

**STATEWIDE MOBILE/PORTAL APP
PROJECT**

AGREEMENT

BETWEEN

CalSAWS CONSORTIUM

AND

CONTRACTOR

SAMPLE

TABLE OF CONTENTS

	<u>Page</u>
RECITALS	1
1. CONTRACT INTERPRETATION.....	2
1.1	2
1.2	2
1.3	2
2. DEFINITIONS.....	2
2.1 Acceptance.....	2
2.2 Agreement.....	2
2.3 CalSAWS CONSORTIUM.....	2
2.4 CalSAWS System.....	2
2.5 CalWIN System.....	3
2.6 C-IV System.....	3
2.7 Charge(s).....	3
2.8 Change Management.....	3
2.9 Change Order.....	3
2.10 Change Request.....	3
2.11 Confidential Information.....	3
2.12 Contract Sum.....	4
2.13 CONTRACTOR.....	4
2.14 Cosmetic Deficiency.....	4
2.15 Counties.....	4
2.16 County.....	4
2.17 Data.....	4
2.18 Day.....	4
2.19 Deficiency.....	4
2.20 Deliverable.....	5
2.21 Deliverable Expectation Document (DED).....	5
2.22 Design, Development, and Implementation.....	5
2.23 Documentation.....	5
2.24 Execution Date.....	5
2.25 Executive Director.....	5
2.26 Extended Term.....	5
2.27 Final Acceptance	5

2.28	General Systems Design.	5
2.29	Implementation Certification Report.	6
2.30	Initial Term.	6
2.31	Key Personnel.	6
2.32	Maintenance and Operations (M&O).	6
2.33	Master Test Plan.	6
2.34	Notice.	6
2.35	Portal/Mobile App Project.	6
2.36	Portal/Mobile App Deliverables.	6
2.37	Portal/Mobile App Services.	7
2.38	Portal/Mobile App Work Plan.	7
2.39	Price Proposal.	7
2.40	Project.	7
2.41	Project Director.	7
2.42	Project Report(s).	7
2.43	Request for Proposal (RFP).	7
2.44	Requirements Traceability Matrix (RTM).	7
2.45	Schedule.	7
2.46	Services.	8
2.47	Software.	8
2.48	Specifications.	8
2.49	Staff.	8
2.50	Start Date.	8
2.51	State.	8
2.52	Statement of Work.	8
2.53	Subcontractor.	8
2.54	Systems Testing.	9
2.55	Technical Systems Design.	9
2.56	Total Maximum Contract Sum.	9
2.57	Welfare Client Data Systems (WCDS) CONSORTIUM.	9
3.	INDEPENDENT CONTRACTOR STATUS.	9
3.1	.....	9
3.2	.....	9
4.	CONTRACT TERM.	10

4.1	Initial Term for Design, Development, and Implementation (DD&I), Phase 1 of Portal/Mobile App Project.....	10
4.2	Initial Term for Optional Enhancements, Phase 2 of Portal/Mobile App Project.	10
4.3	Initial Term for Maintenance & Operations (M&O), Phase 3 of Portal/Mobile App Project.....	10
4.4	Extended Term(s) for Optional Maintenance & Operations. Error! Bookmark not defined.	
4.5	Commencement of Work.	10
5.	SCOPE OF CONTRACT WORK AND DELIVERABLES.	11
5.1	General.....	11
	5.1.1	11
	5.1.2	11
	5.1.2.1	11
	5.1.2.2	11
	5.1.2.3	11
	5.1.2.4	11
	5.1.2.5	12
5.2	Portal/Mobile App Deliverables and Services.....	12
	5.2.1 Portal/Mobile App Design, Development, and Implementation Phase (Phase 1).	12
	5.2.1.1 Portal/Mobile App Design and Development.	12
	5.2.1.2 Testing.	13
	5.2.1.3 Implementation.....	14
	5.2.2 Optional Enhancements Phase (Phase 2).	17
	5.2.3 Maintenance and Operations Phase (Phase 3).	17
	5.2.4 Portal/Mobile App Work Plan.	19
5.3	Deliverable Acceptance.	19
	5.3.1	19
	5.3.2	19
	5.3.3	19
	5.3.4	20
	5.3.5	20
	5.3.6	20
	5.3.7	20
5.4	Representations Regarding Portal/Mobile App Deliverables.	21

5.5	CONTRACTOR Report to the CONSORTIUM's Board of Directors.	21
5.6	Final Acceptance.	21
6.	PROJECT MANAGEMENT.	21
6.1	CONTRACTOR Project Director.	22
6.1.1	.....	22
6.1.2	.....	22
6.1.3	.....	23
6.2	CONTRACTOR Project Staff.	23
6.2.1	.....	23
6.2.2	.....	23
6.2.3	.....	23
6.2.4	.....	23
6.2.5	.....	24
6.2.6	.....	24
6.3	Subcontractors.....	24
6.4	Accounting Requirements.....	25
6.4.1	.....	25
6.4.2	.....	25
6.5	Records Retention and Access Requirements.....	25
6.5.1	.....	25
6.5.2	.....	25
6.5.3	.....	25
6.5.4	.....	25
6.5.5	.....	25
6.6	Inspections.....	26
6.7	Staff Background Checks.....	26
6.8	Supplemental Contracts.....	26
6.8.1	.....	26
6.8.2	.....	27
7.	PAYMENTS; INVOICING; AND RELATED FINANCIAL TERMS.....	27
7.1	Total Maximum Contract Sum.....	27
7.1.1	General.	27
7.1.2	Contract Sum for Extended M&O Services.	27
7.2	No Increases.....	28
7.3	Costs Excluded From Total Maximum Contract Sum.	28

	7.3.1	Taxes.	28
	7.3.2	Transportation and Insurance Costs.	28
	7.3.3	CONTRACTOR Expenses.	28
7.4		Invoices.	28
7.5		Payments.	29
7.6		Funding.	29
	7.6.1	Lack of Funding; Conditions Subsequent.	29
	7.6.2	Delayed or Reduced Funding; Conditions Subsequent.	29
	7.6.3	No Damages.	29
7.7		Overpayments to CONTRACTOR.	30
7.8		Advance Payments Prohibited.	30
7.9		Credits.	30
7.10		No Additional Consideration.	30
8.		CHANGE ORDERS.	30
	8.1	General.	30
	8.2	Issuance of Change Orders.	30
	8.3	CONTRACTOR Proposal.	30
	8.3.1	Details.	31
	8.4	Agreement on Change Order.	31
	8.5	Disagreement on Change Order.	31
	8.6	Termination and/or Use of Third Party.	32
9.		CONSORTIUM PROPERTY.	32
	9.1	Ownership.	32
	9.2	Use of Property.	32
	9.3	Damage to Property.	32
	9.4	Notice of Damage.	33
	9.5	Surrender of Property.	33
10.		OWNERSHIP OF SOFTWARE AND OTHER PROPERTY.	33
	10.1	Portal/Mobile App Application Software.	33
	10.1.1		33
	10.1.2		33
	10.2	Portal/Mobile App Application Software Source Code.	33
	10.3	Additional CONSORTIUM Ownership Rights.	34
	10.4	CONTRACTOR Ownership Rights.	34
	10.5	State and Federal Governments.	34

10.6	Notices.....	35
11.	WARRANTIES.	35
11.1	Portal/Mobile App Deliverables Warranty.....	35
11.2	Portal/Mobile App Services Warranty.....	35
11.3	Correction of Deficiencies.	35
11.4	Warranty Work Response.....	35
11.4.1	Portal/Mobile App Deliverables.....	36
11.4.1.1	.....	36
11.4.1.2	.....	36
11.4.1.3	.....	36
11.4.2	Portal/Mobile App Services.....	36
11.4.3	CONTRACTOR-Identified Deficiencies.....	36
11.4.4	Deficiency Classification and Prioritization.....	37
11.4.5	Non-Limitation of CONSORTIUM Remedies.	37
11.5	Additional Warranties.....	37
11.5.1	.....	37
11.5.2	.....	37
11.5.3	.....	37
11.5.4	.....	38
11.6	Additional Representations and Warranties.	38
11.6.1	Power and Authority.....	38
11.6.2	No Conflicts of Interest.....	38
11.6.3	Intellectual Property Rights.	38
11.6.3.1	.....	38
11.6.3.2	.....	38
11.6.3.3	.....	38
11.6.3.4	.....	39
11.6.4	Legal and Regulatory Compliance.	39
11.6.5	CONTRACTOR's Good Standing.....	39
11.6.5.1	.....	39
11.6.5.2	.....	39
11.6.5.3	.....	39
11.6.5.4	.....	39
11.6.5.5	.....	39
11.6.6	Ability to Perform.....	40

	11.6.6.1	40
	11.6.6.2	40
11.7	PRICE Warranty.	40
	11.7.1	40
	11.7.2	40
11.8	BREACH OF WARRANTY OBLIGATIONS.	40
12.	INDEMNIFICATION.	40
12.1	General.	40
12.2	Intellectual Property Indemnification.	41
13.	LIQUIDATED DAMAGES.	42
13.1	Delays or Failures.	42
13.2	Key Personnel.	42
13.3	Failure to Meet Key Milestones.	42
13.4	Available Remedies.	43
13.5	Payments.	43
14.	ADDITIONAL LIABILITIES AND REMEDIES.	43
14.1	Withholding Payments.	43
14.2	Reductions in Payments Due.	43
14.3	Cover.	43
14.4	Suspension Due to Breach.	44
	14.4.1	44
	14.4.2	44
	14.4.3	44
	14.4.4	44
14.5	Suspension for Convenience.	44
14.6	Limitation on Liability – CONSORTIUM.	45
14.7	Limitation on Liability – CONTRACTOR.	45
15.	CONFIDENTIAL DATA.	45
15.1	Confidentiality of CONSORTIUM and Third Party Information.	45
15.2	HIPAA Compliance.	46
15.3	Audit.	46
15.4	Return.	46
15.5	Injunctive Relief.	46
	15.5.1	46
	15.5.2	46

