

CaIWIN IMPLEMENTATION SERVICES

AGREEMENT

BETWEEN

CaISAWS CONSORTIUM

AND

CONTRACTOR

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This Agreement (the "Agreement") is entered into as of the 4TH day of December 2020 (the "Execution Date"), by and between the CalSAWS Consortium ("Consortium"), and any successor entity, and Deloitte Consulting LLP ("Contractor") (collectively, "Parties").

RECITALS

WHEREAS, the four (4) counties of Merced, Riverside, San Bernardino, and Stanislaus contractually joined together in December 1998 to create the California Statewide Automated Welfare System Consortium IV Joint Powers Authority (C-IV Consortium) that developed and implemented a system for the administration of certain public assistance programs; and

WHEREAS, in June 2007, the thirty-five (35) counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Modoc, Mono, Monterey, Napa, Nevada, Plumas, San Benito, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne, and Yuba joined the C-IV Consortium; and

WHEREAS the thirty-nine (39) C-IV counties administered certain public assistance programs through the California Automated Consortium Eligibility System (C IV System); and

WHEREAS Los Angeles County administered certain public assistance programs through a separate system known as the Los Angeles Eligibility, Automation Determination, Evaluation and Reporting (LEADER) Replacement System ("LRS"); and

WHEREAS, Los Angeles County joined the C-IV Consortium in compliance with California Assembly Bill ABX1 16 (2011); and

WHEREAS, the remaining eighteen (18) counties in California, consisting of Alameda, Contra Costa, Fresno, Placer, Orange, Sacramento, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Tulare, Ventura and Yolo, formed the CalWORKs Information Network (CalWIN) Consortium to administer certain public assistance programs in those counties through a separate system, the CalWIN System; and

WHEREAS, the Consortium has been established for the purpose of overseeing the consolidation of the three (3) current automated welfare systems (the C-IV System, LRS, and CalWIN System) for the purpose of implementing a single California Statewide Automated Welfare System ("CalSAWS System") in all fifty-eight (58) California counties; and

WHEREAS, the Consortium desires to provide Implementation Support Services to the CalWIN Counties to design, develop and implement business process reengineering (BPR), organizational change management (OCM), training and implementation support services for the migration of the CalWIN Counties to the statewide CalSAWS System; and

WHEREAS, on December 17, 2019, the Consortium released a Request for Proposal (RFP) to solicit proposals from qualified Vendors to design, develop and implement business process reengineering (BPR), organizational change management (OCM), training and implementation support services for the migration of the CalWIN Counties to the statewide CalSAWS System, which is incorporated herein by reference.

WHEREAS, on April 23, 2020, Contractor submitted its response to the RFP, which is incorporated herein by reference.

NOW THEREFORE, in consideration of the foregoing premises and the mutual covenants and promises set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. CONTRACT INTERPRETATION.

In the event there is a conflict between the documents comprising the Agreement, including all exhibits to it, the following order of precedence shall apply:

1.1 The terms and conditions in the body of this Agreement, which shall include all exhibits, which are hereby incorporated by reference;

1.2 The Request for Proposal (RFP) for the CalWIN Implementation Support Project, which shall include all exhibits to the RFP; and

1.3 Contractor's Proposal submitted in response to the RFP.

2. DEFINITIONS.

2.1 Acceptance.

A Notice from the Consortium to Contractor that a Deliverable or a Service has met with the applicable Specifications.

2.2 Acceptance Criteria.

The Specifications against which each Deliverable shall be evaluated as the basis for Acceptance in accordance with Section 5.7, as described in the applicable Specifications for that Deliverable or Service.

2.3 Agreement.

This Agreement, the Exhibits attached to it, which are incorporated by this reference, and any other document expressly incorporated by reference pursuant to the terms of this Agreement.

2.4 Business Process Reengineering (“BPR”).

BPR involves the analysis and documentation of each CalWIN County “As-Is” and “To-Be” Processes, taking into consideration each Cal-WIN County’s Ancillary System decisions.

2.5 CalSAWS Consortium.

The CalSAWS Consortium is a Joint Powers Authority (JPA) that comprises all fifty-eight (58) Counties in the State of California.

2.6 CalSAWS System.

The CalSAWS System is the anticipated user-friendly, on-line, and fully integrated case management system that currently is being designed in order to manage data in identified public assistance programs for all fifty-eight (58) counties in the State of California.

2.7 CalWIN System.

The user-friendly, customer based, on-line, and fully integrated case management system currently being managed and operated by the Counties in the Welfare Client Data System (WCDS) Consortium to manage data in identified public assistance programs.

2.8 CalWIN Counties.

The eighteen Counties in the WCDS Consortium, consisting of Alameda, Contra Costa, Fresno, Placer, Orange, Sacramento, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Tulare, Ventura and Yolo Counties.

2.9 Change Discussion Guides.

Document to be created as a result of the outcome of As-Is and To-Be Processes analysis and to be used by the CalWIN Counties to implement changes consistent with migration to the CalSAWS System.

2.10 Change Order.

A written form used by Contractor and the Consortium to modify, delete, or add to the CalWIN Implementation Support Deliverables and Services, in whole or in part, made in accordance with Section 8 of this Agreement.

2.11 Confidential Information.

Subject to applicable federal, State and County laws and regulations, trade secrets and confidential information of the Consortium and Contractor,

including, without limitation: all proprietary and confidential information of the Consortium, such as trade secrets, designs, drawings, specifications, computer programs, support materials and other records concerning the Consortium and its finances, citizens, contracts, Services or personnel; information or documentation concerning the Consortium's plans or business that is learned by Contractor during the performance of this Agreement including, without limitation, client and employee information, technical data, proprietary processes or designs; information the Consortium desires to protect against unrestricted disclosure or competitive use; Contractor's proprietary Software development methodology (if any); proprietary and confidential information of its Subcontractors; and information designated as confidential by either the Consortium or Contractor.

2.12 Consortium.

Refers to the CalSAWS Consortium.

2.13 Contract Sum.

Any Charge specifically attributable to one or more CalWIN Implementation Support Deliverables or Services as set forth in Contractor's Proposal and as agreed to by the Parties.

2.14 Contract Term.

It is anticipated the term of this Agreement will commence December 2020 and will run for thirty eight (38) months thereafter to January 2024, or three (3) months after all CalWIN Counties have migrated to the CalSAWS System. The Contract Term may be extended by the Optional Term as defined below.

2.15 Contractor.

The entity to whom the CalWIN Implementation Support contract is awarded pursuant to the RFP and who, along with the Consortium, constitute the Parties to this Agreement.

2.16 Contractor Technology.

Intellectual property owned by Contractor prior to the Effective Date (including modifications, enhancements or improvements to such intellectual property developed hereunder), including Contractor's proprietary methodologies, project management and other tools, deliverable examples, procedures, processes, techniques, data models, templates, general purpose consulting and software tools, utilities, and routines; the Proprietary Software; and Contractor's Confidential Information.

2.17 Cosmetic Deficiency.

A cosmetic and inconsequential Deficiency as determined solely by the Consortium's reasonable judgment, e.g., a spelling or grammatical error.

2.18 Conversion.

The process of Migration by which the CalWIN Counties are moved from the CalWIN System to the CalSAWS System

2.19 County.

One of the California counties in the Consortium.

2.20 County Ancillary Systems.

The suite of systems used by the CalWIN Counties surrounding the core SAWS applications and supporting the CalWIN Counties processes. County Ancillary Systems have some variations driven by County-specific reasons. Migration and Implementation Support Services must consider County Ancillary Systems. County Ancillary Systems may consist of Ancillary Systems that will migrate to the CalSAWS core; Ancillary Systems that will be a hybrid of County and CalSAWS Ancillary Systems; and Ancillary Systems that will remain with the Counties. Those Ancillary Systems falling in each of the three categories are set forth in Section 3.3. of the RFP, which is incorporated here by reference.

2.21 County "As-Is" Processes.

The current processes, policies, procedures, and documentation used by the Cal-WIN Counties for their Ancillary Systems as used under the CalWIN System.

2.22 County "To-Be" Processes.

The anticipated processes, policies, procedures, and documentation to be used by the Cal-WIN Counties for their Ancillary Systems to be used under the CalSAWS System.

2.23 Data.

The CONSORTIUM's records, employee information, files, forms, Personal Identifiable Information (PII) data and other information. "Data" shall also refer to all federal, State, County, and/or other data and information, which is (a) stored online, stored off-line, or computed, and used or accessed by Contractor for providing Services under this Agreement and all backups of such data and information.

2.24 Day.

Unless otherwise specified, Day will mean calendar day.

2.25 Deficiency.

A failure of a Deliverable or an omission, defect or deficiency in a Deliverable, which causes it not to conform to its Specifications.

2.26 Deliverable.

Contractor's work product which is based on applicable Specifications and which are provided by Contractor to the Consortium (either independently or in concert with the Counties or third parties) during the course of Contractor's performance under this Agreement. The definition of Deliverable also includes that term as further defined in Section 5.6 and the approved Work Plan.

2.27 Deliverable Expectation Document ("DED").

A Document that defines the requirements, acceptance criteria, schedule, responsible parties, reviewers and other items associated with each Deliverable that must be approved in advance of work commencing on a Deliverable.

2.28 Documentation.

All operations, technical, and Consortium manuals used in conjunction with the CalSAWS or CalWIN Systems, in whole and in part, including without limitation manuals provided by licensors of Software and by manufacturers of Equipment.

2.29 Execution Date.

The date on which this Agreement is fully executed by the Parties.

2.30 Executive Director.

The individual at the Consortium with management responsibilities for the CalWIN Implementation Support Project for the Consortium.

2.31 Final Acceptance.

Consortium's acceptance of all Implementation Support Services to be provided pursuant to this Agreement.

2.32 Implementation Support.

Implementation Support includes all Services involved planning, preparing, and executing activities related to the migration of the CalWIN Counties from the CalWIN System to the CalSAWS System.

2.33 Implementation Wave(s).

The six (6) waves or phases by which the CalWIN Counties will be migrated from the CalWIN System to the CalSAWS System.

2.34 Key Milestone(s).

Those milestones contained in the Work Plan for completion of Deliverables.

2.35 Key Staff.

The positions of Contractor's Staff identified as Key Staff, including but not limited to, Implementation Support Project Manager, Implementation Support PMO Lead, Implementation Support OCM Manager, Implementation Support Training Manager, and Implementation Support Implementation Manager.

2.36 Migration.

Moving the CalWIN Counties from the CalWIN System to the CalSAWS System pursuant to the Migration Waves and associated activities.

2.37 Notice.

A written document given by a party to the other in accordance with Section 19.28.

2.38 Optional Term.

A period of twelve (12) months following the expiration of the Contract Term. The Contract Term may be extended by the Optional Term at the sole discretion of the Consortium.

2.39 Organizational Change Management ("OCM").

OCM activities involve development of the overall OCM approach, change readiness approach, communication strategy, and development of work products associated with the CalWIN Counties' migration from the CalWIN System to the CalSAWS System.

2.40 Protected Health Information ("PHI")

Protected Health Information is any information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual and that identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

PHI shall also have the meaning given to such term under HIPAA and HIPAA regulations, as amended.

2.41 Price Proposal.

The Price Proposal submitted by Contractor in response to the CalWIN Implementation Support RFP.

2.42 Project.

The CalWIN Implementation Support Project that is the subject matter of this Agreement.

2.43 Project Manager.

The Project Manager is responsible for managing the Contractor's overall scope of services and the Staff administering the Implementation Support Project. The Project Manager is responsible for ensuring the Implementation Support Project receives company support, commitment, and oversight to meet or exceed all of Contractor's contractual requirements. The Project Manager must have the decision-making authority to bind the Contractor to all terms and conditions in this Agreement. The Project Manager is accountable for Staff performance.

2.44 Property.

All Consortium and County Equipment and other Consortium and County real and personal property.

2.45 Proprietary Software.

All computer programs which were developed and owned by Contractor or Subcontractors prior to the Effective Date or which are developed during the term by Contractor Staff in performing work that is for the Consortium, and any modifications thereof and derivative works based therein, and the documentation used to describe, maintain and use such Proprietary Software.

2.46 Request for Proposal ("RFP").

The Request for Proposal for the CalWIN Implementation Support Project.

2.47 Requirements Traceability Matrix ("RTM").

A Document Contractor is required to submit, as part of the Deliverables, that tracks the requirements defined in Attachment J – CalWIN Implementation Support Requirements Cross-Reference Matrix. The RTM shall provide the basis for monitoring and controlling each requirement throughout the planning and execution of tasks.

2.48 Schedule.

The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities.

2.49 Scope of Work (SOW)

The Scope of Work and subsequent Scopes of Work that are agreed to by the parties in writing and which shall be incorporated into this Agreement upon such agreement, detailing the Services to be performed and Deliverables to be provided by Contractor under the terms and conditions of this Agreement. The Scope of Work document will become Exhibit A to the Agreement.

2.50 Services.

The tasks and services to be performed by Contractor on the Project, as described in this Agreement.

2.51 Software.

The Software and enhancements that are licensed and/or developed by the Contractor, in object code format and source code format (if available), including Third Party Software, and their associated documentation.

2.52 Specifications.

The Documentation; all applicable County, State and federal policies, laws, codes, regulations and guidelines; the RFP; the Proposal; DEDs; Acceptance Criteria; subsequent Deliverables which have received Acceptance; and other specifications and requirements as described in the Statement of Requirements, Exhibit B to this Agreement, if any. The Specifications are, by this reference, incorporated into this Agreement, as though completely set forth herein.

2.53 Staff.

Contractor's employees, Subcontractors and agents who shall provide the Services on behalf of Contractor.

2.54 Start Date.

The date on which Services under this Agreement are to commence.

2.55 State.

The State of California.

2.56 Subcontractor.

A person, partnership, or company not in the employment of or owned by Contractor, that is performing CalWIN Implementation Support Services required by this Agreement under a separate agreement with or on behalf of Contractor.

2.57 Third-Party Software.

Software which is developed by third parties (not including Subcontractors) and generally distributed for commercial use, and not specifically for Consortium, including without limitation operating system software, tools, utilities, software transferred by Contractor from another party for use by the Consortium and Counties, and commercial off the shelf software.

2.58 Training.

The overall training program consisting of planning, development and delivery of a high-quality training program that is critical to ensuring the CalWIN Counties are successful in learning and mastering the use of the CalSAWS System to perform everyday work tasks. Training involves both web-based training (WBT) as well as instructor-led training (ILT) and also involves use of the Learning Management System (LMS) automated training tool to manage the Training schedule, content management, participation and certification of completion.

2.59 Validation.

Consortium's receipt of Notice from Contractor that Contractor has completed a Deliverable or Service in accordance with its Acceptance Criteria and confirmed the Deliverable is ready for applicable Acceptance Tests.

2.60 Work Plan.

The overall plan of activities for the Project, and the delineation of tasks, activities and events to be performed and Deliverables to be produced with regard to the Project, as described in Section 5.6.1 of this Agreement. Each revised Work Plan shall be incorporated herein upon its Acceptance by Consortium.

3. INDEPENDENT CONTRACTOR STATUS.

3.1 This Agreement is by and between the Consortium and Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the Consortium and Contractor. The employees and agents of one party shall not

be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

3.2 Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement, all compensation and benefits. The Consortium shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor.

