198	\$1,222	\$1,246	\$1,271	\$1,297
11-15 Users	\$1,545	\$1,576	\$1,608	\$1,640	\$1,673
16-20 Users	\$1,996	\$2,036	\$2,077	\$2,118	\$2,161
21-25 Users	\$2,384	\$2,431	\$2,480	\$2,530	\$2,581
26-30 Users	\$2,842	\$2,899	\$2,957	\$3,016	\$3,077
31-35 Users	\$3,210	\$3,274	\$3,339	\$3,406	\$3,475
36-40 Users	\$3,645	\$3,717	\$3,792	\$3,868	\$3,946
41-45 Users	\$3,814	\$3,890	\$3,968	\$4,047	\$4,128
46-50 Users	\$4,153	\$4,236	\$4,321	\$4,407	\$4,496
51-55 Users	\$4,414	\$4,502	\$4,592	\$4,684	\$4,778
56-60 Users	\$4,674	\$4,768	\$4,863	\$4,960	\$5,060
61-65 Users	\$5,141	\$5,243	\$5,348	\$5,455	\$5,565
66-70 Users	\$5,371	\$5,478	\$5,588	\$5,699	\$5,813
71-75 Users	\$5,666	\$5,779	\$5,895	\$6,013	\$6,134
76-80 Users	\$5,947	\$6,066	\$6,188	\$6,311	\$6,438
81-85 Users	\$6,018	\$6,138	\$6,261	\$6,386	\$6,514
86-90 Users	\$6,161	\$6,284	\$6,410	\$6,538	\$6,669
91-95 Users	\$6,278	\$6,404	\$6,532	\$6,663	\$6,797
96-100 Users	\$6,490	\$6,619	\$6,752	\$6,887	\$7,025

OPTION 2B: CLEAR INVESTIGATIONS ADVANCED CONTINUED

DESCRIPTION OF INCLUDED CONTENT, FEATURES, AND SERVICES

INCLUDED DATA SOURCES

- Person Records
- Business Records
- Phone Records
- Asset Records
- License Records
- Court Records
- Real Property Records
- Intellectual Property Records
- Real-Time Live Data Gateways:
 - Reverse Phone Gateway
 - Experian Gateway

INCLUDED FEATURES AND SERVICES

- Sophisticated search technology
- Data source transparency
- Contact View
- Reports (Basic, Contact, Individual, and Company)
- Workspace
- Training (Initial and ongoing)
- Technical and research support
- Download, email, and print content
- Alerts (5 per user)
- Mobile access
- Account management tool

Option 2C: Fraud Detect

Option 2C provides access to Fraud Detect. Thomson Reuters' Fraud Detect is the ultimate fraud, waste, and abuse (FWA) detection engine, designed by investigators for investigators. Our advanced analytics engine utilizes artificial intelligence (A.I.), machine learning, and cutting-edge technology to identify both known and unknown anomalies and patterns.

With the integration of CLEAR public records, Fraud Detect offers enhanced program data with live updates that prioritize leads, making it easier to identify potential fraudulent activities quickly. Our solution predicts and detects complex schemes by leveraging detailed analyses, providing risk scoring and a 360-degree view of program participants.

Fraud Detect's unique approach also uncovers hidden networks and associations between program providers and beneficiaries. By combining program source data with Thomson Reuters CLEAR public, non-traditional public, proprietary records, and third-party data related to the program, our solution streamlines the investigative process, saving you time and resources. Integrating CLEAR into our solution also provides critical data on individuals and businesses, including addresses, death records, criminal records, corporate filings, and more.

With up to 25+ pinned sources, Fraud Detect delivers unmatched accuracy, giving you the information you need to make informed decisions.

Content/Research Platform: Fraud Detect					
Fixed Monthly Charge: Monthly Per Agency Location Pricing					
Price per input, min of 50,000 inputs	Year 1	Year 2	Year 3	Year 4	Year 5
	\$0.81	\$0.82	\$0.83	\$0.84	\$0.85

Option 2D: Network Analysis

Option 2D provides access to Network Analysis. Thomson Reuters' Network Analyzer platform is a powerful tool that leverages disparate data from claims, encounters, third-party data (i.e., CLEAR, social networks), and case linkages to help government agencies identify, visualize, and investigate relationships between and among participants. With the help of network analysis, agencies can easily and quickly see patterns by linking data from claims, employers, claimants, and public & proprietary records.