15.6	Exceptions.....	47
15.7	Compliance with California Public Records Act.....	47
15.8	Subpoena.....	47
15.9	Survival.....	47
16.	TERMINATION.....	47
16.1	Termination for Material Breach.....	47
16.2	Termination for Rejection of Portal/Mobile App Deliverables.....	48
16.3	Termination for CONSORTIUM's Nonpayment.....	48
16.4	Termination Remedies.....	48
16.5	Termination for Convenience.....	48
	16.5.1	48
	16.5.2	49
16.6	Termination for Withdrawal of Authority.....	49
16.7	Termination for Non-Allocation of Funds.....	49
16.8	Termination for Conflict of Interest.....	49
	16.8.1	50
	16.8.2	50
16.9	Termination Procedures.....	50
	16.9.1	50
	16.9.2	50
	16.9.3	50
	16.9.3.1	50
	16.9.3.2	50
	16.9.3.3	50
	16.9.3.4	50
	16.9.3.5	50
	16.9.3.6	51
	16.9.4	51
	16.9.5	51
	16.9.6	51
	16.9.7	51
17.	INSURANCE.....	51
17.1	Liability and Auto Insurance.....	51
	17.1.1	51
	17.1.2	51

	17.1.3	.....	52
	17.1.4	.....	52
	17.1.5	.....	52
	17.1.6	.....	52
17.2	Workers' Compensation Coverage.	.....	52
17.3	Subcontractors.....	.....	52
17.4	Cancellation.....	.....	52
17.5	Insurance Documents.....	.....	53
17.6	Increased Coverage.....	.....	53
17.7	Cross-Liability.....	.....	53
18.	DISPUTE RESOLUTION.....	.....	53
18.1	.....	.....	53
18.2	.....	.....	53
18.3	.....	.....	53
18.4	.....	.....	53
18.5	.....	.....	54
18.6	.....	.....	54
19.	GENERAL TERMS AND CONDITIONS.....	.....	54
19.1	Americans With Disabilities Act.....	.....	54
19.2	Antitrust Violations.....	.....	54
19.3	Assignment.....	.....	54
19.4	Authority.....	.....	55
19.5	Binding Effect.....	.....	55
19.6	Business Registration.....	.....	55
19.7	Claims.....	.....	55
19.8	Compliance with Civil Rights Laws.....	.....	55
	19.8.1	.....	55
	19.8.2	.....	55
	19.8.3	.....	55
	19.8.4	.....	56
19.9	Compliance with Health and Safety and Related Laws.....	.....	56
19.10	Darfur Contracting Act Certification.....	.....	56
19.11	Cooperation of Parties.....	.....	56
19.12	Copeland Anti-kickback Act.....	.....	56
19.13	Covenant Against Contingent Fees.....	.....	57

19.13.1	.....	57
19.13.2	.....	57
19.14 Debarment and Suspension.....		57
19.14.1	.....	57
19.14.2	.....	58
19.15 Domestic Partners.		58
19.16 Drug Free Workplace Certification.		58
19.16.1	.....	58
19.16.1.1	.....	58
19.16.1.2	.....	58
19.16.1.3	.....	58
19.16.1.4	.....	58
19.16.1.5	.....	59
19.16.2	.....	593
19.16.2.1	.....	59
19.16.2.2	.....	59
19.16.2.3	.....	59
19.16.3	.....	60
19.16.3.1	.....	604
19.16.3.2	.....	60
19.16.3.3	.....	60
19.16.3.4	.....	60
19.17 Entire Agreement; Acknowledgement of Understanding.		60
19.18 Environmental Protection Standards.		60
19.18.1 General.	.....	60
19.18.2 The Clean Air Act, Section 306.	.....	60
19.18.2.1	.....	60
19.18.2.2	.....	615
19.18.2.3	.....	61
19.18.2.4	.....	61
19.18.2.5	.....	61
19.18.2.6	.....	61
19.18.3 The Clean Water Act.	.....	61
19.18.3.1	.....	61
19.18.3.2	.....	61

19.18.3.3	.....	61
19.19	Fair Labor Standards Act.	62
19.20	Force Majeure.....	62
19.21	Governing Laws.....	63
19.22	Headings	63
19.23	Licensing	63
19.24	Litigation	63
19.24.1	Notice of Litigation.	63
19.24.2	Costs.	63
19.25	Lobbying Restrictions.....	64
19.25.1	Federal Restrictions.	64
19.25.2	State and County Restrictions.	64
19.25.3	Certification Regard Lobbying.	64
19.25.4	.....	64
19.25.4.1	.....	64
19.25.4.2	.....	64
19.25.4.3	.....	65
19.26	Modifications and Amendments	65
19.26.1	.....	65
19.26.2	.....	65
19.26.3	.....	65
19.27	Non-Waiver	65
19.28	Notices	66
19.29	Pro Children Act of 1994.....	66
19.30	Publicity	66
19.31	Recycling	66
19.32	Remedies	67
19.33	Severability	67
19.34	Sovereign Immunity	67
19.35	State Energy Conservation Plan.	67
19.36	Survival	67
19.37	Waiver	67
19.38	Counterparts	68

This Agreement (the "Agreement") is entered into as of the ____ day of _____, 2019 (the "Execution Date"), by and between the California Statewide Automated Welfare System (CalSAWS) Consortium ("CONSORTIUM"), and any successor entity, and _____ ("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 develop and implement a Statewide Portal/ Mobile Application (hereinafter, Portal/Mobile App) to serve the residents of all California Counties, to integrate seamlessly with the CalSAWS system, and to enable the public to securely apply for benefits, report changes, access case information, schedule appointments and access electronic correspondence, as well as support a customer centric/user friendly design and compliant with the requirements of Title II of the Americans with Disabilities Act (ADA) (see specifically, *Accessibility of State and Local Government Websites to People with Disabilities*, DOJ (2003)) and Section 508 of the Rehabilitation Act of 1973, and specifically those standards set forth in Title 36 of the Code of Federal Regulations section 1194.1 and Appendices A, C, and D, and CDSS Regulations Section 21-115

WHEREAS, on _____, 2019, the CONSORTIUM released a Request for Proposal (RFP) to solicit proposals from qualified Vendors to design, develop, and implement a Statewide Portal/Mobile Application for the CalSAWS System and to provide Maintenance and Operation Services for the Statewide Portal/Mobile Application once it has been designed, developed, and implemented, which is incorporated herein by reference.

WHEREAS, on _____, 2019, 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 Statewide Portal/Mobile Application Project; 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 Portal/Mobile App Deliverable or a Portal/Mobile App Service has met with the CONSORTIUM's reasonable satisfaction and applicable Specifications.

2.2 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.

2.3 CalSAWS CONSORTIUM.

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

2.4 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.

2.5 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.

2.6 C-IV System.

The user-friendly, customer-based, on-line, and fully integrated case management system that is designed to manage data in identified public assistance programs for the Counties in the former CalACES Consortium. It is one of the three (3) systems, along with the LEADER Replacement System (LRS) and CalWIN System currently being utilized for this purpose.

2.7 Charge(s).

The amount(s) to be paid for the Portal/Mobile App Deliverables and Services authorized under this Agreement, in whole or in part.

2.8 Change Management.

Process to control changes to the baseline design, application, or technology solution.

2.9 Change Order.

A written form used by CONTRACTOR and the CONSORTIUM to modify, delete, or add to the Portal/Mobile App Deliverables or Portal/Mobile App Services, in whole or in part, made in accordance with Section 8 of this Agreement.

2.10 Change Request.

Document created and used in the Change Request Process to request that an existing function be enhanced, removed, or a new function be added to the Systems.

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; the Documentation and the other Specifications; the Portal/Mobile App Deliverables and Portal/Mobile App Services; any 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 Contract Sum.

Any Charge specifically attributable to one or more Portal/Mobile App Deliverables or Portal/Mobile App Services as set forth in CONTRACTOR's Proposal and as agreed to by the Parties.

2.13 CONTRACTOR.

The entity to whom the Portal/Mobile App Project contract is awarded pursuant to the RFP and who, along with the CONSORTIUM, constitute the Parties to this Agreement.

2.14 Cosmetic Deficiency.

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

2.15 Counties.

All of the California counties in the CONSORTIUM.

2.16 County.

One of the California counties in the CONSORTIUM.

2.17 Data.

The CONSORTIUM's records, employee information, files, forms, Personal Identifiable Information (PII) data and other information that will be accessible through the Portal/Mobile App. "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, and/or (b) placed into, used within, or resulting from the use of, the LRS, CalWIN, or CalSAWS Systems, and all backups of such data and information.

2.18 Day.

Unless otherwise specified, Day will mean calendar day.

2.19 Deficiency.

A failure of a Portal/Mobile App Deliverable or Portal/Mobile App Service, or an omission, defect or deficiency in any such Deliverable or Service, which causes it not to conform to its Specifications or incorrect spelling, incorrect grammar, poor quality esthetics, poor quality of documentation, or similar failures in a Deliverable.

2.20 Deliverable.

CONTRACTOR's products which are 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 5.2 and the approved Work Plan.

2.21 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.

2.22 Design, Development, and Implementation.

The Design, Development, and Implementation (DD&I), Phase 1, of the Portal/Mobile App Project includes all project management, requirements confirmation, design, development, test (inclusive of providing support for User Acceptance Test) and implementation work required to create and implement the Portal/Mobile App, based upon the requirements set forth in Statewide Portal/Mobile Application Requirements Cross-Reference Matrix, Attachment J to the RFP.

2.23 Documentation.

All definitions, descriptions of methodology, standards, design, tests, operations, technical and user manuals used in conjunction with the Portal/Mobile App Deliverables and Portal/Mobile App Services, in whole and in part.

2.24 Execution Date.

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

2.25 Executive Director.

The individual at the CONSORTIUM with management responsibilities for the Portal/Mobile App Project for the CONSORTIUM.

2.26 Extended Term.

The period described in Section 4.3 for extended Portal/Mobile App Services.

2.27 Final Acceptance

The CONSORTIUM's approval of CONTRACTOR's certification of Portal/Mobile App Deliverables (Final Acceptance Certification) as specified as set forth in Section 5.6 of this Agreement.

2.28 General Systems Design.

A Deliverable CONTRACTOR is required to submit that meets the requirements of Section 5.2.1.1(F) of this Agreement.

2.29 Implementation Certification Report.

The Implementation Certification Report shall be provided following the successful cutover of the Portal/Mobile App to a production environment and prior to Final Acceptance. The Implementation Certification Report shall certify that all Portal/Mobile App Specifications have been met and all known Deficiencies have been corrected.

2.30 Initial Term.

The initial period of time during which this Agreement shall be effective, beginning on the Execution Date and continuing up to fourteen (14) months for the Portal/Mobile App Development and Implementation (D&I) Deliverables (Phase 1), followed by an additional six (6) months for Development and Implementation of Optional Enhancements (Phase 2), followed by an additional one (1) year for Maintenance and Operation Services (Phase 3) for a total of thirty two (32) months.