4. CONTRACT TERM.

4.1 Contract Term.

The term of this Agreement will be thirty eight (38) months from its commencement beginning December 2020 to January 2024, or three (3) months after all CalWIN Counties have migrated to the CalSAWS System, whichever is later. The Contract Term may be extended by the Optional Term per Section 4.2 below.

4.2 Optional Term.

At the sole discretion of Consortium, the Contract Term may be extended for an additional twelve (12) months following the expiration of the Contract Term as set forth in Section 4.1.

5. SCOPE OF CONTRACT WORK AND DELIVERABLES.

5.1 General.

The purpose of this Agreement is to provide the CalWIN Counties with a range of Implementation Services they will require to assist them in their migration to the CalSAWS System. Toward this end, Contractor will develop the strategic and tactical framework for defining, executing and managing the BPR effort and impact of changes resulting from new and/or modified business processes. The Contractor will establish the approach to, and guide changes in, organizational structure and cultural changes across each Counties' impacted organizations. The Contractor will develop overall Training strategies, Training materials and deliver Training. The Contractor also will support the CalWIN Counties during their migration. For work conducted in the Counties, Contractor is required to comply with county network and technology access and usage policies.

5.2 Business Process Reengineering (BPR)

5.2.1 General.

The Contractor shall work with each County to deliver BPR Services. BPR includes analysis and documentation of the county-specific

As-Is and To-Be processes, taking into consideration each County's ancillary system dispositions and opt-in/opt-out choices. Although all the CalWIN Counties currently use the same application, each County has implemented unique business processes and procedures for how it accomplishes its daily activities. The migration to CalSAWS will drive business processes in a way that is different than what exists today for the 18 CalWIN Counties. Most of the OCM effort will revolve around the individual As-Is assessment of each County and the resulting To-Be processes that must be created. BPR will set the foundation for OCM. Contractor shall be responsible for meeting all BPR-related Deliverables as specified in Section 5.6.4.

5.2.2 As-Is Business Processes

The Contractor shall work closely with each CalWIN County to:

5.2.2.1 Discuss, review and assess the CalWIN County's ancillary decisions to establish the CalWIN County's framework for BPR and subsequent training and OCM.

5.2.2.2 Gain knowledge of the As-Is processes, policies, and procedures to include, but not limited to, study existing documentation, including labor agreements, and conduct face-to-face meetings with various CalWIN County staff;

5.2.2.3 Define, document and/or update existing As-Is business processed models to create a baseline for To-Be Business Processes;

5.2.2.4 Identify areas of improvement, redundancies, inefficiencies, inconsistencies, and bottleneck points;

5.2.2.5 Obtain CalWIN County approval on recommended process changes or improvements and modify plans, as needed;

5.2.2.6 Include all As-Is Process documentation and recommendations as part of the CalWIN County-Specific BPR Plan Section.

5.2.3 To-Be Business Processes

The Contractor shall provide facilitation and consulting services to lead the following tasks:

5.2.3.1 Identify the differences between the As-Is and the To-Be business processes (e.g., document imaging or lobby management)

5.2.3.2 Develop and document To-Be business practices including options for change

5.2.3.3 Identify and document action steps to move the County from its As-Is business model to its To-Be business model

5.2.3.4 Include all To-Be Process documentation and recommendations as part of the CalWIN County-Specific BPR Section.

5.3 Organizational Change Management.

The Contractor shall work with each CalWIN County to provide County-specific OCM services. Contractor shall be responsible for meeting all OCM-related Deliverables as specified in Section 5.6.6. OCM activities include development of the overall OCM approach, change readiness approach, and communication strategy. The Contractor shall develop work products for the CalWIN Counties that are based on the following templates included in the OCM Plan as specified in Section 5.6.6. These work products shall include, but will not necessarily be limited to:

5.3.1 County Decision Point Template

5.3.2 Change Readiness Checklist

5.3.3 Change Assessment Template

5.3.4 Change Assessment Tracking Template

5.3.5 Communication Roadmap Template

5.4 Training.

5.4.1 General.

The overall Training program consists of planning, development and delivery of a high-quality Training to ensure CalWIN Counties are successful in learning and mastering the use of the CalSAWS System and changes to business processes to perform everyday work tasks. Contractor shall develop and deliver this Training through planning and attention to factors including, but not necessarily limited to, the overall CalSAWS implementation wave-based implementation schedule, the uniqueness of each County's business processes and ancillary systems, the geographical diversity within and across CalWIN Counties, the number of courses to be delivered, and CalWIN County travel policies. Contractor is required to work in a collaborative manner with designated CalWIN County trainers in all facets of Training planning, development and

delivery. Contractor shall develop and implement the Training required by this Agreement through use of innovative approaches to address common issues associated with Training delivery, such as extended time away from offices, extended travel, and just-in-time Training. Contractor shall be responsible for meeting all Training-related Deliverables as specified in Sections 5.6.8 and 5.6.9.

5.4.2 Utilization of Consortium Learning Management System (LMS)

The Contractor shall utilize the Consortium's Learning Management System (LMS) product, Meridian SaaS Cloud with Ad Hoc Reporting, which supports 55,000 Users and ensure that all CalWIN County user profiles are transferred and enabled.

5.4.3 Delivery of Training.

The Contractor shall provide training facility location options for each County. Some Counties may have facilities available for use, however, until detailed county-specific schedules are understood, the Contractor shall provide optional training facility pricing in accordance with as set forth in Contractor's **Price Proposal Schedules** submitted as part of its response to the RFP. Contractor's Price Proposal Schedule will be Exhibit C to this Agreement.

5.5 Implementation and Conversion Support.

5.5.1 General.

Implementation and Conversion Support includes, but is not necessarily limited to, planning, preparation and execution activities related to the migration to the CalSAWS system for the CalWIN Counties.

5.5.2 Implementation Support Tasks.

Specific Implementation Support tasks shall include, but are not necessarily limited to, supporting the overall and CalWIN County-specific implementation planning, readiness assessments, establishment of "go" and "no-go" implementation criteria and contingency plans, organizational change management, training development and delivery, and providing support staff in the CalWIN Counties during and immediately following the cut-over implementation period. For each county, the Contractor shall plan for and provide 30 days of readiness preparation and pre-implementation support. For each county, the Contractor shall plan for and provide 60 days of post-implementation support. In providing Implementation Support Tasks, Contractor shall work and collaborate closely with the Contractor's managers, leads and teams in support of the full-range of migration services -- BPR, OCM, and Training -- in planning and preparing for Conversion of the CalWIN Counties to the CalSAWS System. The BPR, OCM and Training activities will culminate in County

readiness for Implementation. The Contractor shall work closely with the Consortium and Counties to plan for and deliver the pre and post Implementation services. In addition to the above, Implementation Support Tasks shall also include, but not necessarily be limited to, completing transition from the CalWIN decentralized County-based support model to the Consortium's regional structure for governance and ongoing CalSAWS System support.

5.5.3 Conversion Support Tasks.

Contractor shall meet regularly, and work closely, with the Consortium's Conversion team, consisting of Accenture, DXC, Consortium staff, and County personnel, to facilitate information sharing and communication of issues and items including, but not necessarily limited to, (i) defaulting CalSAWS target fields to a value because of the absence of source data in the CalWIN System; (ii) deriving CalSAWS target fields from multiple fields in the CalWIN System; (iii) identifying specific data issues that may lead to Conversion failure, which may affect a case, an individual, or data associated with a case or individual; (iv) developing and communicating data cleansing items, and instructions for same, to County personnel.

5.6 Project Deliverables.

5.6.1 Work Plan.

Contractor will be responsible for preparing a Master Work Plan that includes all high-level activities and Deliverables for the Project. The Work Plan must be updated monthly to reflect the following: task and subtask percent complete; actual number of Contractor Staff being utilized per task and subtask; actual hours by task and subtask; and updated Gantt Charts. The initial Work Plan must be submitted within twenty (20) calendar days of the Project Start Date. In addition to preparation of the Work Plan, Contractor will be responsible for preparing individual CalWIN County-specific sub-work plans. These sub-work plans will include, but not necessarily be limited to the following:

5.6.1.1 Task and subtask descriptions with Deliverables specifically indicated;

5.6.1.2 Estimated number of Contract Staff identified by levels and types;

5.6.1.3 Estimated hours by task and subtask; and

5.6.1.4 Gantt charts showing planned start and end dates (durations) of all tasks, subtasks, and major milestones and

Deliverables, including time frames for the Consortium's review and approval of all resulting Deliverables.

5.6.1.5 In addition to the Master Work Plan, Contractor shall be responsible for preparing individual County-specific sub-work plans to include the same items in those County-specific sub-work plans as listed in Section 5.6.1.1 through 5.6.1.4 for the Master Work Plan.

5.6.2 Monthly Status Reports.

Contractor will be responsible for preparing monthly status reports that provide details regarding participation by Contractor Staff. The monthly status reports must be submitted within five (5) business days after the end of a month. The monthly reports must include, but are not necessarily limited to, the following:

5.6.2.1 An Executive Summary in both MS Word and MS PowerPoint formats;

5.6.2.2 An updated summary of the Work Plan progress against the approved baseline Work Plan;

5.6.2.3 Progress, key performance indicators, and other metrics tracking for each key task: Project Management, BPR, OCM, Training and Implementation Support;

5.6.2.4 An updated list of DED's and Deliverables drafted, in process, submitted and approved during the period;

5.6.2.5 Issues identified by or assigned to the Contractor;

5.6.2.6 Risks identified by or assigned to the Contractor;

5.6.2.7 Formal assessments and recommendations regarding the completion of Key Milestones and readiness to proceed with implementation; and

5.6.2.8 (On a quarterly basis), an updated Implementation Support Requirements Traceability Matrix.

5.6.3 Requirements Traceability Matrix (RTM).

Contractor will be responsible for creating a Requirements Traceability Matrix that tracks the requirements defined in Attachment J – CalWIN Implementation Support Requirements Matrix. The RTM shall provide the basis for monitoring and controlling each requirement

throughout the planning and execution of tasks. The RTM and updates must be delivered as follows:

5.6.3.1 The initial RTM must be submitted within sixty (60) calendar days of the Project Start Date.

5.6.3.2 RTM updates must be submitted quarterly with the monthly status reports.

5.6.3.3 RTM updates must be submitted within ten (10) calendar days following the conclusion of each CalWIN County Implementation Wave planning process.

5.6.3.4 RTM updates must be submitted within ten (10) calendar days following the conclusion of each CalWIN County Implementation Wave.

5.6.4 Business Process Reengineering Plan.

Contractor shall develop, execute, and lead the CalWIN Counties in executing a Business Process Reengineering Plan, which shall include, but not necessarily be limited to, the following approaches:

5.6.4.1 Create the vision, values and objectives of the BPR.

5.6.4.2 Complete stakeholder analysis and solicit stakeholder input based on identification of stakeholders by the Counties.

5.6.4.3 Define and document “As-Is” processes.

5.6.4.4 Identify, fully define, recommend, and evaluate those processes that offer the most potential impact on the performance outcomes targeted for improvement.

5.6.4.5 Identify areas of improvement, redundancies, inefficiencies, inconsistencies, and bottleneck points.

5.6.4.6 Define and document “To-Be” processes and procedures.

5.6.4.7 Define high-level and detail business processes that will be impacted by the implementation of the CalSAWS System.

5.6.4.8 Work with the CalWIN Counties to redesign their current business processes resulting from the Implementation of the CalSAWS System and suggest changes to policy and procedures that are required to implement redesigned processes.

5.6.4.9 Establish proposed rollout and Implementation Support Plans (road maps) for (i) short term process changes that can be implemented and (ii) long term process changes that would be implemented as part of the CalSAWS System rollout, to include a summary of any processes that are a candidate for Business Process Reengineering but are outside the scope of Work under this Agreement.

5.6.4.10 Establish metrics to evaluate the redesigned processes in terms of improved performance and organizational efficiency (30/60/90-day evaluations).

5.6.4.11 Obtain County approval on recommended process changes or improvements and modify plans, as needed; and document the recommendations,

5.6.4.12 Identify required tools, environments, and any other items required from the Consortium and/or the DD & I vendors.

5.6.4.13 Include a section for each of the CalWIN Counties to address County-specific BPR plans.

5.6.4.14 A statement of assumptions utilized in developing the BPR plans.

5.6.5 Organizational Change Management Plan.

The Contractor shall develop and execute an OCM Plan that defines the scope and contents of the work products to be developed as part of the OCM effort. The OCM shall include, but not necessarily be limited to, the following activities:

5.6.5.1 Create the vision, value, and objectives of the OCM.

5.6.5.2 Overall OCM Approach including the approach to development of the Change Discussion Guides.

5.6.5.3 Change Readiness Approach.

5.6.5.4 Approach to documenting the key changes between the CalWIN and CalSAWS Systems.

5.6.5.5 Communication strategy.

5.6.5.6 Stakeholder Engagement Plan to include a stakeholder register, project phases (and mapping of stakeholders to phases), areas of power and interest/influence, and engagement approach and communication.

- 5.6.5.7 Task descriptions and expected results.
- 5.6.5.8 Resource requirements within each County as needed to support the OCM functions and activities.
- 5.6.5.9 Roles and responsibilities for each County and specific OCM functions and activities that each County will conduct.
- 5.6.5.10 High-level schedule.
- 5.6.5.11 Establishment, measurement, and reporting of outcomes and quality metrics associated with the adoption of the CalSAWS System in each County.
- 5.6.5.12 Mitigation plan addressing resistance by users and stakeholders through the application of structured and intentional proactive strategies.
- 5.6.5.13 Approach to identifying and applying reactive interventions where needed.
- 5.6.5.14 Tools and techniques to enable each County to assist their staff in making the transition to the CalSAWS System.
- 5.6.5.15 Include a section for each of the CalWIN Counties to address County-specific OCM plans.
- 5.6.5.16 A statement of assumptions utilized in developing the OCM plans.

5.6.6 County Communication Plan.

Contractor shall develop, execute and Lead the CalWIN Counties in executing a comprehensive Communication Plan based on a thorough analysis by stakeholders that includes, but is not necessarily limited to, the following:

- 5.6.6.1 Overall approach for communication with the CalWIN Counties and stakeholders.
- 5.6.6.2 Communication and marketing materials that keep executive, managers, and other key stakeholders appropriately informed of current activities.
- 5.6.6.3 Creation of advance and sufficient notification to designated stakeholders of events that will require County staff planning.

5.6.6.4 Promotion of collaboration between the Consortium and various stakeholder groups such as the user community, project teams, County leaders, and the public.

5.6.6.5 Demonstration of the purpose and value of OCM activities and their contribution to the overall transformation.

5.6.6.6 Use of various methods (e.g., tool kits that can be customized by the CalWIN Counties) and communication platforms (e.g., social media, print and electronic media, and/or printed materials) to aid in the communication process.

5.6.6.7 Development and coordination with County staff of the publication of articles containing information regarding County-specific changes suitable for use by the CalWIN Counties and the Consortium.

5.6.6.8 User stakeholder analyses and readiness assessments.

5.6.6.9 A fully comprehensive County Communication Plan that encompasses all stages of the CalSAWS System Conversion for the CalWIN Counties, including readiness, Implementation, and “go-live.”