Network Analyzer features pre-built templates that enable users to parse through data and uncover actionable insights, allowing them to move their investigations forward more quickly. Using a graph pattern database, Network Analyzer combs through big data much faster than a traditional relational database. This allows analysts and investigators to validate identities and uncover previously unknown relationships, such as shared beneficiaries, business and/or beneficial ownership, patterns of favored providers, criminal networks, foreign entities, geographic "hot spots," time bands displaying construction of networks, hierarchical relationship views, and more.

Network Analyzer denotes excessive claims with colored or thicker lines and provides hyperlinks with instant drill downs to MCO, provider, and/or beneficiary profiles, making it easier for investigators to identify potentially fraudulent activities. With our powerful Network Analyzer platform, government agencies can stay ahead of fraudsters and protect their programs from fraud, waste, and abuse.

Content/Research Platform: Network Analysis					
Fixed Monthly Charge: Monthly Per Agency Location Pricing					
Price per input, min of 50,000 inputs	Year 1	Year 2	Year 3	Year 4	Year 5
	\$0.26	\$0.27	\$0.28	\$0.29	\$0.30

Option 2E: I.D. Risk Analytics

Option 2E provides access to I.D. Risk Analytics. Thomson Reuters' I.D. Risk Analytics (IDRA) helps government agencies protect programs and operations by identifying and safeguarding against fraud, waste, and abuse. T.R.'s comprehensive solution combines various elements, including identity verification scoring and data through CLEAR ID Confirm (CIDC) and behavioral analytics, to provide an unmatched ability to detect, investigate, and prevent FWA within your program.

CIDC is a powerful tool that leverages CLEAR data sources and configurable waterfall search analytics to compile program-specific identity verification scoring. By analyzing various data points, such as wage information and arrest records, CIDC can detect potential fraud risks and provide valuable insights to government agencies.

With ID Risk Analytics, you can rest assured that your agency is equipped with the latest technology and tools to keep your programs and operations safe from potentially fraudulent, wasteful, and abusive services and improper payments due to provider and/or beneficiary actions. Our solution captures both individual and shared identity risk indicators, such as death records, synthetic I.D. composition, duplication, and fraud rings.

Our advanced technology combines agency data with our identity verification and behavioral analytics capabilities, providing an unparalleled ability to detect, prevent, and mitigate identity-based fraud within your program. I.D. Risk Analytics is committed to helping government agencies detect and prevent fraud, waste, and abuse, keeping their programs and operations safe from harm.

Content/Research Platform: I.D. Risk Analytics					
Fixed Monthly Charge: Monthly Per Agency Location Pricing					
Price per input, min of 50,000 inputs	Year 1	Year 2	Year 3	Year 4	Year 5
	\$0.24	\$0.25	\$0.26	\$0.27	\$0.28

Option 2F: Customer Verification

Option 2F provides access to Customer Verification. With Thomson Reuters' Customer Verification, you can protect your program's integrity by quickly detecting risks or inconsistencies in an individual's identity before program participation. Our initial risk analytics utilize shared addresses, emails, and I.P. addresses to identify collusive fraud activities that use stolen or synthetic identities. This essential analysis helps prevent fraudulent activities before they occur, while still providing a frictionless experience for the individual.

Our solution uses a RESTful API to collect customer demographic information and makes structured calls to third-party data sources to gather relevant data, giving you valuable insights into your customers' risk profiles. The data is transformed into a standard database structure and presented in an easy-to-use web application that can be customized to fit your needs. Customer Verification is also compatible with Salesforce and .NET technologies, making integration seamless.

Content/Research Platform: Customer Verification					
Fixed Monthly Charge: Monthly Per Agency Location Pricing					
Price per input, min of 50,000 inputs	Year 1	Year 2	Year 3	Year 4	Year 5
	\$0.60	\$0.61	\$0.62	\$0.63	\$0.64

Option 2G: Fraud Recovery Solutions

Option 2G provides access to Fraud Recovery Solutions. Fraud Recovery Services enable agencies to identify and prosecute the leaders and associates of criminal networks that have conducted large-scale fraud schemes. Our analysis provides access to the details needed to root out the hidden players.

Our teams deploy our proprietary data and technologies to conduct a variety of services that will help Agencies identify participants in schemes to receive fraudulent public funds, counter fraud, and identify and mitigate additional potential targets.