2.31 Key Personnel.

The positions of CONTRACTOR Staff identified as Key Personnel, including but not limited to, Project Manager, Application Development Lead, Test Lead, and User Interface Lead.

2.32 Maintenance and Operations (M&O).

This term refers to the system maintenance and operations to be provided by CONTRACTOR, which shall include all goods and services necessary to manage, operate and support the Portal/Mobile App to comply with the approved Portal/Mobile M&O Plan and shall be provided for the term of the agreement.

2.33 Master Test Plan.

A Document CONTRACTOR is required to submit that meets the requirements of Section 5.2.1.2 of this Agreement.

2.34 Notice.

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

2.35 Portal/Mobile App Project.

The Portal/Mobile App Project is intended to result in the Design and Implementation of a Portal/Mobile App to serve the residents of all California Counties and integrate seamlessly with the CalSAWS system. The solution will enable the public to securely apply for benefits, report changes, access case information, schedule appointments and access electronic correspondence, as well as support a customer centric/user friendly design.

2.36 Portal/Mobile App Deliverables.

CONTRACTOR's products that are described as deliverables or sub-deliverables in the RFP, Proposal, or Portal/Mobile App Work Plan or that result from the Portal/Mobile App Services, as well as all written designs, documents, structures, materials and models, developed in the course of rendering the Portal/Mobile App Services.

2.37 Portal/Mobile App Services.

The tasks and professional Services, including Modifications and Enhancement (M&E) and Maintenance and Operations (M&O) Services to be performed by CONTRACTOR as part of the Portal/Mobile App Project, as described in this Agreement.

2.38 Portal/Mobile App Work Plan.

The Work Plan described and updated as provided in Section 5.2.4.

2.39 Price Proposal.

The Price Proposal submitted by CONTRACTOR in response to the Portal/Mobile App RFP.

2.40 Project.

The planned undertaking regarding the subject matter of this Agreement and the activities of all parties related thereto.

2.41 Project Director.

The individual chosen by CONTRACTOR with management responsibilities for the Project.

2.42 Project Report(s).

Documents provided by CONTRACTOR to the CONSORTIUM regarding Project activities, events, progress, issues, risks, Portal/Mobile App DEDs and Deliverables, and Portal/Mobile App Services provided.

2.43 Request for Proposal (RFP).

The Request for Proposal for the Portal/Mobile App.

2.44 Requirements Traceability Matrix (RTM).

A Document CONTRACTOR is required to submit, as part of the Portal/Mobile App Deliverables, that tracks the requirements defined in Attachment J – Statewide Portal/Mobile Applications Requirements Cross-Reference Matrix, which is incorporated herein by reference.

2.45 Schedule.

The dates described in the Portal/Mobile App Work Plan for deadlines for performance of Portal/Mobile App Services, delivery and review of Portal/Mobile App Deliverables, and other Project events and activities.

2.46 Services.

Work performed by CONTRACTOR, or any of its Subcontractors, in which the work provided does not consist primarily of the acquisition of equipment or materials, or the rental of equipment, materials, or supplies.

2.47 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.

2.48 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.

2.49 Staff.

CONTRACTOR's employees, Subcontractors, independent contractors, and agents who will provide the Portal/Mobile App Services and develop Portal/Mobile App Deliverables on behalf of CONTRACTOR.

2.50 Start Date.

The date on which CONTRACTOR commences work under this Agreement pursuant to Section 4.4.

2.51 State.

The State of California.

2.52 Statement of Work.

The Statement of Work and subsequent Statements 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.

2.53 Subcontractor.

A person, partnership, or company not in the employment of or owned by CONTRACTOR, that is performing Portal/Mobile App Services or assisting in the Design and Implementation of the Portal/Mobile App Deliverables or Portal/Mobile App Services

required by this Agreement under a separate agreement with or on behalf of CONTRACTOR.

2.54 Systems Testing.

Required testing of the Portal/Mobile App to ensure it meets the requirements of CONSORTIUM'S Specifications.

2.55 Technical Systems Design.

A Deliverable CONTRACTOR is required to submit that meets the requirements of Section 5.2.1.1(G) of this Agreement.

2.56 Total Maximum Contract Sum.

The total amount stated in the Proposal for all Portal/Mobile App Deliverables and Portal/Mobile App Services to be provided pursuant to this Agreement.

2.57 Welfare Client Data Systems (WCDS) CONSORTIUM.

The WCDS CONSORTIUM maintains and operates the CalWORKs Information Network (CalWIN) system supporting eighteen (18) counties 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 that currently operate under the CalWIN System.

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 Initial Term for Design, Development, and Implementation (DD&I), Phase 1 of Portal/Mobile App Project.

As addressed in Section 5.2 below, the initial term of this Agreement for delivery of Phase 1 of the Portal/Mobile App Deliverables shall be no greater than fourteen (14) months. CONTRACTOR shall propose a schedule and work plan for the Phase 1. Phase 1 must be completed within fourteen (14) months inclusive of all defined Phase 1 tasks, Deliverables and milestones. Phase 1 is scheduled to begin in August 2020 and must conclude with Final Acceptance no later than September 30, 2021. CONTRACTOR shall implement the Portal/Mobile App in a single cut-over event in accordance with the approved CONSORTIUM schedule.

4.2 Initial Term for Optional Enhancements, Phase 2 of Portal/Mobile App Project.

Phase 2 includes a defined set of Optional Enhancements that may be included in the Portal/Mobile application. It is the Consortium's intent to contract for the Phase 2 Optional Enhancements, provided the CONTRACTOR has performed its contractual obligations in a satisfactory manner during Phase 1 and funding approval has been provided by applicable State and federal sponsorship agencies. CONTRACTOR shall determine and set forth in its proposal the extent to which Phase 2 Optional Enhancements can be completed within Phase 1 timeframes.

4.3 Maintenance & Operations (M&O), Phase 3 of Portal/Mobile App Project.

The subsequent Phase 3 (M&O Phase) shall have an initial term of one (1) year with up to two (2) optional one (1) year extensions as determined by CONSORTIUM, depending upon CONTRACTOR performance during Phase 1 and/or Phase 2, and subject to funding approval by the applicable State and federal sponsoring agencies. The CONTRACTOR will be required to maintain, operate, and enhance the Portal/Mobile App during the M&O period.. If the CONSORTIUM elects to not proceed with Phase 2, M&O will commence after completion of Phase 1. During the initial 1-year M&O period, the CONTRACTOR must incorporate enhancements to the Portal/Mobile App as directed by the CONSORTIUM. If the option to extend M&O services is exercised, the CONTRACTOR must follow and adhere to the standard processes for CalSAWS application maintenance and enhancements. Specifically, the CONTRACTOR will be required to document proposed changes as formal System Change Requests (SCRs). CONTRACTOR should refer to the Procurement Library for the current version of the CalSAWS M&O Handbook; this document provides information regarding the SCR process and workflow, prioritization, planning, approvals, the SCR Review Board and the Change Control Board.

4.4 Commencement of Work.

Work on the Portal/Mobile App Project is scheduled to commence on or about August 1, 2020. If Work on the Project does not commence upon that date, it shall commence upon Notice to CONTRACTOR to commence Work.

5. SCOPE OF CONTRACT WORK AND DELIVERABLES.

5.1 General.

5.1.1 CONTRACTOR shall provide the CONSORTIUM with the Portal/Mobile App Deliverables and Portal/Mobile App Services as described in the RFP, CONTRACTOR's Proposal submitted in response to that RFP, and this Agreement, and in accordance with the Portal/Mobile App Work Plan and Specifications. CONTRACTOR shall utilize the RFP, its Proposal, the Portal/Mobile App Work Plan, the Portal/Mobile App Deliverables and Portal/Mobile App Services for which the CONSORTIUM previously granted Acceptance, Change Orders agreed to by the CONSORTIUM and the CONTRACTOR, as well as CONTRACTOR's expert knowledge as the basis for delivering subsequent Portal/Mobile App Deliverables and Portal/Mobile App Services. CONTRACTOR shall ensure that the Portal/Mobile App Deliverables and Portal/Mobile App Services, and Documents and materials provided or presented to, or developed for, the CONSORTIUM are consistent with industry standards, easily understandable and logically organized, accurate and complete in their data, and provide the appropriate level of detail for their respective purposes. CONTRACTOR shall retain backup copies in writing and on electronic media of all Portal/Mobile App Deliverables until termination of this Agreement and shall provide the CONSORTIUM on its request with a copy thereof until that time.

5.1.2 CONTRACTOR shall, in accordance with the Statement of Work and Statement of Requirements document(s) attached as Exhibits A and B to this Agreement, design, develop, and implement a single Statewide Portal/Mobile App to be deployed for use by all 58 counties to serve the residents of all California Counties and integrate seamlessly with the CalSAWS system. This single Statewide Portal/Mobile App shall replace the three different self-service portals and mobile applications currently in use in the LRS System (LRS-YourBenefitsNow! [YBN]), the C-IV System (C4 Yourself), and CalWIN System (MyBenefitsCalWIN [MyBCW]). The goals to be achieved by the single Statewide Portal/Mobile App Project are as follows:

5.1.2.1 Leveraging existing Portal/Mobile applications to develop an updated Portal/Mobile architecture and application. (The source code for all three-existing Portal/Mobile applications will be made available to CONTRACTOR and is available for the CONTRACTOR's consideration and use.)

5.1.2.2 There shall be no loss of functionality in the existing Portal/Mobile applications while developing and implementing the single Statewide Portal/Mobile App.

5.1.2.3 Employing an approach to the development lifecycle that supports the most expedient completion of the phases.

5.1.2.4 Improving the user interface from that in the current Portal/Mobile applications.

5.1.2.5 Engaging stakeholders and advocates in the design, development and test tasks through user-centered design (UCD) and test processes.