5.6.7 County Change Discussion Guides.

Contractor shall produce individual County and role-specific Change Discussion Guides, which will describe in detail the process changes affecting the way County staff will perform their jobs utilizing the CalSAWS System. The Change Discussion Guides will include, but will not necessarily be limited to, the following:

5.6.7.1 Tasks within each relevant job classification in each of the CalWIN Counties.

5.6.7.2 Steps the person in the each relevant job classification will complete once they begin utilizing the CalSAWS System.

5.6.7.3 Impacts to the CalWIN Counties along with the steps that each person in each relevant job classification will stop completing once they begin utilizing the CalSAWS System.

Contractor shall complete the Change Discussion Guides by the date specified by each County prior to each County’s Migration and Implementation Training so they can be utilized by County staff to facilitate change discussions within each County. In addition, Change Discussion

Guides will be used during the Training sessions so that both trainers and trainees will be able to reference County-specific policies.

5.6.8 Master Training Plan.

The Contractor shall prepare a Master Training Plan. The Master Training Plan, which will guide the overall Training effort and include the Contractor's Strategy and approach for Training. The Contractor shall conduct and deliver different types of Training for all 18 Counties, to include: early advanced for specific county roles; Training for Trainers; WBTs and ILTs. The Plan will define the Contractor's Training methodologies, activities, scope, effort and reporting for all Counties. The Contractor shall work closely with the Consortium leadership to ensure continued monitoring and management of the Training effort. The plan will provide the overarching strategy and will be supplemented by individual county-specific training plans. The Master Training Plan shall include the following

5.6.8.1 Strategy(ies) and approach(es) to Training, Training methodologies and overall activities, effort and scope of Training.

5.6.8.2 Define the Contractor's Training methodologies, activities, scope, effort, and reporting for all Counties.

5.6.8.3 Approach to working with the Consortium leadership to ensure continued monitoring and management of the Training effort. The plan will provide the overarching strategy and will be supplemented by individual county-specific training plans.

5.6.8.4 Curricula topics and delivery methods for Training-for-trainers, ILT, and WBT.

5.6.8.5 Training delivery techniques to be used according to the delivery methods and materials/curricula developed by the Contractor to meet each of the Counties specific needs.

5.6.8.6 A high-level schedule, by implementation wave and by County.

5.6.8.7 Approach(es) to engagement of and coordination with the Contractor's trainers within each County.

5.6.8.8 Preparation, logistics, and activities required to develop and deliver Training in each of the Counties.

5.6.8.9 The method(s) by which the Contractor will use the LMS automated Training tool to manage the Training schedule, content management, participation and certification of completion.

5.6.8.10 Approach(es) for use and access of the Consortium's Training environments dedicated for CalWIN Training development and production.

5.6.8.11 The method(s) by which the Contractor will communicate Migration Training material updates, including CalSAWS System code release updates.

5.6.8.12 Plan(s) for the number of the classrooms for each site that reflect the number of offices and users involved.

5.6.8.13 Plan(s) for ratio of trainees to trainers.

5.6.8.14 Plan(s) for match of Training curricula to trainees through regular feedback.

5.6.8.15 Duration and type of Training for all user roles/functions.

5.6.8.16 Approach(es) for promoting collaboration, assistance and efficiencies across Counties.

5.6.8.17 Approach(es) to development of an assessment of individual user success to be administered during each Training class to each user.

5.6.8.18 Approach(es) for establishing, measuring, and reporting outcomes and quality metrics corresponding to successful completion of County Training.

5.6.8.19 Approach(es) for leveraging Training evaluation results and lessons learned to improve Training materials and approach for each wave.

5.6.8.20 Strategy(ies) and approach(es) for transition and hand-off by Contractor to the Consortium to enable the Consortium to meet training needs of Consortium and County staff.

Contractor shall update the CalWIN Master Training Plan as directed by Consortium staff to reflect ongoing Training planning and preparation.

5.6.9 County-Specific Training Plans.

Contractor shall develop County-specific Training plans that shall include, but will not necessarily be limited to, the following:

5.6.9.1 The method(s) by which ILT will be administered by the Counties.

5.6.9.2 The method(s) by which train-the-trainers will be leveraged for the Counties.

5.6.9.3 The method(s) by which Contractor will manage Training locally and regionally in collaboration with County staff.

5.6.9.4 The method(s) by which WBT will be accessible to the Counties.

5.6.9.5 Detailed Training schedule for each County.

5.6.9.6 Preparation, logistics, and activities required to develop and deliver Training in each of the Counties.

5.6.9.7 Training delivery techniques to be used according to the delivery methods and materials/curricula developed by the Contractor to meet each of the County's specific needs.

5.6.9.8 Plan(s) for the number and layout of the classrooms for each site, which reflect the number of offices and users to be utilized during the Training.

5.6.9.9 Development of Training materials that comply with all federal, state, and local disability access requirements.

5.6.10 Implementation Support Plan

Contractor shall develop, execute and lead the 18 Cal-WIN Counties in executing a comprehensive Implementation Support Plan that includes, but will not necessarily be limited to, the following:

5.6.10.1 Overall approach including purpose, scope, objectives, methodology and proven practices.

5.6.10.2 Roles and Responsibilities of Contractor, Consortium and County staff for each phase of Implementation Support (planning, preparation, implementation and post-implementation).

5.6.10.3 Implementation Support activities including planning, preparation, conversion support, pre- and post-cutover for the Contractor, Consortium and the 18 CalWIN Counties.

5.6.10.4 Entry and exit criteria for each Wave and County.

5.6.10.5 Schedule with key tasks and milestones by Wave, by County and reflecting the relationship to the master CalSAWS DD&I schedule.

5.6.10.6 Tools and techniques to support the Implementation effort.

5.6.10.7 The method(s) by which results and proven practices will be applied to future Waves and Counties.

5.6.10.8 Contingency plans.

5.6.10.9 Assumptions.

5.6.11 County Wave Implementation Complete Report.

Contractor shall provide an Implementation Complete Report for each County wave, which certifies that all implementation support requirements have been satisfactorily met.

5.6.11.1 The Contractor shall deliver a report no later than 60 days after the implementation completion of each County wave.

5.7 Acceptance of Deliverables.

5.7.1 Contractor shall deliver all Deliverables pursuant to this Agreement to the Consortium Executive Director or his/her designee. Each Deliverable will be delivered to the Consortium Executive Director or his/her designee in one (1) hard copy form and on an electronic media in a format approved by the Consortium. Contractor shall be responsible for timely submission of each Deliverable pursuant to the Work Plan.

5.7.2 In accordance with the review periods delineated in the Work Plan, the Consortium will review each Deliverable to identify any deficiencies and determine whether the Deliverable conforms to its Acceptance Criteria. The Consortium will document its review findings in a standard Deliverable Comments Log and will recommend changes to Contractor.

5.7.3 If a Deficiency (other than a Cosmetic Deficiency) is found in a Deliverable, Consortium shall promptly give Contractor Notice of its non-acceptance, with such Notice delineating Deficiencies used as the grounds for the Consortium's decision. Contractor shall promptly and in accordance with the requirements and timeline set forth in the Work Plan, correct Deficiencies (including Cosmetic Deficiencies) described in any Notice(s) of non-acceptance from the Consortium. After Contractor has corrected such Deficiencies (including in Contractor's discretion and to the extent feasible Cosmetic Deficiencies), the Consortium shall verify whether the Deliverable lacks Deficiencies (other than Cosmetic

Deficiencies) and in writing shall either accept or not accept it following such review. If Contractor corrects all Deficiencies (other than Cosmetic Deficiencies) in the Deliverable, and the Consortium determines such Deliverable is free from Deficiencies (other than Cosmetic Deficiencies), the Consortium shall provide Contractor with its Acceptance of that Deliverable.

5.7.4 If a Deficiency (other than a Cosmetic Deficiency) is found in a Deliverable, or a Deficiency persists following the Consortium's review and recommended revisions to that Deliverable, or if Contractor fails to deliver a Deliverable or revised version thereof with sufficient time for the Consortium to review, evaluate and comment on the Deliverable, the Consortium may, at its option: (a) continue reviewing the Deliverable and require Contractor to continue until Deficiencies (other than Cosmetic Deficiencies) are corrected or eliminated or (b) request Contractor to provide, at its expense, a replacement Deliverable for further review. If following the Consortium's exercise of its option under (a) or (b) above, the Deficiency persists and the Contractor has failed to cure in a timely fashion, the Consortium may exercise its right to terminate this Agreement as described in Section 17.2. The Consortium's options under this Section shall remain in effect until Acceptance of all of the Project Deliverables.

5.7.5 The Consortium shall provide its Acceptance when it determines that each Deliverable conforms to its applicable Specifications, including Acceptance Criteria defined in the applicable DED and has no Deficiencies (other than Cosmetic Deficiencies). The Consortium may, at its option, provide Acceptance of any Deliverable notwithstanding identified Deficiencies; provided however that Contractor shall correct all such remaining and permitted Deficiencies in accordance with this Section.

5.7.6 Contractor shall correct all Cosmetic Deficiencies which remain at Acceptance of any Deliverable and all other Deficiencies permitted by the Consortium to exist at Acceptance of any Deliverable, if any, as soon as reasonably practicable and, in all cases, within thirty (30) days of its Acceptance.

5.8 Representations Regarding Deliverables.

By submitting a Deliverable, Contractor represents that, to the best of its knowledge, it has met the Specifications in this Agreement, including applicable DEDs and Acceptance Criteria and all Exhibits thereto. By giving its Acceptance of a Deliverable, the Consortium represents only that it has reviewed the Deliverable and detected no Deficiencies of sufficient gravity to defeat or substantially threaten the attainment of those objectives and to warrant the withholding of Acceptance for the work completed. The Consortium's

Acceptance of a Deliverable does not discharge any of Contractor's responsibilities for comprehensiveness, effectiveness or conformance of the Deliverables and Services, as a whole, to the Specifications.

5.9 Final Acceptance.

Following successful completion of all Implementation Support Services, Contractor will provide an Implementation Complete Report certifying that all Deliverables have been met and all known Deficiencies have been corrected. Final Acceptance will be provided if and when the Implementation Certification Report is approved and all Deficiencies identified immediately following the implementation cutover event have been corrected.

6. PROJECT MANAGEMENT.

6.1 General.

The Contractor shall perform overall project management for BPR, OCM, Training, and Implementation Support for the CalWIN Counties as the Counties plan, prepare and transition onto the CalSAWS Systems. The Contractor shall:

6.1.1 Establish and maintain the Implementation Support Master Work Plan inclusive of high-level activities, milestones, Deliverables and resources required to plan and execute the required scope of work for the 18 Counties.

6.1.2 Include County-specific sub-work plans to include task and subtask descriptions with Deliverables.

6.1.3 Perform issue and risk management, and scope management.

6.1.4 Document decisions made during implementation support planning and execution.

6.1.5 Prepare and submit Deliverable Expectations Documents (DEDs) for all required Deliverables.

6.1.6 Prepare and submit all required Deliverables.

6.1.7 Coordinate and work cooperatively with the CalSAWS DD&I contractor project team and other vendors (such as Quality Assurance and IV&V). Effective communication within and across the Consortium, the Counties and all vendors is of critical importance to the Consortium.

6.1.8 Establish and maintain an open communication process at all levels of the project including the Consortium Project Team, Regions/Counties and other Contractors.

6.1.9 Interact on a day-to-day basis with the Consortium Project Team to support effective communication.

6.1.10 Report to the Executive Director significant risks or issues regarding the CalWIN migration effort and any other circumstances that could significantly impact the overall SAWS Migration Project and schedule,

6.1.11 Participate in standing management and committee meetings, to include but not limited to, JPA Board of Directors, Change Control Board (CCB), CalSAWS Weekly Status meeting.

6.1.12 Provide a written Monthly Implementation Support Status Report and verbal status reports during standing weekly status meetings.

These key project management activities will be performed in accordance with existing CalSAWS project management processes and standards, as documented in the approved CalSAWS Project Control Document (PCD).

6.2 Implementation Services Project Manager.

6.2.1 Contractor shall identify a Project Manager who shall be responsible for Contractor's performance of all its Deliverables and Services provided pursuant to this Agreement and ensuring Contractor's compliance with this Agreement. Contractor's Project Manager shall be available to meet and confer with the Consortium's Executive Director on a regular basis and otherwise when, and as reasonably requested by, the Consortium's Executive Director. Such meetings shall be conducted at a time and place convenient to the Consortium's Executive Director.

6.2.2 Contractor agrees that the Project Director shall be fully qualified to perform the tasks required of this position under this Agreement. The Project Director shall function as Contractor's authorized representative for all management and administrative matters not inconsistent with the provisions contained herein. The Project Director shall have authority to make decisions on behalf of Contractor. The Project Director shall devote his or her full-time efforts to the Project. The Project Director or other substitute management personnel for Contractor shall be on-site or otherwise reasonably available to provide immediate responses to the Consortium full time during the Project.

6.2.3 If Contractor's Project Director is removed or replaced, or ceases employment with Contractor, Contractor shall promptly (and in all cases within forty-eight (48) hours) of Contractor first learning of the change in the Project Director's employment status, provide Notice to the Consortium, and submit at least two (2) resumes of other qualified candidates within seven (7) days of removal or replacement of the Project Director. Contractor must obtain approval of the replacement Project

Director from the Consortium prior to his or her beginning work under this Agreement. Contractor shall use its best efforts to find the replacement Project Director and have such replacement Project Director begin work before the incumbent Project Director departs.

6.3 Contractor Staff.

6.3.1 Contractor's organization chart for the Contractor's Project team and the names of mutually agreed Key Staff must be provided to the Consortium's Executive Director. Any such Key Personnel shall be subject to the Consortium's Executive Director's approval. Key Staff positions shall not be modified or removed except pursuant to the requirements of Section 6.3.6 below or upon the express written approval of the Consortium's Executive Director, and then in any case the replacement person must still be approved by the CONSORTIUM's Executive Director in writing.

6.3.2 Key Staff positions include, but are not limited to, Implementation Support Project Manager, Implementation Support PMO Lead, Implementation Support OCM Manager, Implementation Support Training Manager, and Implementation Support Implementation Manager.

6.3.3 Contractor agrees to make available to the Consortium a matrix of all Staff working on the Project under this Agreement along with their experience, and to maintain that matrix for changes as they occur. This matrix shall include all full or part-time staff names, working titles, a brief description of each position, and the average monthly hours worked or to be worked. Contractor shall also provide to the Consortium résumés and two (2) references for all Staff prior to commencing work pursuant to this Agreement.

6.3.4 During the term of this Agreement, the Consortium reserves the right to approve or disapprove Contractor's Staff, to approve or disapprove any proposed changes in such Staff, or to require the removal or reassignment of any Contractor or Subcontractor Staff found unacceptable by the Consortium, to the extent permitted by law.

6.3.5 All Staff proposed by Contractor as replacements for other Staff shall have comparable or greater skills to perform the Project activities as were performed by the Staff being replaced. Contractor assumes sole and full responsibility for its acts and the acts of its Staff. Contractor understands and agrees that the Consortium does not assume liability for the actions of Contractor's Staff. Contractor shall ensure that any transition to new Staff will not affect the quality or timeliness of work performed pursuant to this Agreement.