Content/Research Platform: Fraud Recovery Solutions					
Fixed Monthly Charge: Monthly Per Agency Location Pricing					
Price per input, min of \$400,000	Year 1	Year 2	Year 3	Year 4	Year 5
	\$2	\$2.04	\$2.08	\$2.12	\$2.16

Option 3—Westlaw Correctional

This option provides online access to Westlaw Correctional (primary and analytical legal resources) for inmate use at correctional facilities.

Content: <ul style="list-style-type: none"> ▪ Primary Law ▪ Analytical Library 					
Research Platform: Thomson Reuters Westlaw Correctional					
Fixed Monthly Charge: Monthly Per Facility Location Pricing					
No. of Devices	Year 1	Year 2	Year 3	Year 4	Year 5
1 Device	\$478	\$487	\$497	\$507	\$518
2 Devices	\$883	\$901	\$919	\$938	\$957
3 Devices	\$1,413	\$1,441	\$1,470	\$1,500	\$1,530
4 Devices	\$1,836	\$1,873	\$1,910	\$1,949	\$1,988
5 Devices	\$2,205	\$2,249	\$2,294	\$2,340	\$2,387
6+ Devices	Please contact your local West representative for an Option 3 subscription agreement				

Please note: If a correctional facility should need additional Devices beyond the five Devices priced herein, please contact your local West representative. Additional discounting may be available under the Custom Package option (Option 5). Please contact your local Thomson Reuters/West representative for more information.

DESCRIPTION OF INCLUDED CONTENT, FEATURES, AND SERVICES

INCLUDED CONTENT

Primary Law—Federal and state case law, statutes, and administrative materials.

Analytical Library—Core analytical sources, including treatises, forms, and state analytical materials where available.

INCLUDED FEATURES AND SERVICES

In Westlaw Correctional, we developed a product that meets the security needs of correctional facilities. Incorporated into Westlaw Correctional are safeguards against unauthorized use, additional charges, and administrative worries. These include:

- Dedicated website address that is unique to each customer.
- No password required. Access is available only on designated Devices via transparent authentication.
- External links removed or disabled.
- No print, download, or email capabilities. (Option available for product print on request.)
- Multiple, overlapping layers of control to ensure that only content included in the subscription plan is available.
- Simple, easy to use interface that provides fast, accurate results.

Option 4—Legal Print Publications

This option provides user agencies a discount off retail pricing for the purchase of eligible new print titles, existing print purchases, and eligible print programs. Agencies must work with their local West representative at the time of purchase to receive the discount.

- Agencies will receive a minimum of 10% off the one-time purchase of eligible new print titles. Agencies that purchase eligible new print titles on subscription will receive a 10% discount at the time of the initial purchase, followed by a 20% discount when the titles are updated and new versions are released (i.e., 20% off then-current retail rates).
- Agencies that currently subscribe to eligible print titles on subscription will continue to receive a 20% discount off those titles when new versions are released (i.e., 20% off then-current retail rates).
- User agencies may be eligible for additional discounting based on a multi-year commitment. These additional discounts/print programs can provide significant savings by locking in lower annual price increases as well as predictable billing for ease in budgeting. Please contact your local West representative for more information.

Option 5—Volume Management Plan

Research needs can vary dramatically from agency to agency, and not all agencies require access to the same content. Custom packages are offered in recognition that some California agencies have diverse and unique needs that cannot be met by the pre-packaged content sets provided by Options 1-4. This option provides agencies with maximum flexibility to purchase proprietary legal research, information, news databases, and print products that are specifically tailored to the research needs of individual agencies and end users (including content and features, number of users, and contract length). Offering customized packages allows an agency to enjoy the best value in terms of both price and content.

Please note: A pricing schedule is not available under this option, as the custom agency-specific pricing will be at or below MSA levels with the individual agency based on its unique research subscription needs. Agencies will contact their local Thomson Reuters representative for information on these custom packages, and to obtain their discount.

LEGAL RESEARCH CUSTOM PACKAGES

If an agency's legal research needs differ from or extend beyond the pre-packaged content sets offered under Option 1, we can customize a legal research package that is specific to the agency's needs.

INVESTIGATIVE RESEARCH CUSTOM PACKAGES

When an agency's investigative research and law enforcement needs differ from or extend beyond the pre-packaged content sets offered under Option 2, we can work with User Agencies to create custom special packages that are specific to an agency's investigative research needs.