5.2 Portal/Mobile App Deliverables and Services.

CONTRACTOR shall perform project tasks and provide respective deliverables as part of three phases: (1) Phase 1: the Initial Design, Development and Implementation (DD&I) Phase; (2) Phase 2: the Optional Enhancements Phase; and (3) Phase 3: the Maintenance and Operations (M&O) Phase. CONTRACTOR shall be responsible for establishing a Schedule and Work Plan for the DD&I Phase with a fourteen (14) month constraint. If the CONSORTIUM exercises its option for the Optional Enhancements Phase, CONTRACTOR shall be responsible for establishing a Schedule and Work Plan for this phase with a six (6) month constraint. In so doing, CONTRACTOR shall determine whether any Phase 2 Optional Enhancements can be completed within the Phase 1 timeframes. Finally, the M&O Phase shall have an initial term of one (1) year with two (2) optional extensions of one (1) year each that may be exercised at the sole discretion of the CONSORTIUM.

5.2.1 Portal/Mobile App Design, Development, and Implementation Phase (Phase 1).

The Portal/Mobile App Design, Development, and Implementation Phase (Phase 1) (Portal/Mobile App Deliverables) shall include all project management, requirements confirmation, design, development, test (inclusive of providing support for User Acceptance Test) and implementation work required to create the Portal/Mobile App, based upon the requirements set forth in Attachment J to the RFP, which is incorporated herein by reference. All Deficiencies identified by either CONTRACTOR or CONSORTIUM during Phase 1 must be corrected, as determined by CONSORTIUM Executive Director, prior to Final Acceptance of the Portal/Mobile App by CONSORTIUM in accordance with this Section 5.

5.2.1.1 Portal/Mobile App Design and Development.

CONTRACTOR shall provide an approach to designing and developing the Portal/Mobile App, which includes, but is not necessarily limited to, the following:

- A. Confirm Requirements – CONTRACTOR shall engage Consortium Staff, County and State staff, advocates, and clients in requirements confirmation, clarification, and elicitation sessions. Requirements confirmation is a process during which the requirements documented in Attachment J – Statewide Portal/Mobile application Requirements Cross Reference Matrix, which is incorporated herein by reference, will be reviewed, refined, validate, and confirmed.
- B. Employ User Centered Design – CONTRACTOR shall design and develop the Portal/Mobile App based on UCD principles.

CONTRACTOR, with assistance and cooperation from CONSORTIUM staff, shall employ a robust UCD process to engage CONSORTIUM, County and State staff, advocates and clients throughout the development lifecycle. While the State will take the leadership role in the selection and management of advocates and clients, the Contractor shall train, interact with, engage and elicit feedback from the advocate and client participants throughout the DD&I and M&O phases.

- C. Develop a Requirements Traceability Matrix – CONTRACTOR shall develop and maintain an RTM to track and ensure all requirements are satisfied, and manage all requirements throughout the system lifecycle. The initial RTM shall be submitted within sixty (60) days of Start Date. RTM Update 1 is due ten (10) days following the conclusion of the requirements confirmation process. RTM Update 2 is due ten (10) days following the conclusion of the design process. RTM Update 3 is due ten (10) days following the conclusion of the testing process. RTM Update 4 is due ten (10) days following Final Acceptance.
- D. Portal General Systems Design – CONTRACTOR shall provide the General System Design, which will contain, but not necessarily be limited to, the following: methodology and assumptions; mock application page layouts, including navigation; storyboards, wireframes, and prototypes as applicable; reports and dashboard layouts; logical data models; SAWS interface specifications; and business rules.
- E. Portal Technical Systems Design – CONTRACTOR shall provide the Technical Systems Design that will contain a comprehensive architectural overview of the Portal Software, including a depiction of each layer and area of application in terms of Software components. The Technical Systems design shall include, but not necessarily be limited to, technical architecture specifications; system components and entity relationship diagrams; network topology diagrams, including Cloud computing environment; information security design, including application and network security protocols; application architecture design (software layers); webservice application programming interface (API) design; physical data model; physical and logical directory path locations; and format library specifications, and update tools.

5.2.1.2 Testing/Master Test Plan.

CONTRACTOR shall provide a Master Test Plan, which will encompass the approach and processes for all states of System Testing, including but not limited to, regression testing, and ensure all System requirements and Specifications are tested fully and verified. The Master

Test Plan shall include, but not necessarily be limited to, the following:
The

- A. A description of the purpose and structured test approach for each stage of System testing.
- B. A description of CONTRACTOR, CONSORTIUM, County, State, advocate, and client testing roles and responsibilities.
- C. A description of tools, environments, and controls to be used during each state of system testing.
- D. System test schedule.
- E. Standards for scenario and script development, execution, and sign-off.
- F. Processes for identifying, documenting, and tracking Deficiencies, correction to Deficiencies and re-tests once corrected code is promulgated to the System test environments.
- G. Standards and metrics for weekly and monthly test status reporting.
- H. Tracking to the test condition level.
- I. Entrance and exit criteria for each stage of System testing.
- J. In addition, CONTRACTOR will provide User Acceptance Testing ("UAT"), which shall include, but not necessarily be limited to providing an overall approach to UAT; a description of processes CONTRACTOR will perform to support UAT; a description of tools, environments, and controls to be provided and supported during UAT; a proposed UAT schedule; a description of CONTRACTOR, CONSORTIUM, County, State, advocate, and client roles, responsibilities, and resources needed to perform UAT; UAT metric, including UCD metrics and problem/Deficiency reporting, tracking and correction/resolution process; and entrance and exit criteria for UAT, which will include user satisfaction and experience.

5.2.1.3 Implementation

CONTRACTOR's Work in implementing the Portal/Mobile App, shall include, but not necessarily be limited to, the following:

- A. Coordinate with the other CalSAWS portal vendors to prepare for and transition to the new Portal/Mobile App.

- B. Preparing and maintaining supporting training materials for county staff, clients, potential clients, application assisters and authorized representatives.
- C. Prepare and maintain online training and help for county staff, clients, potential clients, application assisters and authorized representatives.
- D. Prepare and maintain a user guide for county staff with instructions about information flows between the Portal and CalSAWS.
- E. Prepare and maintain a user guide for county staff with instructions about information flows between the Portal and CalSAWS.
- F. Instructional “how to” video help accessible from the Portal landing page for all users.
- G. Training environments available for county and application assister use in learning Portal/Mobile functionality.
- H. Implement the new application as a single, cut-over activity.
- I. Implementation Complete Report – CONTRACTOR shall provide an Implementation Complete Report, which certifies that all Portal requirements have been met and that all known Deficiencies have been corrected.

5.2.1.4 Maintenance & Operations Plan – CONTRACTOR shall provide an M&O Plan to document the approach for completing required M&O tasks for the defined Phase 3 M&O Period. The M&O Plan must contain the following:

- A. Overall approach to M&O;
- B. Staff plans with roles and responsibilities;
- C. Key performance metrics;
- D. Proposed service level agreements (SLAs);
- E. Approach for managing and reporting metrics and SLAs;
- F. Assumptions.

5.2.1.5 Mobile App General and Technical Systems Design – CONTRACTOR shall provide General and Technical Systems Design for a Mobile App, which will contain and address the following:

- A. Methodology and assumptions.

- B. Mock application page layouts, including navigation.
- C. Storyboards, wireframes, and prototypes as applicable.
- D. Reports and dashboard layouts.
- E. Logical data models.
- F. SAWS interface specifications.
- G. Business rules.
- H. Technical architecture specifications.
- I. System components and entity relationship diagrams.
- J. Network topology, diagrams, including Cloud computing environment.
- K. Information security design (application and network security protocols).
- L. Application architecture design (software layers).
- M. Webservice/application programming interface (API) design.
- N. Physical data models.
- O. Physical and logical directory path locations.
- P. Format library specification and update tools.

5.2.1.6 Mobile App Implementation Complete Report – CONTRACTOR shall provide an Implementation Complete Report, which certifies that all Mobile App requirements have been met and that all known Deficiencies have been corrected.

5.2.1.7 Disability/Language Access. In addition to the requirements above, Contractor shall ensure disability and language access during Phase 1 as follows:

- A. CONTRACTOR shall be responsible for designing, developing, and implementing a solution that is compliant with the requirements of Title II of the Americans with Disabilities Act (ADA) (see specifically, *Accessibility of State and Local Government Websites to People with Disabilities*, DOJ (2003)) and Section 508 of the Rehabilitation Act of 1973, and specifically those standards set forth in Title 36 of the Code of Federal Regulations section 1194.1 and Appendices A, C, and D, and CDSS Regulations Section 21-115

B. CONTRACTOR shall provide an approach to translating the CalSAWS portal and mobile applications, including HELP features, in State-approved threshold languages. The approach to language translations includes, but is not limited to, the following activities:

(i) Perform Language Translations – The Contractor shall provide translation services necessary to perform language translations as defined in Attachment J – Statewide Portal/Mobile Application Requirements Cross Reference Matrix, Phases 1 and 2.

(ii) Until all translations are available, the Contractor shall propose a solution to provide an alternative workaround to address recipient requests for materials in languages other than threshold languages proposed in Phase 1.

(iii) CONTRACTOR shall provide an approach to incrementally adding language translations during Phase 2 and the maintenance and operations period.

(iv) CONTRACTOR shall work with and support translation activities necessary during testing processes.

(v) CONTRACTOR shall work with and support the Consortium, counties and State during the translation review, validation and acceptance process. The Contractor shall include an approach for how they will seek input on the development of translated materials by people who are native speakers of those languages.

(vi) CONTRACTOR shall propose and optional quality assurance/validation process of the translated materials.

5.2.2 Optional Enhancements Phase (Phase 2).

Phase 2 includes a defined set of optional enhancements that may be included in the Portal/Mobile App. The number of hours and pricing to complete these Optional Enhancements will be based on the estimates provided by CONTRACTOR in its Proposal. CONTRACTOR shall design, develop, and implement Phase 2 enhancements as directed by the CONSORTIUM.

5.2.3 Maintenance and Operations Phase (Phase 3).

The Maintenance and Operations (M&O) Phase (Portal/Mobile App Services) (Phase 3) shall include continued project management, application maintenance and operation of the Portal/Mobile App production environment. Portal/Mobile App M&O Services include continued provision of CONSORTIUM-requested enhancements to the Portal/Mobile App Software (e.g., work associated with development of new application functionality and enhancements of the Portal/Mobile App) as a result of changes in the CONSORTIUM

requirements, and all other Portal/Mobile App Services, if any, as specified in the Statement of Requirements (Exhibit B). During the M&O phase, the Contractor must also track, analyze and report usage and engagement trends and metrics with the purpose of improving the Portal and Mobile Apps based on factual usage data. CONTRACTOR M&O Services shall include, but is not necessarily limited to, all goods and Services necessary to manage, operate, enhance and support the Portal/Mobile App to comply with the approved Portal/Mobile M&O Plan and maintain the Portal/Mobile App consistent with current program policy for the term of the Agreement.