6.3.6 Contractor shall not remove from the Project Key Staff, nor temporarily reassign or reduce the time of Key Staff or divide the time of Key Staff between work on the Project any other project or task, event or activity unrelated to work on the Project,, except in the event of: illness; retirement; disability; termination of employment or completion of assignments as defined in the Work Plan or otherwise leaving Contractor's employment; or by mutual agreement of the parties. The Consortium shall not arbitrarily or capriciously withhold agreement to such removal, reassignment, reduction, or division of time of Key Staff and shall work with Contractor in scheduling Key Staff and Staff vacations or other reasonable and foreseeable absences from the Project. The Consortium shall also not arbitrarily or capriciously withhold agreement to reasonable absences from the Project by Key Staff or Staff for training, corporate meetings, or personal emergencies.

6.3.7 Any claim made by any person arising out of employment or alleged employment with Contractor (including, but not limited to, claims of discrimination, harassment, or retaliation against Contractor, its officers, or its agents) are the sole responsibility of Contractor and are not the responsibility of the Consortium or the State. Contractor will indemnify and hold the Consortium harmless from any and all such claims asserted against the Consortium. Contractor will indemnify and hold the State, its officers, employees, and agents, harmless from any and all such claims asserted against the State. Any person who alleges a claim arising out of employment or alleged employment with Contractor will not be entitled to any compensation, rights, or benefits from the Consortium or the State.

6.3.8 Consortium requires Contractor to demonstrate a commitment to diversity in hiring with respect to Staff performing Services on the Project through utilization of the federal Equal Employment Opportunity Commission's (EEOC) guidelines for creating and maintaining a MD-715 Model EEO Program or through utilization of an equivalent EEO Program.

6.4 Subcontractors.

Contractor may, with prior written permission from the Consortium enter into subcontracts with third parties for the performance of any part of Contractor's duties and obligations under this Agreement. Any such approval may be rescinded by the Consortium in its sole discretion. Contractor is responsible and liable for the proper performance of, and the quality of any work performed by, any and all of its Subcontractors. In addition, Contractor's use of any Subcontractor shall not affect the full and complete applicability and enforceability of any and all warranties provided by Contractor pursuant to this Agreement. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor to the Consortium for any breach in the performance of Contractor's duties. All subcontracts will be made in writing and copies provided to the Consortium. The Consortium has the right to refuse

reimbursement for obligations incurred under any subcontract that does not comply with the terms and conditions of this Agreement. All subcontracts entered into by Contractor shall be subject to all terms and conditions of this Agreement.

6.5 Accounting Requirements.

6.5.1 Contractor shall establish and maintain an accounting system with procedures and practices in substantial accordance with generally accepted accounting principles. The accounting system shall maintain records pertaining to the Project and all other costs and expenditures made under this Agreement, and the costs properly applicable to the Agreement shall be readily ascertainable therefrom.

6.5.2 Accounting records and procedures are subject to the Consortium's and State approval. Accounting procedures, policies, and records shall be made available to support a Consortium, Counties, State, or federal audit at any time during the term of this Agreement and for five (5) years thereafter during the records retention period described in Section 6.6.

6.6 Records Retention and Access Requirements.

6.6.1 Subject to confidentiality privileges provided by law, Contractor shall comply with all applicable federal and State regulations regarding retention and access requirements relating to all financial and programmatic records, supporting documents, statistical records, and other records pertaining to this Agreement. In addition to complying with all such record retention requirements, access to such records will be provided to Consortium, State, and federal government officials.

6.6.2 Contractor shall prepare, maintain and preserve all writings, documents, records, and other tangible compilations of data, regardless of the media in which they are maintained, that were prepared or compiled by Contractor and its Subcontractors in connection with the performance of this Agreement for a minimum of five (5) years from the termination or completion of this Agreement, or until such records and their supporting documentation are released due to closure of a Consortium, State, or federal audit, whichever is longer.

6.6.3 Records involving matters in litigation related to this Agreement shall be kept for three (3) years following the termination of litigation, including all appeals.

6.6.4 Contractor shall work with any Consortium-appointed or retained auditor to provide the information necessary for its independent assessment of Contractor's compliance with the Agreement. Contractor agrees to make internal records, personnel, project control systems and

other support information available on a reasonable basis as requested by such auditor on behalf of the Consortium.

6.6.5 Contractor agrees that its financial records shall contain itemized records of all costs related to the performance under this Agreement and be available for inspection by the Consortium within four (4) working days of the request by the Consortium, County, State, or federal agencies.

6.7 Inspections.

The Deliverables and Services being provided by Contractor and its Subcontractors, if any, pursuant to this Agreement shall be available for inspection and review at any reasonable time by representatives of the Consortium, Counties, State, and federal agencies, who shall, at all reasonable times, have the right to enter Contractor's facilities, premises, or such other places where duties under the Agreement are being provided to inspect, monitor, or otherwise evaluate the Deliverables and Services. Contractor and all Subcontractors must provide reasonable access to all facilities and assistance to the Consortium, County, State and federal government authorized representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. Without in any way limiting the generality of the foregoing, Contractor shall agree that federal, State, County and Consortium representatives shall have access to and the right to examine, audit, inspect and copy all records, documents, billings and other items described in Section 6.5, including without limitation those of any Subcontractor, during the term of this Agreement and during the five (5) year period thereafter. During the term of this Agreement, the access to these items will be provided in Sacramento County, California at reasonable times as requested by the Consortium.

6.8 Staff Background Checks.

Due to the confidential nature of the information and materials which will be accessible to Contractor, Contractor shall perform criminal background checks on Contractor Staff, including Subcontractor Staff, proposed on the Project. In addition, Consortium shall conduct reference checks on Contractor Staff proposed to be used on the Project, including all Subcontractors and their personnel, and the Consortium reserves the right in its sole discretion to reject any proposed Staff as a result of information produced by such reference checks or additional sources of information. All criminal background and reference checks will be conducted in manner consistent with federal and California state law.

6.9 Supplemental Contracts.

6.9.1 Contractor acknowledges that the Consortium has entered into one or more agreements to develop a cloud-hosted statewide automated welfare system and that this Agreement is entered into, in part, to provide

CalWIN Implementation Support to aid the CalWIN Counties to migrate to that statewide system. Contractor shall fully cooperate with all other contractors and vendors (including but not limited to equipment suppliers and third party licensors) and the Consortium in all cases in which work undertaken pursuant to this Agreement overlaps or intersects with the work done by other contractors or vendors. Contractor shall ensure that all Subcontractors shall abide by this provision. It is understood and agreed by the parties hereto that Contractor shall not be responsible for the acts or failures to act of any other contractors or vendors performing work under agreements other than this Agreement or for any delays which may be caused by any such contractors or vendors and contractors, except that Contractor shall be responsible for delays of, or acts or failures to act of, such other contractors or vendors to the extent such delays, or acts or failures to act are caused by or due to the fault of Contractor or its failure to mitigate the effect of such delays caused by such other contractors.

6.9.2 Contractor shall continue to perform its obligations that are not affected by the work of other contractors or vendors and shall mitigate any impact on Contractor from such delays caused by the Consortium's other contractors or vendors.

7. FINANCIAL TERMS, PAYMENTS, AND INVOICING.

7.1 Total Maximum Contract Sum.

7.1.1 General.

All of the pricing and sums set forth in this Section 7 apply to the Scope of Contract Work and Deliverables and Services described in Section 5.

The Total Maximum Contract Sum for all Project Deliverables and Services to be provided pursuant to this Agreement during the Contract Term, excluding the price of optional training facilities, shall not exceed thirty-six million, one hundred sixty-six thousand, seven hundred thirty-seven dollars (\$36,166,737).

The Total Maximum Contract Sum for all Project Deliverables and Services to be provided pursuant to this Agreement during the Optional Term, excluding the price of optional training facilities, shall not exceed twelve million, nine hundred forty-three thousand, twelve dollars (\$12,943,012).

The Contract Sum for the optional training facilities shall not exceed three million, eight hundred forty-four thousand, four hundred seventy-five dollars (\$3,844,475).

7.2 No Increases.

Contractor shall not increase the Total Maximum Contract Sum during the term of this Agreement, except as specifically permitted herein or as otherwise mutually agreed to by the Parties in writing and pursuant to Section 8 (Change Orders).

7.3 Costs Excluded From Total Maximum Contract Sum.

7.3.1 Taxes.

The Consortium is exempt from federal excise taxes, and no payment shall be made for any personal property taxes or income taxes levied on Contractor or on any taxes levied on employee wages. The Consortium will only pay for any State or local sales or use taxes, if any, on the Services or Deliverables provided to the Consortium in accordance with this Agreement.

7.3.2 Transportation and Insurance Costs.

The costs associated with transportation, delivery, and insurance for each Deliverable and Service provided pursuant to this Agreement shall be paid for by Contractor.

7.3.3 Contractor Expenses.

Contractor will be solely responsible for Contractor's travel and other out-of-pocket expenses incurred in connection with providing the Deliverables and Services required by this Agreement. Contractor will be responsible for payment of all expenses related to salaries, benefits, employment taxes, and insurance for its Staff.

7.4 Invoices.

Contractor shall submit detailed, correct invoices in accordance with the Consortium's standard invoicing requirements to the Consortium Executive Director for all amounts to be paid by the Consortium pursuant to this Agreement. Contractor shall submit invoices for all charges for Deliverables which received Acceptance in the previous month and all Services provided in the prior month in accordance with the terms of the Agreement. All invoices submitted must meet with the approval of the Consortium Executive Director or designee prior to payment. Invoices shall include all information reasonably requested in writing by the Consortium, including, without limitation, this Agreement name and reference number, Federal Tax Identification Number, itemization of each

Deliverable or Service provided for which payment is requested, and total amount due. The Consortium shall have the right to dispute any invoices submitted for payment by Contractor.

7.5 Payments.

Except as otherwise provided in this Agreement, and subject to the Consortium's receipt of correct invoices, exercise of its remedies, and Contractor's performance of its obligations hereunder, the Consortium shall pay Contractor the amounts charged for Deliverables and Services. Consortium shall pay for each Deliverable which has received Acceptance and for Services for the time expended in each month multiplied by the labor rate described in the Price Proposal submitted to the Consortium. The charges for Deliverables and Services must conform to the current approved budget for the Project for each applicable state fiscal year. Consortium will hold back ten (10) percent of each monthly invoice until Final Acceptance.

7.6 Funding.

7.6.1 Lack of Funding; Conditions Subsequent.

The parties acknowledge and agree that the Project is dependent upon the availability of County, State and federal funding. If funding to make payments in accordance with the provisions of this Agreement is not forthcoming from any County Board of Supervisors, the State legislature, or the Federal government, or is not allocated or allotted to the Consortium by the State Department of Finance for this Agreement for periodic payment in the current or any future fiscal period, then the obligations of the Consortium to make payments after the effective date of such non-allocation or non-funding, as provided in the notice, will cease and terminate.

7.6.2 Delayed or Reduced Funding; Conditions Subsequent.

If funding, to make payments in accordance with the provisions of this Agreement, is delayed or is reduced from the State or the Federal government for the Project, or is not allocated or allotted in full to the Consortium by the State Department of Finance for this Agreement for periodic payment in the current or any future fiscal period, then the obligations of the Consortium to make payments will be delayed or be reduced accordingly. If such funding is reduced, the Consortium in its sole discretion, but following consultation with Contractor, shall determine which aspects of the Project shall proceed and which Services shall be performed, with Contractor's costs related to such Services and Deliverables determined in accordance with those in the Price Proposal. In this situation, the Consortium shall pay Contractor for Services and Deliverables provided prior to Consortium providing Notice of the loss of

funding. Any obligation on the part of the Consortium to pay Contractor will not extend beyond the end of the Consortium's then current funding period.

7.6.3 No Damages.

The Consortium, through its agents and employees, will exercise reasonable efforts to obtain the necessary funding to pay Contractor in accordance with this Agreement and all its terms. Contractor expressly agrees, however, that no penalty or damages shall be applied to, or shall accrue to, the Consortium, or to any of the Counties or the State, in the event that the necessary funding to pay under the terms of this Agreement is not available, not allocated, not allotted, delayed or reduced.

7.7 Overpayments to Contractor.

Contractor shall promptly, but in all cases within thirty (30) days, pay to the Consortium the full amount of any erroneous payment or overpayment upon notice of an erroneous payment or overpayment to which Contractor is not entitled.

7.8 Advance Payments Prohibited.

No advance payment shall be made for Deliverables or Services furnished by Contractor pursuant to this Agreement. No compensation or payments of any nature will be made in advance of the receipt of an invoice pursuant to Section 7.4.

7.9 Credits.

Any credits due the Consortium under this Agreement may be applied against Contractor invoices with appropriate information attached, upon giving of prior notice required herein, if any, by the Consortium to Contractor.

7.10 No Additional Consideration.

Except as expressly provided in this Agreement, Contractor shall not be entitled to nor receive from the Consortium any additional consideration, compensation, salary, wages, or any other type of remuneration for Deliverables or Services provided under this Agreement beyond the specific types of remunerations specified in this Agreement.

8. CHANGE ORDERS.

8.1 General.

The Consortium reserves the right to change any portion of the Deliverables or Services required under this Agreement and any other provisions

of this Agreement. All such changes shall be accomplished only as provided in this Section 8.

8.2 Issuance of Change Orders.

The Consortium may, at any time by a written Change Order, make changes within the scope of the Agreement. Such changes may include, without limitation, revisions or additions to Project Deliverables and Services. All Change Orders shall be subject to requirements and limitations in applicable Federal, State and County law.

8.3 Contractor Response.

Contractor shall respond in writing to a Change Order request within ten (10) days of receipt or as otherwise agreed to by the Parties, advising the Consortium of any cost and schedule impacts. The Consortium will not pay for Contractor's efforts in responding to a Change Order request. When the Change Order involves a cost impact, Contractor shall advise the Consortium in writing of the claimed cost impact, including a breakdown of the number of staff hours and/or additional requirements by level of personnel needed to effect this change.

8.3.1 Details.

The Consortium will provide Contractor with Change Orders containing a detailed statement of the purpose, objective, or goals to be undertaken by Contractor pursuant to the Change Order. In its response to the Change Order, Contractor shall provide details regarding the job classifications and approximate skill levels of the personnel necessary to effectuate the work detailed in the Change Order, an identification of all Deliverables and Services to be provided by Contractor pursuant to the Change Order, a time schedule for the completion of the work detailed in the Change Order, completion criteria for the work to be performed, the name and identification of Contractor personnel to be assigned, Contractor's work hours required to accomplish the purpose, objective, or goals, Contractor's billing rates per work hour, and Contractor's total cost for the Change Order.

8.4 Agreement on Change Order.

The Project Manager and Consortium Executive Director shall negotiate in good faith and in a timely manner as to the price and the impact on the Schedule of any Change Orders. If the Parties reach an agreement in writing, the Consortium Executive Director shall submit the written Change Orders for review and evaluation by the Consortium Board of Directors, except that the Consortium Executive Director shall have the authority to approve written Change Orders that do not result in an increase in the Total Maximum Contract Sum for all Deliverables and Services provided pursuant to this Agreement. Upon the

express written approval of the Consortium Board of Directors or the Consortium Executive Director as applicable, the Change Order will be incorporated into, and become a part of, this Agreement and Contractor shall begin to work on the Change Order. Such Change Orders shall in no way constitute an agreement other than as provided pursuant to this Agreement nor in any way amend or supersede any of the other provisions of this Agreement.