Under the custom packages option, agencies can enhance their investigative research subscription with premium tools, features, and services. For example, CLEAR offers real-time gateway access to arrest records, global risk information, license plate recognition data, additional data delivery modes including batch processing for high-volume searching, system-to-system capability (which integrates query and result retrieval directly into internal user applications), and other investigative tools. Having numerous search options provides organizations with needed flexibility to meet unique search, retrieval, and integration requirements.

Pricing Terms and Conditions

The following terms and conditions apply to any contract between Thomson Reuters (West Publishing Corporation, hereinafter "West") and the State of California, Department of General Services resulting from this proposal (hereinafter "contract").

- **Eligibility**—Available only to authorized User Agencies as agreed upon by the terms of the Master Service Agreement negotiated between the Department of General Services and West Publishing Corporation ("West"). The rates set forth hereunder are available only to government personnel accessing West products for government purposes.
- **User Agencies**—Each agency location must subscribe separately (for Options 1- 3). Access is limited to the agency's personnel at that location. User Agencies with multiple locations may purchase under Option 5: Custom Packages.
- **Authorized Users**—Only users authorized to use West's products by the User Agency may access and use West products under the terms of the fixed-rate agreement, and such use must be solely for purposes directly related to the User Agency's research and work.
- **Passwords**—Each user must be assigned a separate password. Passwords may only be used by the person to whom the password is issued. Sharing of passwords between or among users is STRICTLY PROHIBITED. West reserves the right to issue additional passwords to the agency if West learns that the product has been used by a person other than the person to whom the password has been issued.
- **Password Rates**—The Monthly Charge per User under the Per Password options will NOT be prorated. Requests for passwords by new Subscribers (User Agencies) or requests for additional passwords by current Subscribers that are processed by West by the last day of a month will be billed the entire Monthly Charge per User for each password request during such month. The Monthly Charge per User for Subscribers that elect to change from one option to another will be effective on the first day of the month following receipt and approval of the appropriate documentation by West.
- **Included and Excluded Charges**—User Agencies will receive the content package as described in their STD 213, and/or Purchase Orders, or appropriate equivalent contract form for Local Government Agencies (Options 1A-1D, Options 2A-2G and Option 5). Access to and usage of all other content, features, and services is excluded and will be billed separately as excluded charges. The excluded content, features, and services will be charged at the applicable-rates (including applicable transaction, communications, and other associated charges, if any) for each library, feature, or service accessed according to terms and conditions as set forth in the then-current applicable Schedule A Plan 2 Westlaw Government Service (Attachment II) and/or CLEAR Services Schedule A (Attachment III).

West may make certain content, features, and services excluded charges if contractually required by a third-party data provider. Prior to West notifying the User Agencies of changes for which there will be additional charges, the State Contract Administrator will be notified of such changes to determine if the changes are a material change to the scope of the MSA and if an MSA Amendment is needed. User Agencies will receive online notification of the change. If this change constitutes a material change, the User Agency may renegotiate the terms of their agreement or terminate.

New Content, Features, Services, and Platforms—West reserves the right to charge for any new content, features, services, or platforms released during the term of this contract (whether "third-party" content or not), and such charges may be separate from and in addition to the Fixed Monthly

Charge. Such charges (if any) shall not be greater than the charges at which such content, features, services, or platforms are made available to West's other government subscribers under West's then-current Government Price Plan.

If, however, any new content, features, services, or platforms released during the term of this contract are made generally available to government subscribers as part of their fixed rate agreement, West will also make these same new content, features, services, or platforms available to the agency at no extra cost.