SAMPLE

5.2.4 Portal/Mobile App Work Plan.

CONTRACTOR shall prepare a Portal/Mobile App Work Plan that includes, but is not necessarily limited to, the following information: task and subtask descriptions with Deliverables being easily identifiable; the estimated number of CONTRACTOR Staff identified by levels and types; the estimated hours by task and subtask; and 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 and work products. The initial Portal/Mobile App Work Plan must be submitted within twenty (20) days of the Start Date and thereafter must be updated monthly. Monthly updates of the Portal/Mobile App Work Plan must accurately reflect the status of each task and subtask and the percentage of completion on each; the actual number of CONTRACTOR Staff; the actual number of hours being worked by task and subtask; and updated Gantt charts. CONTRACTOR must clearly indicate changes from the previously accepted Portal/Mobile App Work Plan. If required by the CONSORTIUM Executive Director or designee, CONTRACTOR will update and present the Portal/Mobile App Work Plan to the CONSORTIUM within ten (10) days of any such request. Any such update changes must be approved in writing by the CONSORTIUM Executive Director or designee prior to their final incorporation into the Portal/Mobile App Work Plan. However, unless otherwise specifically agreed to in writing, the CONSORTIUM's agreement on a change to the Portal/Mobile App Work Plan will not relieve CONTRACTOR of liability from failures to perform its obligations as required herein under the previously approved Portal/Mobile App Work Plan.

5.3 Deliverable Acceptance.

5.3.1 CONTRACTOR shall deliver all Portal/Mobile App Deliverables pursuant to this Agreement to the CONSORTIUM Executive Director or his/her designee. Each Portal/Mobile App 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 Portal/Mobile App Deliverable pursuant to the Portal/Mobile App Work Plan.

5.3.2 In accordance with the review periods delineated in the Portal/Mobile App Work Plan, the CONSORTIUM will review each Portal/Mobile App 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.

5.3.3 If a Deficiency (other than a Cosmetic Deficiency) is found in a Portal/Mobile App 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 Portal/Mobile App 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 Portal/Mobile App 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 Portal/Mobile App 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. The correction of Deficiencies is governed by Section 11.3 (Correction of Deficiencies) and Section 11.4 (Warranty Work Response) of this Agreement.

5.3.4 If a Deficiency (other than a Cosmetic Deficiency) is found in a Portal/Mobile App Deliverable, or a Deficiency persists following the CONSORTIUM's review and recommended revisions to that Deliverable, or if CONTRACTOR fails to deliver a Portal/Mobile App Deliverable or revised version thereof with sufficient time for the CONSORTIUM to review, evaluate and comment on the Portal/Mobile App 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; (b) request CONTRACTOR to provide, at its expense, a replacement Portal/Mobile App Deliverable for further review; or (c) terminate this Agreement as described in Section 16. The CONSORTIUM's options under this Section 5.3 shall remain in effect until Acceptance of all of the Portal/Mobile App Deliverables.

5.3.5 The CONSORTIUM shall provide its Acceptance when it determines that each Portal/Mobile App 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 Portal/Mobile App Deliverable notwithstanding identified Deficiencies; provided however that CONTRACTOR shall correct all such remaining and permitted Deficiencies in accordance with this Section.

5.3.6 CONTRACTOR shall correct all Cosmetic Deficiencies which remain at Acceptance of the Portal/Mobile App Deliverable and all other Deficiencies permitted by the CONSORTIUM to exist at Acceptance of the Portal/Mobile App Deliverable, if any, as soon as reasonably practicable and, in all cases, within thirty (30) days of its Acceptance.

5.3.7 CONTRACTOR shall continuously protect all Portal/Mobile App Deliverables and backups therefor from damage, destruction or loss caused by the acts or omissions of CONTRACTOR and its staff. During the period Portal/Mobile App Deliverables are in transit and in possession of CONTRACTOR, its carriers or the CONSORTIUM prior to their Acceptance, CONTRACTOR and its insurers, if any, will bear the risk of loss or damage thereto, unless such loss or damage is caused by the negligence or intentional misconduct of the CONSORTIUM.

5.4 Representations Regarding Portal/Mobile App Deliverables.

By submitting a Portal/Mobile App 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 Portal/Mobile App Deliverable, the CONSORTIUM represents only that it has reviewed the Portal/Mobile App 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 Portal/Mobile App 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.

5.5 CONTRACTOR Report to the CONSORTIUM's Board of Directors.

CONTRACTOR shall provide the CONSORTIUM's Board of Directors with a summary report promptly upon the following circumstances: (a) any and all significant or serious Deficiencies, risks or concerns with the Portal/Mobile App System or its quality, or the design, development or implementation of changes thereof; or (b) any other circumstances which have or if not remedied will likely have a significant or serious negative impact on the LRS, C IV, CalWIN, or CalSAWS Systems, the design, development or implementation of changes to any of the aforementioned Systems, or the CONTRACTOR's Portal/Mobile App Deliverables or Portal/Mobile App Services, or including without limitation the cost or time for completion.

5.6 Final Acceptance.

Following successful cutover of the Portal/Mobile App to the production environment, CONTRACTOR will provide an Implementation Complete Report certifying that all Portal/Mobile App requirements have been met and all known Deficiencies have been corrected. For a period of ninety (90) days immediately following the completion of the implementation cutover event, CONTRACTOR shall monitor and report any Deficiencies to the CONSORTIUM. Upon occurrence of a Deficiency, CONTRACTOR shall document and correct such Deficiencies, as required by Section 5.3. The Portal/Mobile App shall achieve Final Acceptance if and when the Implementation Certification Report is approved and all Deficiencies identified during the 90-day period immediately following the implementation cutover event have been corrected.

6. PROJECT MANAGEMENT.

6.1 General.

Contractor is responsible for staffing and managing the tasks associated with each of the following Project management areas:

- 6.1.1** Involve stakeholders, advocates and clients in UCD activities during requirements confirmation, design, development and UAT processes to elicit appropriate input.
- 6.1.2** Perform general project management tasks for the Portal/Mobile App Project, including communication management, issue and risk

management, scope management, DED and deliverable management and contract management. 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) contained in the Procurement Library. [insert procurement library link here]

- 6.1.3** Document decisions made during requirements confirmation, design, development and test tasks.
- 6.1.4** Manage and control the delivery of the Portal/Mobile App software, and deployment support to the AWS cloud environment.
- 6.1.5** Establish and maintain the Portal/Mobile App Work Plan inclusive of tasks, milestones, Deliverables and resources required to plan and execute the required scope of work.
- 6.1.6** Prepare and submit Deliverable Expectations Documents (DEDs) for all required Deliverables. It is important to note that user satisfaction will be a key factor in achieving acceptance of the UCD-based Application Design Deliverable and as part of the UAT exit criteria (as a precursor to Go-Live). As part of DED development and acceptance, the user satisfaction criteria will be defined in measurable, quantifiable terms.
- 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** Provide a written Monthly Portal/Mobile App Status Report and verbal status reports during standing weekly, monthly and quarterly management meetings, including the quarterly stakeholder engagement group.

6.2 CONTRACTOR Project Director.

6.2.1 CONTRACTOR shall identify a Project Director who shall be responsible for CONTRACTOR's performance of all its Deliverables and Services provided pursuant to this Agreement and assuring CONTRACTOR's compliance with this Agreement. CONTRACTOR's Project Director 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 Portal/Mobile App 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 Portal/Mobile App 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 Project Staff.

6.3.1 CONTRACTOR's organization chart for the CONTRACTOR's Portal/Mobile App Project team and the names of mutually agreed Key Personnel 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 Personnel positions shall not be modified or removed except upon the express written approval of the CONSORTIUM'S Executive Director.

6.3.2 CONTRACTOR agrees to make available to the CONSORTIUM a matrix of all Staff working on the Portal/Mobile App 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.

6.3.3 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.

6.3.4 All Staff proposed by CONTRACTOR as replacements for other Staff shall have comparable or greater skills to perform the Portal/Mobile App 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.

6.3.5 CONTRACTOR shall not remove from the Portal/Mobile App Project the Key Personnel, nor temporarily reassign or reduce the time of the Key Personnel to the Portal/Mobile App Project or divide the time of the Key Personnel between the work on this Agreement and any other project or task, event or activity unrelated to the Agreement, except in the event of: illness; retirement; disability; termination of employment or completion of assignments as defined in the Portal/Mobile App 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 Personnel and shall work with CONTRACTOR in scheduling Key Personnel and Staff vacations or other reasonable and foreseeable absences from the Portal/Mobile App Project. The CONSORTIUM shall also not arbitrarily or capriciously withhold agreement to reasonable absences from the Project by Key Personnel or Staff for training, corporate meetings, or personal emergencies.

6.3.6 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. CONTRACTOR will indemnify and hold the CONSORTIUM harmless from any and all such claims asserted against the CONSORTIUM. 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.

6.3.7 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 accordance with generally accepted accounting principles. The accounting system shall maintain records pertaining to the Portal/Mobile App Deliverables and Portal/Mobile App Services 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 6.5.

6.6 Records Retention and Access Requirements.

6.6.1 Subject to confidentiality privileges provided by law, CONTRACTOR shall agree to the conditions of all applicable federal and State regulations, which are incorporated in this Agreement by this reference, 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, CONTRACTOR shall comply with all record retention requirements and access to such records for the 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 and be available for inspection by the CONSORTIUM within three (3) working days of the request by the CONSORTIUM, County, State, or federal agencies.

6.7 Inspections.

The Portal/Mobile App Deliverables and Portal/Mobile App 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 Portal/Mobile App Deliverables and Portal/Mobile App 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 Portal/Mobile App Project. In addition, CONSORTIUM shall conduct reference checks on CONTRACTOR Staff proposed to be used on the Portal/Mobile App 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 develop a non-proprietary Portal/Mobile App System that is compatible with this statewide system. CONTRACTOR further acknowledges that the CONSORTIUM may undertake and award more supplemental contracts for work related to this Agreement, or any portion thereof. 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 overlap or intersect 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. PAYMENTS; INVOICING; AND RELATED FINANCIAL TERMS.

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 Portal/Mobile App Deliverables and Services described in Section 5.