8.5 Disagreement on Change Order.

If the Parties are unable to reach an agreement in writing within fifteen (15) days of Contractor's response to a Change Order pursuant to paragraph 8.3, the Executive Director, if and to the extent authorized by the Consortium Board of Directors, may make a determination of the impact on the Total Maximum Contract Sum and the schedule for the Project at which point Contractor shall proceed with the work according to such adjustments as determined by the Executive Director, subject to Contractor's right to appeal the Consortium Executive Director's determination of the price and/or Schedule pursuant to Section 18 (Dispute Resolution Process). Nothing in this Section shall in any manner excuse Contractor from proceeding diligently with performing its obligations under this Agreement as changed by the Change Order.

8.6 Termination and/or Use of Third Party.

If Contractor fails or refuses to perform the work prescribed in a Change Order, or if Contractor has appealed the Consortium's determination that Contractor must proceed with performing the work prescribed in the Change Order, and the parties have been unable to resolve the dispute in accordance with the procedures in Section 18, the Consortium shall have the right to immediately terminate this Agreement for such a refusal, which shall be deemed a termination based on Contractor's default. In addition, the Consortium may engage the services of a third party to perform the Change Order if Contractor fails or refuses to perform the work prescribed by a Change Order, or if the parties are unable to agree on the terms of a Change Order.

9. CONSORTIUM PROPERTY.

9.1 Ownership.

Title to all property furnished by the Consortium shall remain with the Consortium. Title to all property purchased by Contractor, and for which Contractor has been reimbursed by the Consortium under this Agreement, shall pass to and vest in the Consortium upon Acceptance of the applicable Deliverable in which the property is included.

9.2 Use of Property.

Any property furnished to Contractor shall, unless otherwise provided in this Agreement, or approved in writing by the Consortium's Executive Director,

be used only for the performance of Contractor's obligations under and subject to the terms of this Agreement.

9.3 Damage to Property.

Contractor shall continuously protect and be responsible for any loss, destruction, or damage to property which results from, or is caused by, Contractor's negligent or intentional acts or omissions or from the negligent or intentional failure on the part of Contractor to maintain and administer that property. Notwithstanding anything to the contrary herein, Contractor shall be liable to the Consortium for any damages resulting from damage to property, which damages result from or are caused by Contractor's negligent or intentional acts or omissions. Contractor shall ensure that the property is returned to the Consortium in like condition to that in which it was furnished to Contractor, reasonable wear and tear excepted. Contractor shall repair or make good any such damage, destruction or loss at any Consortium site, and shall do so without requesting contribution or assistance from the Consortium.

9.4 Notice of Damage.

Upon the loss of, destruction of, or damage to any property owned by the Consortium, Contractor shall notify the Consortium's Executive Director and shall take all steps necessary to protect that property from further damage.

9.5 Surrender of Property.

Contractor shall surrender to the Consortium all property owned by the Consortium upon the earliest of completion, termination, or cancellation of this Agreement.

10. OWNERSHIP OF SOFTWARE AND OTHER PROPERTY.

10.1 Consortium Ownership of Project Deliverables.

Consortium shall own all right, title and interest in and to its Confidential Information, Consortium's intellectual property, and Project Deliverables, except as provided below. For purposes of this Section, the Deliverables which contain Third-Party Software and other Contractor Technology will be deemed to be compilations as defined in 17 U.S.C. § 101 and will be owned by Consortium as provided in 17 U.S.C. § 103(b), and the underlying Third-Party Software and Contractor Technology included in the Deliverables will remain owned by Contractor and its suppliers. Contractor shall take all actions necessary and transfer ownership of the Deliverables to Consortium upon their Acceptance. As between the parties, all products of the Services, including without limitation the Deliverables (except for the Third-Party Software and other Contractor Technology, which for the purposes of this Section of the Agreement shall not be owned by Consortium), and Data, shall be deemed works made for hire of Consortium for all purposes of copyright law, and copyright shall belong solely to

Consortium. In the event that any such work is adjudged to be not a work made for hire, Contractor agrees to assign, and hereby assigns, all rights in such work to Consortium. In the event a court of competent jurisdiction finds such an assignment to be unenforceable, Contractor agrees to provide Consortium with a non-exclusive license providing Consortium with all rights, title, and interest the assignment otherwise would have provided. Contractor agrees to execute all papers and to give all facts known to it necessary to register and secure United States or foreign country copyrights and patents, and to transfer or cause to transfer to the Consortium all the right, title and interest in and to Project Deliverables. Contractor also agrees not to assert any moral rights under applicable law with regard to Project Deliverables.

10.2 Contractor Ownership Rights.

Notwithstanding anything to the contrary, Contractor shall own all right, title and interest in and to its Confidential Information and Contractor Technology. Notwithstanding Consortium's ownership rights as described in this Section 10, Consortium acknowledges and agrees that: (a) Contractor shall be free to use its general knowledge, skills and experience, and any ideas, concepts and know-how within the scope of its business that are used in the course of providing the Project Deliverables and Services and that do not include the Consortium's Confidential Information or the Deliverables, in whole or in part, and (b) Contractor retains ownership of any and all of its intellectual property rights that Contractor can demonstrate by documentary evidence existed prior to the execution of this Agreement or is created outside of the scope of this Agreement, including but not limited to, methods, concepts, designs, reports, programs and templates, and all modifications and derivatives thereof and newly created generic consulting tools and methodologies not specified as Deliverables in this Agreement (collectively, "Contractor Technology"). The Consortium may use any such Contractor Technology contained in a Deliverable in connection with its use of the Deliverables.

10.3 State and Federal Governments.

All appropriate State and federal agencies including, without limitation, the California Health and Human Services Agency and federal government agencies providing federal financial participation) shall have a royalty-free, perpetual, worldwide, transferable, fully paid, nonexclusive and irrevocable license to reproduce, modify, distribute, publish, translate or otherwise use and to authorize others to use for State and/or federal government purposes all materials designed, developed, or installed with State and/or federal financial participation.

10.4 Notices.

Contractor will reproduce and include the copyright and other proprietary notices and product identifications provided by Contractor on such copies, in whole or in part, or on any form of the Deliverables.

10.5 Lease or Purchase of Third-Party Software Licenses and Maintenance Agreements.

Contractor agrees to sell and/or assign, and the Consortium agrees to lease and/or purchase, any license agreements or maintenance agreements for Third-Party Software used in providing Deliverables or Services for the Project. For Third-Party Software licenses or maintenance agreements purchased and/or leased by the Consortium from Contractor, title shall transfer to the Consortium following payment therefor in accordance with the terms and conditions of the purchase agreement, except for amounts withheld or set off by the Consortium pursuant to the exercise of its rights and remedies under the Agreement. Contractor shall be responsible for tracking and reporting on a monthly basis to the Consortium on each item Third Party Software which has been leased and/or purchased throughout the Project. Information to be contained in each report shall be mutually agreed upon by the parties and will include, but not be limited to, lease amounts. Prior to utilizing any Third-Party Software product, Contractor shall provide to Consortium copies of any applicable license agreement and maintenance agreement from the Third-Party Software licensor to allow Consortium to pre-approve such license agreement and maintenance agreement.

11. WARRANTIES.

11.1 Deliverables.

Contractor represents and warrants that each Deliverable shall meet the Project Specifications as provided herein following its Acceptance and during the term. Contractor shall correct any Deficiency in a Deliverable that does not meet Specifications at no cost to the Consortium, provided the Consortium has provided written notice to Contractor of the Deficiency. If a Deliverable includes any products provided by third parties, such as Third-Party Software, Contractor shall fully cooperate with such third parties and the Consortium to rectify any Deficiency caused by such Third-Party Software. The warranty period during which Contractor is responsible for correcting any Deficiencies in Project Deliverables shall run the full term of this Agreement, including any extension for any Optional Term.

11.2 Services.

11.2.1 Contractor represents and warrants that:

11.2.1.1 It shall perform the Services as described in this Agreement and in accordance with the Work Plan and applicable Specifications;

11.2.1.2 It shall perform all Services required pursuant to this Agreement in a professional manner, with high quality;

11.2.1.3 Time shall be of the essence in connection with performance of the Key Milestones; and

11.2.1.4 It shall give high priority to the performance of the Services.

11.2.2 Contractor shall promptly re-perform or correct Services which are not in compliance with such representations and warranties at no cost to Consortium during the Warranty Period.

11.3 Additional Representations and Warranties.

11.3.1 Power and Authority.

Contractor represents and warrants that it has the full power and authority to grant to the Consortium the rights described in this Agreement, that the person executing this Agreement for Contractor has actual authority to bind Contractor to each and every term, condition, and obligation of this Agreement and that all requirements of Contractor have been fulfilled to provide such actual authority.

11.3.2 No Conflicts of Interest.

Contractor represents and warrants that it has no interest and shall not acquire any direct or indirect interest that would conflict in any manner or degree with the performance of the work under this Agreement.

11.3.3 Intellectual Property Rights.

Contractor represents and warrants that:

11.3.3.1 Contractor is the owner of the Deliverables that are to be transferred and assigned to the Consortium in accordance with Section 10;

11.3.3.2 As of the Execution Date of this Agreement, there is no actual or any threatened suit by any such third party based on an alleged violation of the rights to be granted Contractor to the Consortium hereunder;

11.3.3.3 The Deliverables shall not infringe or misappropriate any right of, and will be free of any claim of, any third person or entity based on patent, copyright, trade secret, unfair trade practice, or other intellectual property right; and

11.3.3.4 The Consortium shall peacefully and quietly have, hold, possess, and enjoy each Deliverable without suit or interruption.

11.3.4 Legal and Regulatory Compliance.

Contractor represents and warrants that, in its performance in connection with the Services and Deliverables to be provided pursuant to this Agreement, it shall comply with all applicable federal, State, and County laws, regulations, codes, standards and ordinances. In the event that Contractor, in its performance in connection with any Services performed, or any Deliverables provided, is subsequently found to be in violation of such laws, regulations, codes, standards and ordinances, it shall be the sole responsibility of Contractor to bring the Services and Deliverables into compliance. In addition, Contractor shall be responsible for and shall indemnify the Consortium, the State, and their officer, employees, and agents, against any fines, penalties, sanctions, or disallowances which are imposed on the Consortium or its member Counties or the State, which arise from any Contractor noncompliance with the federal, State, or County laws, regulations, codes, policies and guidelines resulting from Contractor's or its Subcontractors' performance of their obligations.

11.3.5 Contractor's Good Standing.

Contractor represents and warrants that:

11.3.5.1 Contractor is a corporation, validly existing and in good standing under the laws of the State of California and has all requisite power and authority to execute, deliver and perform its obligations under this Agreement;

11.3.5.2 Contractor has the full power and authority to grant to the Consortium the rights described in this Agreement and that there is currently no actual or threatened suit by any such third party based on an alleged violation of such rights by Contractor;

11.3.5.3 Contractor is duly authorized to conduct business in and is in good standing in each jurisdiction in which Contractor will conduct business in connection with this Agreement;

11.3.5.4 Contractor has obtained all licenses, certifications, permits, and authorizations necessary to perform the Services under this Agreement and to provide all Deliverables required by this Agreement and currently is in good standing with all regulatory agencies that regulate any or all aspects of Contractor's performance of the Services or provision of the Deliverables; and

11.3.5.5 Contractor shall comply with all applicable local, State, and federal licensing, accreditation and registration requirements and standards necessary in the performance of the Services and provision of Deliverables; and Contractor will maintain

all required certifications, licenses, permits, and authorizations during the term of this Agreement at its own expense.

11.3.6 Ability to Perform.

Contractor represents and warrants that:

11.3.6.1 Contractor has the financial stability to carry out at least six (6) months of Services during any period of this Agreement without reimbursement for the Services or expenses; and

11.3.6.2 Each Subcontractor, if any, providing a substantial amount of the Services under this Agreement has the financial resources to carry out its duties under this Agreement.

11.4 PRICE Warranty.

11.4.1 This Agreement includes the full amount of compensation and reimbursement that the Consortium will be asked to provide Contractor in order for Contractor to fully perform all of its obligations under this Agreement, and Contractor shall be able to perform fully all of its obligations under this Agreement with such amount of compensation and reimbursement.

11.4.2 Contractor understands that the Consortium is entering into this Agreement in reliance upon the premise that Contractor shall fully perform all of its obligations under this Agreement without seeking any additional compensation or reimbursement beyond that already provided for in this Agreement.

11.5 BREACH OF WARRANTY OBLIGATIONS.

In the event that Contractor fails to timely perform its obligations set forth in this Section, the Consortium shall have the right to withhold payment to Contractor. In addition, and if Contractor fails to perform such obligations within forty-five (45) days of Contractor's receipt of notice from the Consortium, the Consortium shall have the right to perform or procure the performance of such obligations, including any required correction, repair, replacement, or other work which Contractor has failed to perform. In such event, Contractor shall pay to the Consortium an amount equal to the difference between its direct actual and reasonable cost of outside labor and materials, including its burdened (including salary, employee benefits, and reimbursement policies) rates for Consortium provided labor and the Contractor charges for performance of such obligations. Such payment shall be made by Contractor to the Consortium by cash payment upon demand or, at the Consortium's option, such payment shall be deducted from any amounts due or to become due to Contractor under this Agreement.

12. INDEMNIFICATION.

12.1 General.

Contractor shall indemnify, defend, and hold harmless the Consortium, and its elected and appointed officers, employees, agents, Consortium Members (hereafter in this Section 12 "Consortium Indemnities") and the State and its officers, employees, and agents (hereinafter "State Indemnitees") from and against any and all claims, liabilities, damages, costs, and expenses, including defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to claims and lawsuits, for any damages of any nature whatsoever, for bodily injury, death, personal injury (including purely economic damage), or real or personal property damage arising from Contractor, Contractor's agents', employees' or Subcontractors' alleged or actual negligent acts, errors, or omissions or willful misconduct in the performance of Services or provision of products pursuant to this Agreement, including to the extent applicable workers' compensation suits, liability, or expense, provided that Consortium Indemnitees and/or State Indemnitees provide Contractor with prompt notice of any such claim of which the Consortium Executive Director and/or the State has actual knowledge and provides reasonable cooperation in Contractor's defense and any related settlement negotiations. Any legal defense pursuant to Contractor's indemnification obligations under this Section 12 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by the Consortium and/or the State, except that the Consortium will not have such approval right if Contractor's interests are adverse to the Consortium's and/or the State's. Notwithstanding the preceding sentence, Consortium Indemnitees and/or State Indemnitees shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide a full and adequate defense, Consortium Indemnitees and/or State Indemnitees shall be entitled to retain its own counsel and receive reimbursement from Contractor for all such costs and expenses incurred by Consortium Indemnitees and/or State Indemnitees in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of Consortium Indemnitees and/or State Indemnitees without Consortium Indemnitees' and/or State Indemnitees' prior approval.