- **CLEAR Usage**—West's offer allows for CLEAR usage up to ten times the proposed fixed-monthly charge. (Usage will be calculated using then-current retail rates.) If the User Agency's usage exceeds this limit in a given month, users will still have access to complete searching and reporting functionality within CLEAR; however, access to CLEAR'S live gateways may be limited for the remainder of that month or other remedies may be sought, such as renegotiating the agency's fixed rate. (Please note: Most customers are not affected by this usage limit because the usage threshold is so high. And should the usage limit be reached, access to most CLEAR functionality is not directly affected; restrictions would apply to only a few premium gateway sources.)
- **CLEAR Non-FCRA Use**—CLEAR is intended for due diligence and investigative purposes, activities not regulated by the Fair Credit Reporting Act (FCRA). Thomson Reuters is not a consumer reporting agency, and customers must not use any of the content, information, or services provided on our sites as a factor in establishing a consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes; for employment purposes; in consumer debt-collection decisions, or for any other purpose authorized under section 1681b of the Fair Credit Reporting Act (15 USCA §1681b).
- **Print Product Subscriptions**—West will provide subscription services for the print products designated on the User Agreement. Print subscription services include automatic shipments of updates and supplements, such as pocket parts, pamphlets, replacement volumes or loose-leaf pages and will be billed when shipped at the then current rates. Anniversary billed print products will be billed at then current rates. Your West sales representative will provide frequency of updates upon request. Transportation charges are included in your subscription, FOB Destination, unless you request an expedited shipment or international product delivery. Expedited shipments and international product shipments will be charged at then-current carrier rates. You may return a print product to us within 45 days of the original shipment date for full refund if you are not completely satisfied. West print programs such as Assured Print Pricing and Library Management Arrangements are not refundable.
- **Print Returns**—Please see <http://static.legalsolutions.thomsonreuters.com/static/returns-refunds.pdf> or contact Customer Service at 1-800-328-4880 for additional details regarding our policies on returns and refunds.
- **Ordering Documents**—The attached license agreement (Thomson Reuters Legal Products General Terms and Conditions) provides complete details of the scope of the license granted to information service (Westlaw, CLEAR) and print program (APP, LMA) subscribers. This proposal, including the license agreement, will be incorporated by reference into and made part of the Master Service Agreement and pass through to all information service and print program User Agreements under the MSA. West software subscription licenses will be governed by the State of California's General Provisions – Information Technology GSPD-401IT (Effective 6/21/2022 – As Modified). In addition to providing a completed, signed STD 213 and/or Purchase Order or similar local agency form, access to and usage of CLEAR under Option 2 requires completion of a current Account Validation and Certification (AVC) Form. Attachment IV.

- **Credentialing Documents**—Access to and usage of CLEAR or Public Records content on Westlaw require completion of the then-current Account Validation and Certification (AVC) Form. (A sample of this document is included at the end of this proposal.)
- **Contractor Information**—Any contract resulting from this proposal will be with:

Legal Contracting Entity	West Publishing Corporation
Doing Business As (DBA)	West, a Thomson Reuters business
Corporate Address	610 Opperman Drive, Eagan, MN 55123
Remittance Address	P.O. Box 6292, Carol Stream, IL 60197-6292
Federal Tax ID #	41-1426973
DUNS #	14-850-8286
Cage Code	89101
Company Size	Large

- **Ordering Instructions**—User Agencies may purchase products off the Master Service Agreement by contacting their West Representative and completing the Standard Agreement (STD 213 and/or Purchase Order or appropriate equivalent local agency form), noting the print titles and print program being purchased by the agency, if applicable. Note that all STD 213 forms, and/or Purchase Orders, or appropriate equivalent contract form for Local Government Agencies must include the Master Service Agreement number and incorporate by reference the terms and conditions of the MSA.
- **Order Processing**—Orders will be processed as follows:
 - Option 4 and Special Offer Library Management Arrangement (LMA): Service will begin the first day of the first month following receipt of the fully executed STD 213, and/or Purchase Orders, or appropriate equivalent contract form for Local Government Agencies provided adequate time is available for implementing the contract. In general, to implement a contract West must receive the fully executed STD 213, and/or Purchase Orders, or appropriate equivalent contract form for Local Government Agencies no later than five business days prior to the end of the month preceding the start of service.
 - Options 1, 2, 3 and non-LMA print orders: Service will begin 5-7 business days following receipt of a fully executed STD 213 and/or P.O. or appropriate equivalent local agency form, after any necessary credentialing has been completed.
 - Option 5: Service will begin 5-7 business days following receipt of a fully executed STD 213 and/or P.O. or appropriate equivalent local agency form, after any necessary credentialing has been completed.

Attachments and Exhibits

The following contracting documents govern the access to and usage of various products that are offered under this proposal. These agreements will be incorporated by reference and made part of any contract awarded to us pursuant to this proposal.

LICENSE AGREEMENT TERMS

Governing terms applicable to all products offered herein.

Attachment I General Terms and Conditions

Attachment 1A: Supplier Additional Terms and Disclaimers – Westlaw/PeopleMap

Attachment 1B: Supplier Additional Terms and Disclaimers – CLEAR

Attachment 1C: Product-Specific Terms – non-standard

Attachment II Westlaw Schedule A: Plan 2 Westlaw Government Service

Attachment III CLEAR Services Schedule A: Commercial Subscriber's Accessing Enhanced CLEAR Services

Attachment IV Account Validation and Certification (AVC)