The Total Maximum Contract Sum for all DD& I (Phase 1), Optional Enhancements (Phase 2), and First Year M&O (Phase 3) Deliverables and Services to be provided pursuant to this Agreement shall not exceed

(\$_____). This Total Maximum Contract Sum consists of the following:

The Contract Sum for the DD&I Phase I, excluding those Deliverables and Services related to the Mobile App described in Sections 5.2.1.5 and 5.2.1.5 shall not exceed

____ (\$_____).

The Contract Sum for Deliverables and Services related to the Mobile App described in Sections 5.2.1.5 and 5.2.1.6 shall not exceed

____ (\$_____).

The Contract Sum for the Optional Enhancements Phase II shall not exceed _____
(\$_____).

The Contract Sum for the M&O Phase 3 shall not exceed

____ (\$_____).

7.1.2 Contract Sum for Extended M&O Services.

Should the CONSORTIUM elect to extend the M&O Services being provided by CONTRACTOR pursuant to Section 4.3, the Contract Sum for such extended

M&O Services shall be for a sum to be negotiated between the CONSORTIUM and CONTRACTOR.

7.2 No Increases.

CONTRACTOR shall not increase the Contract Sums or 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 Portal/Mobile App Deliverables which received Acceptance in the previous month and all Portal/Mobile App 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 Portal/Mobile App Deliverable or Portal/Mobile App 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 Portal/Mobile App Deliverables and Services. CONSORTIUM shall pay for each Portal/Mobile App Deliverable which has received Acceptance and for Portal/Mobile App Services for the time expended in each month multiplied by the labor rate described in the Portal/Mobile App Price Proposal for Portal/Mobile App Services provided to the CONSORTIUM. The charges for Deliverables and Services must conform to the current approved budget for the Portal/Mobile App 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 Portal/Mobile App 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 Portal/Mobile App 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 shall determine which aspects of the Portal/Mobile App 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 Portal/Mobile App Deliverables and Services. All Change Orders shall be subject to requirements and limitations in applicable Federal, State and County law.

8.3 CONTRACTOR Proposal.

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 pursuant 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 Portal/Mobile App 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 Portal/Mobile App 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 acts or omissions or from the 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 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 Portal/Mobile App Application Software.

10.1.1 All right, title, and interest, including all copyrights, patents, and trade secret rights, in and to each component of the Portal/Mobile App Application Software shall be owned by the CONSORTIUM. Title to each such component, shall automatically transfer from CONTRACTOR to the CONSORTIUM upon creation.

10.1.2 Upon request of the CONSORTIUM, CONTRACTOR shall execute all documents reasonably requested by the CONSORTIUM and shall perform all other acts reasonably requested by the CONSORTIUM to assign and transfer to, and vest in, the CONSORTIUM all CONTRACTOR's right, title, and interest, including all copyrights, patents, and trade secret rights, in and to the Portal/Mobile App Application Software. The CONSORTIUM shall have the right to register all copyrights and patents in the name of the CONSORTIUM to the Portal/Mobile App Application Software. Further, the CONSORTIUM shall have the right to assign, license, or otherwise transfer any and all of the CONSORTIUM's right, title, and interest, including copyrights, patents, and trade secret rights, in and to the Portal/Mobile App Application Software.

10.2 Portal/Mobile App Application Software Source Code.

CONTRACTOR shall provide to the CONSORTIUM a complete and current copy of all Source Code, Object Code and Documentation of the Portal/Mobile App Application Software, and all updates thereto. Further, CONTRACTOR shall ensure that the CONSORTIUM has a complete and current copy of all Source Code, Object Code, and Documentation of the Portal/Mobile App Application Software and updates thereto at all times during the term of this Agreement following completion of the DD&I Phase I of the Portal/Mobile App Project. CONTRACTOR's duty to provide to the CONSORTIUM all Source Code, Object Code, and Documentation for the Portal/Mobile App System, and all updates thereto, shall continue throughout the term of this Agreement and for a period of one hundred and eighty (180) days thereafter. CONTRACTOR shall provide to the CONSORTIUM all Source Code, Object Code, and Documentation of the Portal/Mobile App Application Software, and all updates thereto, in a hard copy format, electronically, and on read-only medium, as specified by the CONSORTIUM.

10.3 Additional CONSORTIUM Ownership Rights.

The CONSORTIUM shall own all right, title and interest in, and to, its Confidential Information and the Portal/Mobile App Deliverables, including without limitation the Specifications, the Portal/Mobile App Work Plan in whatever stage of completion as may exist from time to time, including without limitation all copyright, trademark, patent, trade secret and other intellectual property and proprietary rights therein. These rights are in addition to the ownership rights specified in Sections 10.1 and 10.2. CONTRACTOR shall take all actions necessary and transfer ownership of the Portal/Mobile App Deliverables to the CONSORTIUM. All Portal/Mobile App Deliverables, in whole and in part, shall be deemed works made for hire of the CONSORTIUM for all purposes of copyright law, and all right, title and interest in and to copyright rights therein shall belong solely to the CONSORTIUM. To the extent that any Portal/Mobile App Deliverable does not qualify as a work for hire under applicable law, and to the extent that the Portal/Mobile App Deliverable includes materials subject to patent, trade secret, trademark or other proprietary right protection, CONTRACTOR agrees to assign, and hereby assigns, all right, title and interest in and to Portal/Mobile App Deliverables, including without limitation all copyrights, inventions, patents, trade secrets, trademarks and other intellectual property and proprietary rights therein (including registrations in any U.S. or foreign jurisdiction and any renewals thereof) to the CONSORTIUM. CONTRACTOR shall, at the expense of the CONSORTIUM, assist the CONSORTIUM or its nominees to obtain and register copyrights, trademarks, or patents for all Portal/Mobile App Deliverables in the United States and any other countries. 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 Portal/Mobile App Deliverables. CONTRACTOR also agrees not to assert any moral rights under applicable law with regard to Portal/Mobile App Deliverables.

10.4 CONTRACTOR Ownership Rights.

CONTRACTOR shall own all right, title, and interest in, and to, its Confidential Information. 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 Portal/Mobile App Deliverables and Services and that do not include the CONSORTIUM's Confidential Information or the Portal/Mobile App 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, including but not limited to, methods, concepts, designs, reports, programs and templates.

10.5 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 federal government purposes all materials designed, developed, or installed with federal financial participation.

10.6 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 Portal/Mobile App Deliverables.

11. WARRANTIES.

11.1 Portal/Mobile App Deliverables Warranty.

CONTRACTOR represents, warrants, covenants, and agrees that the Portal/Mobile App shall perform in accordance with this Agreement, including the Specifications for the Portal/Mobile App Project. All Deliverables shall be complete, meet Specifications, adhere to the applicable DED, be timely as defined in the Portal/Mobile App Work Plan, internally consistent, consistent with other related Deliverables, uniform in appearance, and prepared by qualified personnel in accordance with standards, methods and Acceptance criteria as defined in the applicable DED. The Portal/Mobile App warranty period shall be for the full term of this Agreement, including any Extended Term. All Portal/Mobile App warranty work shall be at no additional cost to the CONSORTIUM during the term of this Agreement.

11.2 Portal/Mobile App Services Warranty.

CONTRACTOR represents and warrants that CONTRACTOR shall perform the Services as described in this Agreement and in accordance with the Portal/Mobile App Work Plan and applicable Specifications. Time is of the essence in connection with CONTRACTOR's performance of the Services according to the CONSORTIUM-approved Schedule. CONTRACTOR shall give due priority to the performance of the Services commensurate with the urgency of the task. CONTRACTOR shall perform all Services required pursuant to this Agreement in a professional manner, with high quality, knowledge and experience in business and systems integrations. All Portal/Mobile App Services warranty work shall be at no additional cost to the CONSORTIUM during the term of this Agreement.

11.3 Correction of Deficiencies.

CONTRACTOR represents, warrants, covenants, and agrees that throughout the warranty period set forth in Subparagraphs 11.1, at no additional cost to CONSORTIUM, CONTRACTOR shall correct any and all Deficiencies in the Portal/Mobile App, as determined by the CONSORTIUM Executive Director or CONTRACTOR. All corrective actions shall be performed with CONTRACTOR's best efforts, diligence, and speed toward correction as soon as possible and in any event in accordance within the applicable time period specified in Subparagraph 11.4 (Warranty Work Response).

11.4 Warranty Work Response.

CONTRACTOR shall correct any Deficiency identified as a response to its warranty obligations for the Portal/Mobile App in accordance with this Section 11.4.

11.4.1 Portal/Mobile App Deliverables.

CONTRACTOR shall correct any Deficiency in the Portal/Mobile App Deliverables as follows:

11.4.1.1 For any Non-cosmetic Deficiency, determined to be high priority in accordance with this Section 11.4, CONTRACTOR shall immediately commence corrective action and either correct or implement an appropriate workaround for such Non-cosmetic Deficiency within twelve (12) hours of providing notice to, or receipt of, Notice from, the CONSORTIUM. A “high priority” Deficiency shall generally mean a Non-Cosmetic Deficiency that prevents core business processes from functioning properly or causes errors in the processing of cases. If a workaround is implemented, then CONTRACTOR shall permanently correct such Deficiency within thirty (30) days of the date on which notice was first provided for a high priority Deficiency. and within sixty (60) days of the date on which notice was first provided for a normal priority Deficiency.

11.4.1.2 For any Non-cosmetic Deficiency, determined to be “normal priority” in accordance with this Subparagraph 11.4, CONTRACTOR shall either correct or implement an appropriate workaround for such Non-cosmetic Deficiency within a time period determined by the CONSORTIUM Executive Director, but in no event shall such time period be more than three (3) business days from Notice to, or receipt of Notice from, the CONSORTIUM. A “normal priority” Deficiency shall generally mean any Non-Cosmetic Deficiency not deemed a “high priority” Deficiency, as determined by the CONSORTIUM Executive Director. If a workaround is implemented, then CONTRACTOR shall permanently correct such Deficiency within sixty (60) days of the date on which notice was first provided for a normal priority Deficiency.

11.4.1.3 For any Cosmetic Deficiency, CONTRACTOR shall correct such Cosmetic Deficiency within a time period determined by the CONSORTIUM Executive Director, but in no event shall such time period be more than twenty (20) Working Days of providing notice to, or receipt of notice from, the CONSORTIUM.

11.4.2 Portal/Mobile App Services.

CONTRACTOR shall correct any Deficiency in Portal/Mobile App Services in accordance with the applicable Corrective Action Plan or as otherwise approved by CONSORTIUM Executive Director.