12.2 Intellectual Property Indemnification.

Without in any way infringing upon the generality of the Consortium's and/or the State's indemnification rights under Section 12.1, Contractor shall, at its expense, defend, indemnify, and hold harmless Consortium Indemnitees and/or State Indemnitees and their officers, employees, and agents from and against any losses, liabilities, damages, penalties, costs, fees, including without limitation reasonable attorneys' fees, and expenses from any claim or action against the Consortium Indemnitees and/or State Indemnitees and their officers,

employees, and agents, which is based on a claim that Consortium Indemnitees' and/or State Indemnitees' and their officers, employees, and agents use of or rights to the Project Deliverables or Services, or any one or part thereof, under this Agreement infringes a patent, copyright, or other proprietary right or misappropriates a trade secret, except where: (a) the violation of any third party's proprietary right in connection with this Agreement arises from Contractor's reliance on, or use of, tools, instructions, specifications or other materials provided by the Consortium, or where the Consortium or any third party modifies, adds to, or combines the Project Deliverables or Services with any other data or (b) the Consortium fails to obtain intellectual property rights necessary to permit Contractor to perform Project Services. If a Project Deliverable, or any one or part thereof, is in such action held to constitute an infringement or misappropriation, or the use thereof is enjoined or restricted, Contractor shall, at its own expense and election: (a) procure for the Consortium's right to continue using the Deliverable; (b) modify the Deliverable to comply with the Specifications and not to violate any intellectual property rights; or (c) terminate the use of any infringing Deliverable upon receipt of Notice from the Consortium and refund all sums paid for such Deliverable, as applicable.

13. LIQUIDATED DAMAGES.

13.1 Delays or Failures.

The Consortium and Contractor agree that failed, delayed, and/or other performance not in compliance with the terms of this Agreement by Contractor will cause damages to the Consortium which may be uncertain and would be impractical or difficult to ascertain. Accordingly, the Parties agree that Consortium may assess, and if assessed, Contractor promises to pay the Consortium in the event of such failed, delayed, and/or other performance not in accordance with the terms of this Agreement, the amounts described below as liquidated damages and not as penalties. The schedule of liquidated damages represents damages in conformity with California Civil Code Section 1671, incurred in case of failed, delayed, or other performance not in accordance with the terms of this Agreement.

13.2 Key Staff.

In the event that Contractor fails to provide all Key Staff as required by Section 6, the Consortium, will provide Contractor with two (2) weeks in which to provide such Key personnel, after which, at its option, Consortium may reduce Contractor's monthly charges by \$1,000 for each workday and for each Key Staff member not working under this Agreement until the earliest of: (a) the assignment or reassignment of such Key Personnel member(s) to the Project,; or (b) the Consortium's Executive Director's written approval of a replacement for or the diversion of such Key Staff member(s).

13.3 Failure to Meet Key Milestones.

Contractor shall pay liquidated damages as follows for Contractor's failure to timely perform the Services or provide the Deliverables following the dates specified in the Consortium Executive Director's approved Work Plan for the following Key Milestone events.

Key Milestones	Amount of Liquidated Damages Per Day
Delivery of Initial Work Plan	\$1,000.00
Delivery of Initial RTM	\$1,000.00
Delivery of BPR Plan	\$1,000.00
Delivery of OCM Plan	\$1,000.00
Delivery of County Communication Plan	\$1,000.00
Delivery of County Change Guides	\$1,000.00
Delivery of Master Training Plan	\$1,000.00
Delivery of County-specific Training Plans	\$1,000.00

13.4 Available Remedies.

The assessment of liquidated damages shall not constitute a waiver or release of any other remedy the Consortium may have under this Agreement for Contractor's breach of this Agreement, including without limitation, the Consortium's right to withhold payment to Contractor for defective or untimely Deliverables or Services, including the Consortium's right to terminate this Agreement, and the Consortium shall be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Agreement.

13.5 Payments.

Amounts due the Consortium as liquidated damages may be deducted by the Consortium from any amounts owing Contractor under this Agreement, or the Consortium may bill Contractor for liquidated damages as a separate item solely at the discretion of the Consortium. In the event the Consortium elects to bill Contractor for liquidated damages, Contractor shall promptly pay the sums billed.

14. ADDITIONAL RIGHTS AND REMEDIES.

14.1 Withholding Payments.

Consortium will notify Contractor of any failure on Contractor's part to perform its obligations under this Agreement. If, after receiving such Notice, Contractor fails to cure its non-performance in a timely fashion, Consortium shall have the right to withhold payments to Contractor, in whole or in part.

14.2 Reductions in Payments Due.

Amounts due the Consortium by Contractor, including but not limited to liquidated or other damages, or claims for damages, may be deducted or set-off by the Consortium from any money payable to Contractor pursuant to this Agreement.

14.3 Holdback.

Consortium shall retain a holdback of ten percent (10%) of amounts invoiced as prescribed in this Agreement for Deliverables, Services and other Project tasks performed prior to Final Implementation Acceptance. However, Purchase Prices for the purchase or lease of Equipment, Third Party Software licenses, or for any facilities shall not be included in the holdback. Consortium shall authorize Contractor's submission of an invoice for payment of the holdback upon Final Implementation Acceptance and the correction by Contractor of all Deficiencies identified immediately following the implementation cutover event.

14.4 Cover.

In the event a default by Contractor is not so substantial as to require termination, reasonable efforts to induce Contractor to cure the default are unavailing, and the default is capable of being cured by the Consortium or by another resource without unduly interfering with continued performance by Contractor, the Consortium may provide or procure the Deliverables or Services reasonably necessary to cure the default, in which event Contractor shall reimburse the Consortium an amount equal to the difference between Contractor's charges for such Deliverables or Services and the reasonable cost of the Deliverables or Services. In addition, Contractor must cooperate with these resources in allowing access to the Deliverables.

14.5 Suspension Due to Breach.

In the event the Consortium determines that a breach of this Agreement has occurred on the part of Contractor, and the situation is deemed by the Consortium to merit corrective action, the following sequential suspension procedure will be implemented:

14.5.1 The Consortium shall send a Notice to Contractor in writing to Contractor's Notice address of a perceived compliance breach describing the Consortium's concerns.

14.5.2 Contractor shall respond to the Consortium's concerns in writing describing proposed corrective actions and proposing completion dates for bringing the Contractor's performance under this Agreement into compliance. Such response will be sent within ten (10) days of the date of receipt of the Consortium's Notice described in Section 14.5.1.

14.5.3 The Consortium shall notify Contractor in writing within ten (10) days as to the Consortium's final disposition of its concerns.

14.5.4 Upon receipt of notice of final disposition by Contractor, the Consortium reserves the right to suspend all, or part of, the Agreement, for a period no greater than thirty (30) calendar days, and to withhold further payments, or to prohibit Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action, if necessary, by Contractor or a decision by the Consortium to terminate in accordance with Section 17.1 below.

14.6 Suspension for Convenience.

The Consortium shall have the right at any time during the Project to order the Deliverables, Services, or any part thereof, of Contractor or any of its Subcontractors or suppliers fully or partially stopped for its own convenience for a period not to exceed thirty (30) days within any six (6) month period. Within thirty (30) days after issuance of such a stop work order, the Consortium shall either cancel the stop work order, terminate the Agreement, or modify the Agreement as may be agreed to in writing by the Parties. Contractor shall receive notice of the reasons for such an order. The Schedule shall be delayed on a day-for-day basis if the Consortium has issued a stop work order to Contractor and such stop work order is causing delays in completing Deliverables or Services in accordance with the Schedule. To the extent that stop work orders are issued under this Section, thirty (30) days have passed since issuance of the stop order, and Contractor cannot redirect Staff and mitigate the effect of such stop work orders, then an adjustment, if any, to the amounts owing Contractor and/or Schedule shall be made pursuant to Section 8 (Change Orders), if appropriate, based on the Consortium Executive Director's reasonable consideration of relevant factors and circumstances, including but not limited to Contractor's opportunity and efforts to mitigate the effect of the stop work orders. Contractor shall have the right to submit claims for additional costs incurred as a result of any stop work orders issued under this Section.

14.7 Limitation on Liability – Contractor.

EXCEPT FOR INDEMNIFICATION OBLIGATIONS, (i) CONTRACTOR'S LIABILITY TO THE CONSORTIUM UNDER THIS AGREEMENT SHALL NOT EXCEED THE TOTAL CHARGES PAID AND TO BE PAID BY THE CONSORTIUM TO CONTRACTOR UNDER THE AGREEMENT, INCLUDING WITHOUT LIMITATION, CHANGE ORDER PRICES AGREED TO BY THE PARTIES OR OTHERWISE ADJUDICATED, AND (ii) CONTRACTOR SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, OR INCIDENTAL DAMAGES FOR PURPOSES HEREOF. THE SPECIFIED PAYMENT REMEDIES SET FORTH IN SECTIONS 11.5, 14.4, 17.4, AND 19.24 OF THIS AGREEMENT AND DAMAGES ARISING FROM BREACH OF SECTION 16, CONFIDENTIAL DATA, SHALL NOT BE DEEMED CONSEQUENTIAL, INDIRECT, INCIDENTAL, EXEMPLARY, OR PUNITIVE DAMAGES, BUT RATHER SHALL BE SUBJECT TO CLAUSE 14.7(i) ABOVE.

14.8 Limitation on Liability – Consortium.

EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT, IN NO EVENT SHALL THE CONSORTIUM BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL THEORY REGARDLESS OF THE CAUSE OF ACTION AND EVEN IF THE CONSORTIUM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT, THE CONSORTIUM'S MAXIMUM AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS AGREEMENT SHALL NOT EXCEED THE TOTAL CHARGES PAID AND TO BE PAID BY THE CONSORTIUM TO CONTRACTOR UNDER THE AGREEMENT, INCLUDING WITHOUT LIMITATION CHANGE ORDER PRICES AGREED TO BY THE PARTIES OR OTHERWISE ADJUDICATED.

15. INSURANCE.

15.1 Liability and Auto Insurance.

Contractor shall, at its sole cost and expense, obtain, and, during the term of this Agreement, maintain, in full force and effect, the insurance coverage described in this Section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed or eligible to conduct business in the State of California and approved by the Counties. Contractor shall include the Counties, its boards, agencies, contractors, officers, employees, agents and volunteers, and the State, its officers, employees, and agents, both individually and collectively, as additional named insureds on Contractor's commercial general liability and auto liability policies. Such insurance shall apply as primary insurance for these additional insureds specific to Contractor's activities hereunder. If Contractor fails to buy and maintain the insurance coverage described in this Section 15, the Consortium may terminate this Agreement

under Section 17.1 (Termination for Material Breach). The minimum acceptable limits shall be as indicated below with no deductible except as indicated below:

15.1.1 Commercial General Liability or equivalent self-insurance covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;

15.1.2 Commercial Business Automobile Liability (owned, hired, or non-owned vehicles) covering the risks of bodily injury (including death) and property damage, with a limit of not less than \$1 million per accident;

15.1.3 Employer Practices Liability Insurance covering the risks of Contractor's Staff and employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease;

15.1.4 Crime Coverage Insurance covering the risks of theft of money, securities, or other property committed to Contractor's Staff, including Subcontractor's Staff, while performing work pursuant to this Agreement;

15.1.5 Professional Liability or Errors and Omissions with coverage of not less than \$2 million per claim/\$5 million general aggregate; and

15.1.6 Umbrella Policy providing excess limits over the primary policies in an amount not less than \$3 million.

15.2 Workers' Compensation Coverage.

Prior to providing Services under this Agreement, Contractor shall, in full compliance with California state law, provide or purchase, at its sole cost and expense, statutory California's workers' compensation coverage for its employees as required and employers liability in the minimum amount of \$1 million per bodily injury by accident and \$1 million per bodily injury by disease. This policy shall remain in full force and effect during the term of the Agreement. The worker's compensation policy obtained by Contractor shall include the Counties, its boards, agencies, contractors, officers, employees, agents and volunteers, and the State, its officers, employees, and agents, both individually and collectively, as additional named insureds under this policy. Should Contractor fail to secure worker's compensation insurance coverage or fail to pay premiums on behalf of its employees, the Consortium may terminate this Agreement under Section 17.1 (Termination for Material Breach), or alternatively, and solely at the discretion of the Consortium, deduct the amount of premiums owing for a policy of worker's compensation insurance coverage from the amounts payable to Contractor under this Agreement and transmit the same to the responsible State agency.

15.3 Subcontractors.

Contractor shall include all Subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

15.4 Cancellation.

Contractor's insurance policies shall not be canceled or non-renewed in scope of coverage without provision for equivalent substitute insurance and such cancellation or nonrenewal shall not take place or reduced in scope of coverage until thirty (30) business days' written Notice has been given to the Consortium Executive Director, and Contractor has replacement insurance policy(ies) in place that satisfy the requirements set forth in this Section 15. Contractor's insurance policies shall not be reduced in scope without the Consortium's prior written consent.

15.5 Insurance Documents.

Contractor shall furnish to the Consortium copies of certificates of all required insurance no later than ten (10) days following the Agreement Effective Date, and copies of renewal certificates of all required insurance within thirty (30) days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this Section 15. Failure to provide these documents shall be grounds for immediate termination or suspension of this Agreement under Section 17.1 (Termination for Material Breach). The Consortium reserves the right to review Contractor's compliance with these insurance requirements to ensure that there is appropriate coverage that is in accordance with this Agreement.

15.6 Increased Coverage.

Contractor will notify the Consortium promptly if any aggregate insurance limit is exceeded. In such event, Contractor must purchase additional coverage to meet these requirements.

15.7 Cross Liability.

All insurance provided by Contractor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the Consortium or its member Counties, specific to the Consortium's additional insured status and Contractor's activities hereunder, and shall include a severability of interests (cross liability) provision.

16. CONFIDENTIAL INFORMATION.

16.1 Protection Obligations.

16.1.1 Access and Protection. During the term of the Agreement, Contractor and Consortium will have access to and become acquainted with each party's Confidential Information. Consortium and Contractor, and each of their officers, employees, and authorized contractors and agents, shall maintain all Confidential Information of the other party in confidence and at least to the extent as it protects the confidentiality of its own proprietary information of like kind, but in no event with less than reasonable care. Neither party will at any time use, publish, reproduce or disclose any Confidential Information, except to authorized officers, employees, contractors and agents requiring such information under confidentiality requirements no less restrictive than this Section 16.1.1, as authorized in writing by the other party, as otherwise specifically permitted herein, or to perform its obligations as authorized hereunder. Both parties shall take all steps necessary, including without limitation oral and written instructions to all staff to safeguard, in accordance with applicable federal, State and County law, regulation, codes, and this Section 16.1.1, the other party's Confidential Information against unauthorized disclosure, reproduction, publication or use, and to satisfy their obligations under this Agreement. Each party agrees that, prior to disclosing any Confidential Information of the other party to any third party, it will obtain from that third party a written acknowledgment that such third party will be bound by the same terms as specified in this Section 16.1.1 with respect to the Confidential Information. (See Exhibit D to this Agreement.) In addition to the requirements expressly stated in this Section 16.1.1, Contractor and its Subcontractors will comply with any applicable policy, rule, or reasonable requirement of the County, the State and the federal government that relates to the safeguarding or disclosure of information relating to applicants and recipients of Consortium's Services, Contractor's operations, or the Services performed by Contractor under this Agreement.

16.1.2 Security Requirements. Each party, and its officers, employees, subcontractors and agents shall at all times comply with all security standards, practices, and procedures which are equal to or exceed those of Consortium and which the other party may establish from time to time, with respect to information and materials which come into each party's possession and to which such party gains access under this Agreement. Such information and materials include without limitation all Confidential Information.

16.2 Compliance With State Requirements.

16.2.1 As part of its nondisclosure obligations, Contractor shall comply and require its officers and employees to comply with the provisions of Sections 10850 and 18909 of the Welfare and Institutions Code, Division 19 of the California Department of Social Services Manual of Policies and Procedures, and all other statutory laws relating to privacy and confidentiality.