11.4.3 CONTRACTOR-Identified Deficiencies.

For any Non-Cosmetic Deficiency identified by CONTRACTOR, CONTRACTOR shall notify CONSORTIUM by electronic mail within two (2)

hours of such identification or such longer time as agreed by the Parties and CONTRACTOR shall correct such Deficiency in accordance within the time periods specified in Section 11.4.1 or 11.4.2. In the event that CONTRACTOR fails to correct a Deficiency within the required time period, CONTRACTOR shall provide the CONSORTIUM with a written report, including a detailed explanation of the status of such Deficiency and corrective actions taken as well as detailed plans for correction of such Deficiency to include a schedule for correction of such Deficiency; provided that notwithstanding any such schedule, the CONSORTIUM Executive Director may determine that a modified schedule or modified priorities are necessary for correction of such Deficiency, and CONTRACTOR shall comply with such modified schedule and priorities for correction.

11.4.4 Deficiency Classification and Prioritization.

Upon notice to CONTRACTOR, the CONSORTIUM Executive Director, within his or her sole discretion, may reclassify any normal priority Non-Cosmetic Deficiency as a high priority Non-Cosmetic Deficiency, and any Cosmetic Deficiency as a normal priority Non-Cosmetic Deficiency. For any high priority Deficiency, CONTRACTOR shall provide, in order to plan and implement corrective action, the following: (i) appropriate CONTRACTOR staff onsite at the Project Office; and/or (ii) real-time Web-enabled videoconferencing for CONTRACTOR staff not resident at the Project Office and the CONSORTIUM specified staff not resident at the Project Office.

11.4.5 Non-Limitation of CONSORTIUM Remedies.

Nothing set forth in this Subparagraph 11.4 limits or impairs any of the CONSORTIUM's rights and remedies set forth in this Agreement, including the CONSORTIUM's right to assess Liquidated Damages.

11.5 Additional Warranties.

CONTRACTOR represents, warrants, covenants, and agrees that throughout the term of this Agreement:

11.5.1 CONTRACTOR shall strictly comply with the descriptions and representations (including, Deliverable documentation, performance capabilities, accuracy, completeness, characteristics, Specifications, configurations, standards, functions, and requirements applicable to professional software design and industry standards) set forth in the Statement of Work and Statement of Requirements documents for the Portal/Mobile App Project.

11.5.2 All Work, Deliverables, goods, and Services shall be completed in accordance with this Agreement.

11.5.3 All documentation developed under this Agreement shall be complete, accurate, and uniform in appearance in terms of font size, table structures, page layouts, table and figure references, section numbering and the like.

11.5.4 CONTRACTOR shall not cause any unplanned interruption of the operations of, or accessibility to, the LRS, C-IV, CalWIN, or successor Systems through any Software, device, method, or means, including the use of any “virus,” “lockup,” “time bomb,” “key lock,” “worm,” “spyware”, program, or disabling code, which has the potential or capability of compromising the security of information contained in the identified Systems, including Program Data, or of causing any unplanned interruption of the operations of, or accessibility of, those Systems to the CONSORTIUM or any user, or which could alter, destroy, or inhibit the use of the Systems, or the data contained therein, or which could block access to or prevent the use of the Systems or component of them by the CONSORTIUM or any User (collectively and individually referred to herein as “Disabling Device”). CONTRACTOR has not placed and shall not purposely place, nor is it aware of, any disabling device on components of any of the Systems, which are identified in this Agreement.

11.6 Additional Representations and Warranties.

11.6.1 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.

11.6.2 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.

11.6.3 Intellectual Property Rights.

CONTRACTOR represents and warrants that:

11.6.3.1 CONTRACTOR is the owner of the Portal/Mobile App Deliverables that are to be transferred and assigned to the CONSORTIUM in accordance with Section 10;

11.6.3.2 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;

11.6.3.3 The Portal/Mobile App 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

11.6.3.4 The CONSORTIUM shall peacefully and quietly have, hold, possess, and enjoy each Portal/Mobile App Deliverable without suit or interruption.

11.6.4 Legal and Regulatory Compliance.

CONTRACTOR represents and warrants that the Services and Deliverables to be provided pursuant to this Agreement, shall comply with all applicable federal, State, and County laws, regulations, codes, standards and ordinances. In the event that any Services performed, or any Deliverables provided, by CONTRACTOR are 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 against any fines, penalties, sanctions, or disallowances which are imposed on the CONSORTIUM or its member Counties, which arise from any noncompliance with the federal, State, or County laws, regulations, codes, policies and guidelines that affect or apply to CONTRACTOR's or its Subcontractors' performance of their obligations.

11.6.5 CONTRACTOR's Good Standing.

CONTRACTOR represents and warrants that:

11.6.5.1 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;

11.6.5.2 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;

11.6.5.3 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;

11.6.5.4 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

11.6.5.5 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.

11.6.6 Ability to Perform.

CONTRACTOR represents and warrants that:

11.6.6.1 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

11.6.6.2 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.

11.7 PRICE Warranty.

11.7.1 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.

11.7.2 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.

11.8 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 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. 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 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 provide CONTRACTOR with prompt notice of any such claim of which the CONSORTIUM Executive Director 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, except that the CONSORTIUM will not have such approval right if CONTRACTOR's interests are adverse to the CONSORTIUM's. Notwithstanding the preceding sentence, CONSORTIUM 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 shall be entitled to retain its own counsel and receive reimbursement from CONTRACTOR for all such costs and expenses incurred by CONSORTIUM 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 without CONSORTIUM Indemnitee's prior approval.

12.2 Intellectual Property Indemnification.

Without in any way infringing upon the generality of the CONSORTIUM's indemnification rights under Section 12.1, CONTRACTOR shall, at its expense, defend, indemnify, and hold harmless CONSORTIUM Indemnitees and the State and its 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 or the State and its officers, employees, and agents, which is based on a claim that CONSORTIUM Indemnitees' or the State and its officers, employees, and agents use of or rights to the Portal/Mobile App Deliverables or Portal/Mobile App 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 Portal/Mobile App Deliverables or Portal/Mobile App Services with any other data or (b) the CONSORTIUM fails to obtain intellectual property rights necessary to permit CONTRACTOR to perform Portal/Mobile App Services. In case the Portal/Mobile App Deliverables 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 Portal/Mobile App Deliverables; (b) modify the Portal/Mobile App Deliverables to comply with the Specifications and not to violate any intellectual property rights; or (c) terminate the use of any infringing Portal/Mobile App Deliverables upon receipt of Notice from the CONSORTIUM and refund all sums paid for such Portal/Mobile App Deliverables, 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 Personnel.

In the event that CONTRACTOR fails to provide all Key personnel 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 Personnel 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 Personnel member(s).

13.3 Failure to Meet Key Milestones.

CONTRACTOR shall pay liquidated damages as follows for CONTRACTOR's failure to timely perform the Portal/Mobile App Services or provide the Portal/Mobile App Deliverables following the dates specified in the CONSORTIUM Executive Director's approved Portal/Mobile App Work Plan, subject to Section 5.2.4, for the following Key Milestone events.

Key Milestones	Amount of Liquidated Damages Per Day
Work Plan	\$1,000.00
User Centered Design Plan	\$1,000.00
Initial Requirements Traceability Matrix.	\$1,000.00
Master Test Plan.	\$1,000.00
Portal Implementation Complete Report	\$1,000.00
Maintenance & Operations Plan	\$1,000.00

Mobile App Implementation Complete Report	\$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 Portal/Mobile App 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 LIABILITIES AND REMEDIES.

14.1 Withholding Payments.

The CONSORTIUM shall have the right to withhold payments to CONTRACTOR, in whole or in part, to the extent CONTRACTOR fails to perform its obligations set forth in this Agreement.

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 Cover.

If, in the reasonable judgment of the CONSORTIUM, 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 Portal/Mobile App Deliverables or Portal/Mobile App Services and the reasonable cost of the Deliverables or Services. In addition, CONTRACTOR must cooperate with these resources in allowing access to the Portal/Mobile App Deliverables.

14.4 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:

14.4.1 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.

14.4.2 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 14.4.1.

14.4.3 The CONSORTIUM shall notify CONTRACTOR in writing within ten (10) days as to the CONSORTIUM's final disposition of its concerns.

14.4.4 Upon receipt of notice of final disposition by CONTRACTOR, the CONSORTIUM reserves the right to suspend all, or part of, the Agreement, 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 16.1 below.

14.5 Suspension for Convenience.

The CONSORTIUM shall have the right at any time during the Project to order the Portal/Mobile App Deliverables, Portal/Mobile App 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 Portal/Mobile App 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.

14.6 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 TO BE PAID AND TO BE PAID BY IT TO CONTRACTOR UNDER THE AGREEMENT, INCLUDING WITHOUT LIMITATION CHANGE ORDER PRICES AGREED TO BY THE PARTIES OR OTHERWISE ADJUDICATED.

14.7 Limitation on Liability – CONTRACTOR.

EXCEPT FOR INDEMNIFICATION OBLIGATIONS AND AS OTHERWISE SPECIFIED IN THIS AGREEMENT, CONTRACTOR'S LIABILITY TO THE CONSORTIUM UNDER THIS AGREEMENT SHALL NOT EXCEED THE TOTAL CHARGES PAID AND TO BE PAID BY THE TO CONTRACTOR UNDER THE AGREEMENT, INCLUDING WITHOUT LIMITATION CHANGE ORDER PRICES AGREED TO BY THE PARTIES OR OTHERWISE ADJUDICATED.

15. CONFIDENTIAL DATA.

15.1 Confidentiality of CONSORTIUM and Third Party Information.

CONTRACTOR shall maintain the confidentiality of all confidential records and information, including information relating to the Portal/Mobile App Project, billings, CONSORTIUM records, and third party applicant/participant records and information in compliance with all applicable: (i) federal and State laws, rules, and regulations, including California Civil Code Section 1798.82 and California Welfare and Institutions Code Section 10850; (ii) all local County ordinances; (iii) CONSORTIUM guidelines, directives, policies and procedures relating to confidentiality and information security of all Program Data (including any breach of the security of the LRS, CalWIN, C IV, or CalSAWS Systems, or any successor System, such as any unauthorized acquisition of Program Data that compromises the security, confidentiality, or integrity of personal information); or (iv) written direction from the CONSORTIUM regarding the protection of specific non Program Data. To the extent that such CONSORTIUM policies and procedures change, the CONSORTIUM will make reasonable efforts to promptly notify CONTRACTOR of updated information and CONTRACTOR shall thereafter comply with such information. All records and information pertaining to persons applying for or receiving assistance and/or Services are confidential and are, and shall remain, owned by the individual County from which the information emanated, and no information related to any individual case or cases shall be in any way disclosed to anyone except to designated CONSORTIUM employees, CDSS staff or Counties' employees without the prior written authorization from the CONSORTIUM Executive Director or designee. CONTRACTOR shall inform all of its officers, employees, and agents providing Services under this Agreement of the confidentiality provisions of this Agreement. CONTRACTOR shall provide to the CONSORTIUM an executed CONTRACTOR Employee Acknowledgment, Confidentiality, and Copyright Assignment Agreement

(Exhibit D) for each of its employees performing work under this Agreement. Further, CONTRACTOR shall provide to the CONSORTIUM an executed Subcontractor Employee Acknowledgment, Confidentiality, and Copyright Assignment Agreement (Exhibit E) for each employee of each Subcontractor performing any work under a CONSORTIUM approved subcontract in accordance with Section 6.3. Contractor shall comply with, implement, adhere to and align with, track, and report on all applicable State, Federal, and CalSAWS Standards, Regulations, Guidelines and requirements in place as of the Execution Date. These include, but are not limited to, Social Security Administration (Technical System Security Requirements), NIST, ADA, and California SIMM / SAM) requirements.

15.2 HIPAA Compliance.

In addition to its obligations under 15.1 above, CONTRACTOR agrees to be bound by the requirements stated in Exhibit F – HIPAA Business Associate Agreement. This includes safeguards for data and information systems as well as prohibitions against disclosure.

15.3 Audit.

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

15.4 Return.

Subject to record retention laws and requirements of this Agreement, CONTRACTOR shall promptly return to the CONSORTIUM all Confidential Information, including copies thereof, upon either demand by the CONSORTIUM or upon the expiration or termination of this Agreement.

15.5 Injunctive Relief.

15.5.1 CONTRACTOR shall immediately report to the CONSORTIUM any and all unauthorized disclosures or uses of the CONSORTIUM's Confidential Information, or any third-party Confidential Information of which CONTRACTOR or its Staff become aware or have knowledge. CONTRACTOR acknowledges that any publication or disclosure of the CONSORTIUM's Confidential Information, or any third-party Confidential Information to others may cause immediate and irreparable harm to the CONSORTIUM or third parties. If CONTRACTOR should publish or disclose such Confidential Information to others without authorization, the CONSORTIUM shall immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period.

15.5.2 The CONSORTIUM will immediately report to CONTRACTOR any and all unauthorized disclosures or uses of CONTRACTOR's Confidential Information of which the CONSORTIUM becomes aware or has knowledge.

15.6 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 and not subject to confidentiality obligations; 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 is lawfully obtainable by the general public.

15.7 Compliance with California Public Records Act.

CONTRACTOR acknowledges that this Agreement may be a public record under California 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, including the California Public Records Act, the CONSORTIUM will maintain the confidentiality of all such information marked Confidential Information. If a request is made to view CONTRACTOR's Confidential Information, the 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 or other appropriate remedy. If CONTRACTOR fails to obtain the court order enjoining disclosure prior to the deadline for responding to the request for documents, the CONSORTIUM may release the identified requested information on the date specified without penalty or liability. The CONSORTIUM reserves the right to also seek reimbursement for all costs and expenses incurred by it for its refusal to produce CONTRACTOR's Confidential Information.

15.8 Subpoena.

In the event that a subpoena or other legal process in any way concerning the CONSORTIUM's Confidential Information, or any third-party Confidential Information is served upon CONTRACTOR, then CONTRACTOR agrees to notify the CONSORTIUM within twenty-four (24) hours following receipt of such subpoena or other legal process and to cooperate with the CONSORTIUM or any of its County members in any lawful effort 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 the CONSORTIUM or any of its member Counties, then the CONSORTIUM or any of its member Counties, as applicable, agree to notify CONTRACTOR within twenty-four (24) hours following receipt of such subpoena or other legal process and to cooperate with CONTRACTOR in any lawful effort to contest the legal validity of such subpoena or other legal process.

15.9 Survival.

The provisions of this Section 15 shall remain in effect following the termination or expiration of this Agreement.

16. TERMINATION.

16.1 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.

16.2 Termination for Rejection of Portal/Mobile App Deliverables.

If CONTRACTOR delivers a Portal/Mobile App Deliverable containing Deficiencies or fails to timely deliver a Portal/Mobile App Deliverable, and subsequently fails to cure the Deficiency as required by Section 5.3 and/or Section 11.4, the CONSORTIUM shall have the right to immediately terminate this Agreement, without penalty or liability to it, with such a termination being deemed a termination due to CONTRACTOR's default. If the CONSORTIUM terminates this Agreement under this Section, CONTRACTOR shall, within twenty (20) days thereafter, to refund to the CONSORTIUM all payments made to CONTRACTOR for the rejected Portal/Mobile App Deliverable and related Portal/Mobile App Services rendered in connection with it. CONTRACTOR shall be liable for all inbound and outbound preparation and shipping costs for any Portal/Mobile App Deliverable returned pursuant to this provision.

16.3 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.

16.4 Termination Remedies.

In the event of termination of this Agreement by the CONSORTIUM under Sections 16.1 or 16.2, in addition to its other remedies, the CONSORTIUM shall have the right to procure Portal/Mobile App Deliverables and/or Portal/Mobile App Services that are the subject of this Agreement on the open market and CONTRACTOR shall be liable for damages, including but not limited to, (a) the cost difference between the original Agreement price for the Portal/Mobile App Deliverables and/or Portal/Mobile App Services and the replacement costs of such Portal/Mobile App Deliverables and/or Portal/Mobile App 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 will owe the CONSORTIUM for CONTRACTOR's default.

16.5 Termination for Convenience.

16.5.1 In addition to its other rights to terminate as stated in this Section 16, 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 16.6 (Termination for Withdrawal of Authority) or Section 16.7 (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 Portal/Mobile App Deliverables and Portal/Mobile App Services rendered prior to the effective date of termination.

16.5.2 In case of such termination for convenience, the CONSORTIUM shall pay to CONTRACTOR the agreed upon amounts, if separately stated, for Portal/Mobile App Deliverables for which Acceptance has been given by the CONSORTIUM, amounts for Portal/Mobile App Services performed on Portal/Mobile App Deliverables which are in development but which have not received Acceptance, and amounts for Portal/Mobile App 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 Portal/Mobile App Deliverables. The amounts for such Portal/Mobile App Services shall not exceed their reasonable value, but such amounts shall not exceed the amount for the Portal/Mobile App Deliverables with which they are associated or, if not associated with a Portal/Mobile App Deliverable, the price for the Portal/Mobile App 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.

16.6 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 16.5 (Termination for Convenience).

16.7 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 Portal/Mobile App Deliverables and/or Portal/Mobile App 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.

16.8 Termination for Conflict of Interest.

16.8.1 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.

16.8.2 In the event this Agreement is terminated pursuant to Section 16.8.1 due to CONTRACTOR's conduct, the CONSORTIUM shall be entitled to pursue the same remedies against CONTRACTOR as it could pursue in the event of a breach of this Agreement by under Section 16.1.

16.9 Termination Procedures.

16.9.1 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 Portal/Mobile App Deliverables, produced or acquired for the performance of such part of this Agreement up to the date of termination.

16.9.2 Upon termination of this Agreement (other than a termination for convenience), the CONSORTIUM may withhold from any amounts due CONTRACTOR for Portal/Mobile App Deliverables or Portal/Mobile App Services such sum as the CONSORTIUM's Executive Director determines to be necessary to protect the CONSORTIUM from potential loss or liability.

16.9.3 After receipt of a Notice of termination, and except as otherwise directed by the CONSORTIUM, CONTRACTOR shall:

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

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

16.9.3.3 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;

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

16.9.3.5 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

16.9.3.6 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.

16.9.4 CONTRACTOR shall pay within thirty (30) days of Notice the damages due the CONSORTIUM as the result of termination.

16.9.5 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.

16.9.6 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.

16.9.7 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.

17. INSURANCE.

17.1 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 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, both individually and collectively, as additional named insureds on these policies. Such insurance shall apply as primary insurance for these additional named insureds. If CONTRACTOR fails to buy and maintain the insurance coverage described in this Section 17, the CONSORTIUM may terminate this Agreement under Section 16.1 (Termination for Material Breach). The minimum acceptable limits shall be as indicated below with no deductible except as indicated below:

17.1.1 Comprehensive 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;

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

17.1.3 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;

17.1.4 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;

17.1.5 Professional Liability or Errors and Omissions with a deductible not to exceed \$100,000 and coverage of not less than \$2 million per occurrence/\$5 million general aggregate; and

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

17.2 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 in the minimum amount of \$1 million per occurrence. 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, 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 16.1 (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.

17.3 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.

17.4 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 17. CONTRACTOR's insurance policies shall not be reduced in scope without the CONSORTIUM's prior written consent.

17.5 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 17. Failure to provide these documents shall be grounds for immediate termination or suspension of this Agreement under Section 16.1 (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.

17.6 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.

17.7 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, and shall include a severability of interests (cross-liability) provision.

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 Project Director and CONSORTIUM Executive Director, who may initially designate deputies to attempt to resolve the issue. If the dispute is submitted to the 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 at equity.

19. GENERAL TERMS AND CONDITIONS.

19.1 Americans With Disabilities Act.

This Act (28 CFR Part 35, Title II, Subtitle A) 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 and may delegate their duties 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 16.1 (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. § 12101, et seq.; the Americans with Disabilities Act (ADA); 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 agreement 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.

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 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 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 is, without any fault on its part, made a party to any litigation commenced by or against CONTRACTOR in connection with this Agreement, CONTRACTOR shall pay all costs and expenses incurred by or imposed on the CONSORTIUM, 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:

XXXXXXXXXXXXXXXXXX

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 of any immunities from suit or from liability that the CONSORTIUM member Counties 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.

California Automated Consortium
Eligibility System (CONSORTIUM)

CONTRACTOR

By:
Printed Name: John Boule
Title: Executive Director
Date:
Notice Address:
CalSAWS Joint Powers Authority
Attention: Executive Director

By:
Printed Name:
Title:
Date:
Notice Address:
Attention:

SAMPLE