16.2.2 Contractor will keep confidential and not open to examination, for any purpose not directly connected with the administration of public social services, any applications and records concerning any individual made or kept by a public officer or agency in connection with the administration of the provision of the Welfare and Institutions Code relating to any form of public social services.

16.2.3 Contractor shall inform all of its employees, agents, subcontractors and partners of the above provision and that any person knowingly and intentionally violating the provisions of this State law is guilty of misdemeanor.

16.3 Audit.

Consortium reserves the right to monitor, audit or investigate Contractor's use of Consortium's and/or third parties' Confidential Information collected, used, or acquired by Contractor under this Agreement.

16.4 Return.

Subject to record retention laws and other provisions herein, each party shall promptly return to the disclosing party, on termination or expiration, all of the disclosing party's Confidential Information, including copies thereof.

16.5 Injunctive Relief.

16.5.1 Contractor shall immediately report to Consortium any and all unauthorized disclosures or uses of Consortium's Confidential Information of which it or its Staff is aware or has knowledge. Contractor acknowledges that any publication or disclosure of Consortium's Confidential Information to others may cause immediate and irreparable harm to Consortium. If Contractor should publish or disclose such Confidential Information to others without authorization, Consortium shall immediately be entitled to seek injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period.

16.5.2 Consortium will immediately report to Contractor any and all unauthorized disclosures or uses of Contractor's Confidential Information of which Consortium is aware or has knowledge. Consortium

acknowledges that any publication or disclosure of Contractor's Confidential Information to others may cause immediate and irreparable harm to Contractor. If Consortium should publish or disclose such Confidential Information to others without authorization, Contractor shall immediately be entitled to seek injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period.

16.6 Exceptions.

The following information shall not be considered Confidential Information for the purposes of this Agreement: information previously known when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach hereof; information which is developed by one party independently of any disclosures made by the other party of such information; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

16.7 Survival.

The provisions of this Section shall remain in effect following the termination or expiration of this Agreement.

16.8 Public Records.

16.8.1 Notwithstanding the above, Contractor acknowledges that this Agreement shall be a public record under State law. Any specific information that is claimed by Contractor to be Confidential Information must be clearly identified as such by Contractor. To the extent consistent with State law, Consortium will maintain the confidentiality of all such information marked Confidential Information.

16.8.2 If a request is made to view Contractor's Confidential Information, Consortium will notify Contractor of the request and of the date that any such records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor disagrees with disclosure of Contractor's Confidential Information by the Consortium, Contractor shall have the right to contest its disclosure in accordance with State law. If Contractor fails to obtain a court order enjoining disclosure, the State will release the identified requested information on the date specified.

16.9 Written Staff Agreements.

Contractor agrees to require Staff to which Contractor makes available (as permitted by this Agreement) Consortium's, Counties', and the State's Confidential Information to agree in writing to observe and perform all provisions of this Section 16 applicable to such Staff.

16.10 Subpoena.

In the event that a subpoena or other legal process in any way concerning Consortium's or any County's Confidential Information is served upon Contractor, then Contractor agrees to notify Consortium promptly following receipt of such subpoena or other legal process and to cooperate with Consortium or any County in any lawful effort by Consortium or any County to contest the legal validity of such subpoena or other legal process. In the event that a subpoena or other legal process in any way concerning Contractor's Confidential Information is served upon Consortium or any County, then Consortium or any such County, as applicable, agrees to notify Contractor promptly following receipt of such subpoena or other legal process and to cooperate with Contractor in any lawful effort by Contractor to contest the legal validity of such subpoena or other legal process.

17. TERMINATION.

17.1 Termination for Material Breach.

In addition to the termination rights described elsewhere in this Agreement, the Consortium may terminate this Agreement with prior Notice to Contractor if Contractor materially breaches this Agreement, provided the Consortium has given Contractor Notice of such breach and Contractor failed to cure such breach within thirty (30) days after receipt of such Notice.

17.2 Termination for Rejection of Project Deliverables.

If Contractor is unable to correct Deficiencies in any part of the Project Deliverables, Consortium shall have the right to immediately terminate this Agreement, in whole or in part, without penalty or liability to Consortium. If Consortium terminates this Agreement under this Section, Contractor shall, within twenty (20) Days thereafter, refund to Consortium all payments made to Contractor for the deficient Deliverable and for any Services rendered in connection with that deficient Deliverable.

17.3 Termination for Consortium's Nonpayment.

If the Consortium fails to pay Contractor undisputed, material charges within ninety (90) days of receipt of Notice from Contractor of the failure to make such payments when due, Contractor may, by giving Notice to the Consortium Executive Director, terminate this Agreement as of a date specified in the Notice of termination. Contractor shall not have the right to terminate the Agreement for the Consortium's breach of the Agreement except as provided in this Section.

17.4 Termination Remedies.

In the event of termination of this Agreement by the Consortium under Sections 17.1 or 17.2, in addition to its other remedies, the Consortium shall

have the right to procure Project Deliverables or Services that are the subject of this Agreement on the open market and to seek recovery from Contractor for damages, including but not limited to, (a) the cost difference between the original Agreement price for the Project Deliverables and/or Services and the replacement costs of such Deliverables and/or Services acquired from another contractor; and (b) if applicable, all administrative costs directly related to the replacement of this Agreement, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, staff time costs. The Consortium shall have the right to deduct from any monies due to Contractor, or that thereafter become due, an amount for damages that Contractor is found to owe the Consortium for Contractor's default.

17.5 Termination for Convenience.

17.5.1 In addition to its other rights to terminate as stated in this Section 17, the Consortium may terminate this Agreement in whole or in part for its convenience upon sixty (60) days prior Notice to Contractor when it is determined by the Consortium to be in its best interests. In addition, invocation of Section 17.6 (Termination for Withdrawal of Authority) or Section 17.7 (Termination for Non-Allocation of Funds) shall be deemed a termination for convenience but will not require such sixty (60) days' Notice. During the above-described sixty (60) day period, Contractor shall wind down and cease work on Deliverables or Services pursuant to this Agreement as quickly and efficiently as possible, without performing unnecessary activities and by minimizing negative effects on the Consortium from such winding down and cessation of work under this Agreement. If this Agreement is so terminated, the Consortium shall be liable only for payment as provided below for Deliverables and Services rendered prior to the effective date of termination.

17.5.2 In case of such termination for convenience, the Consortium shall pay to Contractor the agreed upon amounts, if separately stated, for Deliverables for which Acceptance has been given by the Consortium, amounts for Services performed on Deliverables, which are in development but which have not received Acceptance, and amounts for Services which have been provided in accordance with the terms of the Agreement, for which no separate price is stated and which are not associated with or related to specific Deliverables. The amounts for such Services shall not exceed their reasonable value, but such amounts shall not exceed the amount for the Deliverables with which they are associated or, if not associated with a Deliverable, the price for the Services in the Contractor's Price Proposal or Change Order, whichever is applicable. Any such amounts shall be verified in documentation submitted by Contractor to the Consortium upon its request for it. Failure to agree with such determination shall be a dispute. In no event shall the Consortium pay to Contractor an amount greater than Contractor would have been entitled to if this Agreement had not been terminated.

17.6 Termination for Withdrawal of Authority.

In the event that the authority of the Consortium to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Agreement and prior to normal completion, the Consortium may terminate this Agreement under Section 17.5 (Termination for Convenience).

17.7 Termination for Non-Allocation of Funds.

If funds are not allocated to continue this Agreement in any future period, the Consortium will not be obligated to pay any further charges for Deliverables and/or Services, and shall have the right to terminate this Agreement. The Consortium agrees to notify Contractor of such non-allocation at the earliest possible time. No penalty shall accrue to the Consortium in the event this Section is exercised.

17.8 Termination for Conflict of Interest.

17.8.1 The Consortium may terminate this Agreement by written notice to Contractor if it is found, after due notice and examination, that there is a violation by any of the Parties hereto of any laws regarding ethics in public acquisitions and procurement and performance of contracts.

17.8.2 In the event this Agreement is terminated pursuant to Section 17.8.1 due to Contractor's conduct, the Consortium shall be entitled to pursue the same remedies against Contractor it could pursue in the event of a breach of this Agreement under Section 17.1.

17.9 Termination Procedures.

17.9.1 Upon termination of this Agreement, the Consortium, in addition to any other rights provided in this Agreement, may require Contractor to deliver to the Consortium any property, including Deliverables, produced or acquired for the performance of such part of this Agreement up to the date of termination.

17.9.2 Upon termination of this Agreement due to Contractor's breach of any of its obligations owing pursuant to this Agreement, the Consortium may withhold from any amounts due Contractor for Deliverables or Services such sum as the Consortium's Executive Director determines to be necessary to protect the Consortium from potential loss or liability.

17.9.3 After receipt of a Notice of termination, and except as otherwise directed by the Consortium, Contractor shall:

17.9.3.1 Stop work under this Agreement on the date, and to the extent specified, in the Notice;

17.9.3.2 Place no further orders or subcontracts for materials, Services, or facilities except as may be necessary for completion of such portion of the work under this Agreement that is not terminated;

17.9.3.3 As soon as practicable, but in no event longer than thirty (30) Days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Consortium to the extent required, which approval or ratification shall be final for the purpose of this Section;

17.9.3.4 Complete performance of such part of this Agreement as shall not have been terminated by the Consortium;

17.9.3.5 Take such action as may be necessary, or as the Consortium Executive Director may direct, for the protection and preservation of the property related to this Agreement which is in the possession of Contractor and in which the Consortium has an interest; and

17.9.3.6 Transfer title to the Consortium and deliver in the manner, at the times, and to the extent directed by the Consortium's Executive Director, any property which is required to be furnished to the Consortium and which has been accepted or requested by it.

17.9.4 Contractor shall pay within thirty (30) days the damages due to the Consortium as the result of any final adjudication, award, or settlement agreement.

17.9.5 Upon the expiration or termination of this Agreement, Contractor shall assist the Consortium in the orderly transfer of Services rendered under this Agreement to a successor contractor or other mode of delivery and the transfer of all aspects hereof, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each party without additional costs or fees, except as specified and approved in this Agreement.

17.9.6 Contractor shall provide to the Consortium all information requested by the Consortium that is necessary to facilitate a subsequent bidding process without additional costs or fees.

17.9.7 Contractor shall provide to the Consortium, without additional cost to it, and at least thirty (30) days prior to the expiration or termination of this Agreement, all files, data, and records necessary to effect the least disruptive and costly transition as possible under the circumstances.

18. DISPUTE RESOLUTION.

18.1 Contractor and the Consortium agree to act immediately to mutually resolve any disputes that may arise with respect to this Agreement. The Parties agree that time is of the essence in the resolution of disputes.

18.2 Contractor and the Consortium agree that, the existence and details of a dispute notwithstanding, both parties shall continue, without delay, their performance hereunder, except for any performance which the parties mutually determine should be delayed.

18.3 In the event of any dispute between the parties with respect to this Agreement, Contractor and the Consortium shall submit the matter to the Contractor's Project Director and Consortium Executive Director, who may initially designate deputies to attempt to resolve the issue. If the dispute is submitted to the Contractor's Project Director's and Consortium Executive Director's designees, and those individuals are unable to resolve the dispute within a reasonable time not to exceed ten (10) days from the date of submission of the dispute, then the matter shall be submitted back to the Project Director and Consortium Executive Director to resolve. The Project Director and Consortium Executive Director shall have ten (10) days to attempt to resolve the dispute.

18.4 In the event that at these levels, there is not a resolution of the dispute acceptable to both parties, then each party may assert its other rights and remedies provided under this Agreement and/or its rights and remedies as provided by law or at equity.

18.5 All disputes utilizing this dispute resolution procedure shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The Parties shall act in good faith to resolve all disputes. At all levels described in this Section, the efforts to resolve a dispute shall be undertaken by conference between the Parties' respective representatives, either by face-to-face meeting or by telephone.

18.6 Notwithstanding any other provision of this Agreement, each party's right, to the extent applicable, to seek injunctive relief as specified in this Agreement shall not be subject to this dispute resolution procedure. Consortium's right to terminate this Agreement shall not be subject to this dispute resolution procedure. Contractor may contest, in good faith, any such termination in accordance with its rights and remedies provided under this Agreement and/or its rights and remedies as provided by law or equity.

19. GENERAL TERMS AND CONDITIONS.

19.1 Americans with Disabilities Act.

The Americans with Disabilities Act ("ADA") (42 United States Code section 12101, et seq.) prohibits discrimination on the basis of disability in all

Services, programs and activities provided to the public by State and local governments, except public transportation Services. Contractor shall also comply with all applicable provisions of Title I (Employment) of the Americans with Disabilities Act. Contractor shall not discriminate on the basis of disability in connection with the Services, programs, and activities performed and provided under the Agreement. In addition, Contractor is not required to provide special needs equipment at further cost to the Consortium or any of its employees.

19.2 Antitrust Violations.

Contractor and the Consortium recognize that overcharges resulting from antitrust violations are in actual economic practice usually borne by the Consortium. Therefore, Contractor hereby assigns to the Consortium any and all claims for such overcharges as to goods and Services purchased in connection with this Agreement, except as to overcharges not passed on to the Consortium resulting from antitrust violations commencing after the date of the bid, quotation, or other event establishing the charges under this Agreement.

19.3 Assignment.

Contractor may not assign or transfer this Agreement or any of its rights hereunder, or delegate any of its duties hereunder, without the prior written consent of the Consortium's Executive Director. The Consortium may assign this Agreement to any governmental entity and may delegate their duties to such entity in whole or in part without the consent of Contractor. Any attempted assignment, transfer or delegation in contravention of this Section of the Agreement shall be null and void. This Agreement shall inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns.

19.4 Authority.

Neither party shall have authority to bind, obligate or commit the other party by any representation or promise without the prior written approval of the other party.

19.5 Binding Effect.

Each party agrees that the Agreement binds it and each of its employees, agents, independent contractors, and representatives.

19.6 Business Registration.

Contractor must be registered to conduct business in the State of California and with all applicable agencies, and Contractor shall provide the Consortium with a copy of its business license on or before the Start Date of this Agreement.

19.7 Claims.

Contractor must submit claims against the Consortium within the earlier of one (1) year of the date upon which Contractor knew of the existence of the claim or one (1) year from expiration or termination of the Agreement. No claims shall be allowed unless Notice of such claim has been given within the above described time period. Such claims must be submitted to the Consortium's Executive Director or his or her designee by Contractor in the form and with the certification prescribed by the Consortium's Executive Director or his or her designee. Upon failure of Contractor to submit its claim within the time allowed, all rights to seek amounts due on account of such claims shall be waived and forever barred.

19.8 Compliance with Civil Rights Laws.

19.8.1 No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program provided by this Agreement because 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, or political affiliation or belief.

19.8.2 In the event of Contractor's noncompliance or refusal to comply with any civil rights or nondiscrimination law, regulation or policy, this Agreement may be rescinded, canceled or terminated in whole or in part under Section 17.1 (Termination for Material Breach), and Contractor may be declared ineligible for further contracts with the Consortium. Contractor shall be given a reasonable time in which to cure noncompliance. In addition to the cancellation of this Agreement, Contractor may be subject to penalties under federal and State law.

19.8.3 Contractor, its agents, officers, employees and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its agents, officers, employees and subcontractors shall comply with all federal and applicable State nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. § 2000e; the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, et seq.; and the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.) and the applicable regulations promulgated thereunder in the California Code of Regulations (Title 2, Section 11000, 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, CDSS Manual of Policies and

Procedures, Division 21, and Welfare and Institutions Code, Section 10000 are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor, its agents, officers, employees and subcontractors shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto and all administrative rules and regulations issued pursuant to said Act. Contractor further agrees to abide by the nondiscrimination policies of the member Counties in the Consortium. 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 agreements.

19.8.4 Contractor shall include the nondiscrimination and compliance provisions of this Section in agreements with all Subcontractors to perform work under this Agreement.

19.9 Compliance with Health and Safety and Related Laws.

Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the fullest extent applicable. Contractor shall comply with all applicable local safety and health clearances, including fire clearances, for each site where Services are provided under the terms of this Agreement. Contractor will comply with all applicable health laws and regulations, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services, 42 C.F.R. Part 2, and other applicable laws. See Exhibit E to this Agreement.

19.10 Darfur Contracting Act Certification.

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in Public Contract Code section 10476.

19.11 Cooperation of Parties.

The Parties agree to fully cooperate with each other in connection with the performance of their respective obligations and covenants under this Agreement.

19.12 Copeland Anti-kickback Act.

Contractor acknowledges and agrees that: (i) it is subject to the Copeland "Anti-kickback" Act, Title 18 U.S.C. Section 874; and (ii) Contractor shall be fined by applicable law under this title or imprisoned not more than five years, or both by applicable law if, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever, Contractor induces any person

employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment. Contractor also acknowledges and agrees that: (i) Contractor and each Subcontractor are subject to Title 40, U.S.C. (as amended) Sec. 3145, Regulations governing contractors and subcontractors; (ii) each week Contractor shall furnish the Counties with a statement with respect to the wages paid each Contractor and Subcontractor employee during the preceding week; and (iii) Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure) shall apply to such statements.

19.13 Covenant Against Contingent Fees.

19.13.1 Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any contract or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or a bona fide established commercial or selling agency of Contractor.

19.13.2 In the event of breach of this Section by Contractor, the Consortium shall have the right to either annul or terminate this Agreement without liability to the Consortium, or, in the Consortium's discretion, deduct from payments due to Contractor, or otherwise recover from Contractor, the full amount of such commission, percentage, brokerage, or contingent fee.

19.14 Debarment and Suspension.

19.14.1 As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110, by signing and submitting this Agreement, Contractor certifies that it and its principals; (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency; (b) have not within a three (3) year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in Section 16.15.1(b); and (d) have not within a

three-year period preceding the Effective Date had one or more public transactions (federal, state, or local) terminated for cause or default. Contractor certifies that it will not contract with a subcontractor that is debarred or suspended. Contractor further agrees that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions," without modification in all lower tier transactions and in all solicitations for lower tier covered transactions.

19.14.2 For federally funded agreements in the amount of \$100,000 or more, Contractor agrees to certify that it and its principals are not debarred or suspended from federal financial assistance programs and activities. Contractor agrees to sign and return to the Counties the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Transactions" (Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17).

19.15 Domestic Partners.

Contractor certifies that it is in compliance with Public Contract Code Section 10295.3 with regard to benefits for domestic partners. For contracts executed or amended after July 1, 2004, Contractor may elect to offer domestic partner benefits to Contractor's employees in accordance with Public Contract Code Section 10295.3. However, Contractor cannot require an employee to cover the costs of providing any benefits, which have otherwise been provided to all employees regardless of marital or domestic status.

19.16 Drug Free Workplace Certification.

19.16.1 The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or Services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the Services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

19.16.1.1 The unlawful manufacture, distribution dispensation, possession or use of a controlled substance is prohibited in the work place.

19.16.1.2 Violators may be terminated or requested to seek counseling from an approved rehabilitation service.

19.16.1.3 Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.

19.16.1.4 Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the California WIC Program that abuse of this drug will also not be tolerated in the workplace.

19.16.1.5 Contractors of federal agencies are required to certify that they will provide drug-free workplaces for their employees.

19.16.2 By signing this Agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug Free Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug free workplace by taking the following actions:

19.16.2.1 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 California Government Code 8355(a).

19.16.2.2 Establish a Drug Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:

- A. The dangers of drug abuse in the workplace;
- B. Contractor's policy of maintaining a drug free workplace;
- C. Any available counseling, rehabilitation, and employee assistance programs; and
- D. Penalties that may be imposed upon employees for drug abuse violations.

19.16.2.3 Provide, as required by California Government Code Section 8355(c), that every employee who works on the Agreement:

- A. Will receive a copy of the Contractor's drug free policy statement; and
- B. Will agree to abide by the terms of the Contractor's statement as a term of condition of employment on the Agreement.

C. Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future agreements by the Counties if the Counties determine that any of the following has occurred:

D. Contractor has made false certification; or

E. Violates the certification by failing to carry out the requirements as noted above.

19.16.3 In addition, Contractor agrees as follows to comply with the Drug Free Workplace Act of 1988:

19.16.3.1 The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place;

19.16.3.2 Violators may be terminated by the Counties or requested to seek counseling from an approved rehabilitation service;

19.16.3.3 Contractor and Subcontractor employees must notify Contractor or Subcontractor, respectively, of any conviction of a criminal drug statute no later than five (5) days after such conviction; and

19.16.3.4 Contractor shall certify to the Counties that it shall provide drug-free workplaces for its employees.

19.17 Entire Agreement; Acknowledgement of Understanding.

The Consortium and Contractor acknowledge that they have read the Agreement, the attached Exhibits which are incorporated herein by this reference, and other documents incorporated into the Agreement by reference, understand them and agree to be bound by their terms and conditions. Further, the Counties and Contractor agree that the Agreement (including the Exhibits and documents incorporated into the Agreement by reference) are the complete and exclusive statement of the Agreement between the parties relating to the subject matter of the Agreement and supersede all letters of intent or prior contracts or prior representations, oral or written, between the parties relating to the subject matter of the Agreement.

19.18 Environmental Protection Standards.

19.18.1 General.

Contractor shall comply with Section 306 of the Clean Air Act, Section 309 of the Clean Water Act, Executive Order 11246 of the Equal Employment Opportunity, and Environmental Protection Agency Regulations (40 C.F.R. Part 15).

19.18.2 The Clean Air Act, Section 306.

19.18.2.1 No federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and Services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.

19.18.2.2 The Administrator shall establish procedures to provide all federal agencies with the notification necessary for the purposes of subsection (a).

19.18.2.3 In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

19.18.2.4 The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

19.18.2.5 The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606].

19.18.2.6 The Consortium may extend this prohibition to other facilities owned or operated by Contractor.

19.18.3 The Clean Water Act.

19.18.3.1 No federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and Services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

19.18.3.2 The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

19.18.3.3 In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred eighty (180) days after the enactment of this Act, cause to be issued an order:

A. Requiring each agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and

B. Setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

C. The President exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

D. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

E. (1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a

prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section. (2) In paragraph (1), the term “commercial item” has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

19.19 Fair Labor Standards Act.

Contractor shall comply with all applicable provisions of the federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless the Counties, its officers, employees and agents, and the State, its officers, employees, and agents, from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys’ fees arising under any wage and hour law, including, but not limited to the Federal Fair Labor Standards Act for work performed by Contractor’s employees for which the Counties and/or the State may be found jointly or solely liable.

19.20 Force Majeure.

Neither Contractor nor the Consortium shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except third parties do not include Subcontractors, suppliers or vendors of Contractor, e.g., telecommunications Services vendors for the Network, or subcontractors, suppliers or vendors of the Counties), except to the extent such third party entities experience an event beyond its reasonable control and without the fault or negligence of such entity.

19.21 Governing Laws.

This Agreement shall be governed in all respects by the law and statutes of the State of California, without reference to conflict of law principles. The exclusive jurisdiction and venue of any action hereunder shall be in the State or federal courts in the County of Sacramento. Contractor accepts the personal jurisdiction of such courts.

19.22 Headings.

The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

19.23 Licensing.

Any licenses, certificates, or permits required by the federal, State, County, or municipal governments for Contractor to provide the Services described in the Agreement must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to drivers' licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and remain in full force by Contractor at no expense to the Consortium.

19.24 Litigation.

19.24.1 Notice of Litigation.

Contractor shall promptly notify the Consortium in the event that Contractor learns of any actual litigation in which it is a party in a case which involves Services provided under this Agreement. Contractor shall promptly, after being served with a summons, complaint, or other pleading which has been filed in any federal or State court or administrative agency, deliver copies of such document(s) to the Consortium's Executive Director. The term "litigation" includes but is not limited to an assignment for the benefit of creditors and filings in bankruptcy, reorganization or foreclosure.

19.24.2 Costs.

In the event that the Consortium and/or the State are, without any fault on their part, made a party to any litigation commenced by or against Contractor in connection with this Agreement, Contractor shall pay all litigation costs and expenses incurred by or imposed on the Consortium and/or the State, including attorneys' fees, to the extent arising from the acts or omissions of Contractor, its officers, employees, agents, or Subcontractors.

19.25 Lobbying Restrictions.

19.25.1 Federal Restrictions.

Contractor shall comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352) and any implementing regulations, and shall be responsible for ensuring that all Subcontractors or sub-grantees of funds provided under this Agreement also fully comply with all such certifications and disclosure requirements.

19.25.2 State and County Restrictions.

Contractor shall be responsible for its lobbyists' compliance with federal, State and County lobbyist laws and regulations in connection with their lobbyist activities related to this Agreement. Failure of any such lobbyist to fully comply with such statutes, regulations, and ordinances constitutes a material breach of this Agreement by Contractor.

19.25.3 Certification Regard Lobbying.

For Agreements with contractors who are state entities not under the authority of the Governor, or cities, private firms or agencies which are receiving in excess of \$100,000 in federal funds from the State to perform Services, the Contractor agrees to sign and submit to the State the 'Certification Regarding Lobbying' form. (Section 1352, Title 31 of the U.S. Code).

19.25.4 Contractor acknowledges that the Anti-Lobbying Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82, Contractor certifies that:

19.25.4.1 No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension(s), continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;

19.25.4.2 If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant or cooperative agreement, Contractor shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

19.25.4.3 Contractor shall require that the language of this certification in Section 16.26.3.4 be included in the award documents for all sub-awards at all (including but not limited to sub-grants, contracts under grants and cooperative agreements, and Subcontractor subcontracts) and that all Subcontractors shall certify and disclose accordingly.

19.26 Modifications and Amendments

19.26.1 No modification, amendment, alteration, addition or waiver of any Section or condition of this Agreement shall be effective or binding unless it is in writing and signed by an authorized representative of Contractor and the Consortium Executive Director or designee if there is not an increase or decrease to the Total Maximum Contract Sum. If there is an increase or decrease to the Maximum Amount, then the Consortium Executive Director or designee must obtain approval from the Consortium Board of Directors before any such increase or decrease is effective. In no event will Contractor be required to perform Services above the Total Maximum Contract Sum if approval has not been received.

19.26.2 Only the Consortium Executive Director or authorized designee shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement on behalf of the Consortium. Furthermore, unless otherwise provided herein, any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding until made in writing and signed by an authorized representative of Contractor and the Consortium Executive Director or designee if there is not an increase or decrease to the Total Maximum Contract Sum. If there is an increase or decrease to the Total Maximum Contract Sum, then the Consortium Executive Director or designee must obtain approval from the Consortium's Board of Directors before any such increase or decrease is effective.

19.26.3 Contractor shall notify the Consortium of the names of individuals who have authority to bind Contractor to modifications to the Agreement and of the limits of such authority at the time Contractor submits its Response and at such other times as required. The State reserves the right to review and approve all amendments to the Agreement.

19.27 Non-Waiver.

Except as otherwise specifically provided herein, any failure or delay by either party to exercise or partially exercise any right, power or privilege under the Agreement shall not be deemed a waiver of any such right, power, or privilege under the Agreement. Any waivers granted by a party for breaches hereof shall not indicate a course of dealing of excusing other or subsequent breaches. One party's pursuit or non-pursuit of a remedy under this Agreement for the other party's breach of its obligations will neither constitute a waiver of any such remedies or any other remedy that a party may have at law or equity for any other occurrence of the same or similar breach, nor estop a party from pursuing such remedy.

19.28 Notices.

Except as otherwise permitted herein, any notice or demand or other communication required or permitted to be given under this Agreement or applicable law shall be effective if and only if it is in writing, properly addressed, and either delivered in person, by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid, to the parties at the following addresses:

The Consortium:

CalSAWS
John Boule
Executive Director
11290 Pyrites Way, Suite 150
Rancho Cordova, CA 95670
boulej@calsaws.org

Contractor:

XXXXXXXXXXXXXXXX

Notices shall be effective upon receipt or four (4) business days after mailing, whichever is earlier. The Notice address as provided herein may be changed by Notice given as provided above.

19.29 Pro Children Act of 1994.

Contractor shall comply with Public Law 103-227, Part C – Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994.

19.30 Publicity.

The award of this Agreement to Contractor is not in any way an endorsement of Contractor or Contractor's Services by the Consortium and shall not be so construed by Contractor in any advertising or publicity materials. Contractor agrees to submit to the Consortium Executive Director in advance all advertising, sales promotion, and other publicity matters relating to this Agreement in which the Consortium name is mentioned or language is used by which, in the Consortium's judgment, its involvement may be inferred or implied. Contractor further agrees not to publish or use such advertising, sales promotion, or publicity matter without the prior written consent of the Consortium. Contractor shall not in any way contract on behalf of or in the name of the Consortium. Nor shall Contractor release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning this project without obtaining the prior written approval of the Consortium.

19.31 Recycling.

Contractor shall use recycled and recyclable products, whenever practicable, in fulfilling the terms of this Agreement. Recycled printed products shall include a symbol identifying the recycled material.

19.32 Remedies.

Unless a remedy is specifically designated as exclusive, no remedy conferred by any of the specific provisions of the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.

19.33 Severability.

If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

19.34 Sovereign Immunity.

The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver by the Consortium member Counties or the State of any immunities from suit or from liability that the Consortium member Counties or the State may have by operation of law.

19.35 State Energy Conservation Plan.

Contractor agrees to recognize and comply with the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan Title 23 and 24, the California Code of Regulations, as required by the U.S. Energy, Policy and Conservation Act (P.L. 94-165).

19.36 Survival.

All Services performed and Deliverables provided pursuant to the authority of this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive. In addition, those terms specified

in this Agreement as surviving the termination of it, shall remain in full force and effect as expressly stated in the applicable sections.

19.37 Waiver.

Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified or deleted except by a written instrument signed by the parties hereto.

19.38 Counterparts.

This Agreement may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Agreement signed by the parties, for all purposes. In witness thereof, this Agreement is effective as of the Agreement Effective Date.

IN WITNESS WHEREOF, the parties have set their hands hereunto as of the Execution Date.

DELOITTE CONSULTING LLP

Dated: _____

By: _____

Name: _____

Title: _____

CALSAWS CONSORTIUM

Dated: _____

By: _____
Michael Sylvester, Consortium Chair

By: _____
Kronick Moskowitz Tiedemann & Girard,
Consortium Legal Counsel

By: _____
John Boule, Consortium Executive
Director