EXHIBIT B - Draft Contract

Contract Number PSC*XXXXX*

for

INH EDE Data Integration

for

Information Networking Hub Expedited Data Exchange Project

between the

Washington State

Administrative Office of the Courts

and

[Vendor]

Effective Date: _____

[Add Effective Date]

Table of Contents

1. Definition of Terms 1

Contract Term

2. Term 4
3. Survivorship 4

Pricing, Invoice And Payment

4. Pricing 4
5. Advance Payment Prohibited 5
6. Taxes 5
7. Invoice and Payment 5
8. Overpayments to Vendor 6

Vendor's Responsibilities

9. Professional Services and Statement of Work 6
10. Commencement of Work 7
11. Ownership/Rights in Data 7
12. Site Security 8
13. Standard of Performance and Acceptance 8
14. Vendor Commitments, Warranties and Representations 8
15. Background Investigation 8
16. Hardware and Software 8
17. Protection of Purchaser's Confidential Information 9

Contract Administration

18. Legal Notices 10
19. Purchaser Project Manager 10
20. Purchaser Contract Administrator 11
21. Purchaser Contract Manager 11
22. Vendor Account Manager 11
23. Section Headings, Incorporated Documents and Order of Precedence 11
24. Entire Agreement 12
25. Authority for Modifications and Amendments 12
26. Independent Status of Vendor 12
27. Governing Law 13
28. Subcontractors 13
29. Assignment 13
30. Publicity 13
31. Review of Vendor's Records 14
32. Right of Inspection 14

General Provisions

33. Patent and Copyright Indemnification 14
34. Save Harmless 15
35. Insurance 16
36. Industrial Insurance Coverage 17
37. Licensing Standards 17
38. Antitrust Violations 17
39. Compliance with Civil Rights Laws 18
40. Severability 18
41. Waiver 18
42. Treatment of Assets 18
43. Vendor's Proprietary Information 19

Disputes and Remedies

44. Disputes 19
45. Attorneys' Fees and Costs 20
46. Non-Exclusive Remedies 20
47. Failure to Perform 20
48. Limitation of Liability 20

Contract Termination

49. Termination for Default 21
50. Termination for Convenience 21
51. Termination for Withdrawal of Authority 22
52. Termination for Non-Allocation of Fund 22
53. Termination for Conflict of Interest 22
54. Termination Procedure 22
55. Covenant Against Contingent Fees 23

Contract Execution

56. Authority to Bind 23
57. Counterparts 23

Exhibits

Exhibit A *– AOC's ACQ-2016-0301-RFP*
Exhibit B *– Vendor's Response to ACQ-2016-0301-RFP*

Appendices

Appendix A *– Payment Schedule*
Appendix B *– Statement of Work*

Attachments

Attachment A *– Vendor Confidentiality Agreement(s)*

CONTRACT NUMBER PSC*XXXXX*
for

INH EDE Data Integration

PARTIES

This Contract ("Contract") is entered into by and between the state of Washington, acting by and through Administrative Office of the Courts, an entity of Washington State government ("Purchaser" or "Purchaser") located at 1206 Quince Street, SE, Olympia, WA 98504-1170, and *[Vendor]*, a *[corporation/sole proprietor or other business form]* licensed to conduct business in the state of Washington ("Vendor"), located at *[Vendor address]* for the purpose of providing INH EDE Data Integration for the Information Service Division's Information Networking Hub (INH) Expedited Data Exchange (EDE) project.

RECITALS

The state of Washington, acting by and through Purchaser, issued a Request for Qualifications and Quotation (RFP) dated *[date]*, (Exhibit A) for the purpose of purchasing INH EDE Data Integration in accordance with its authority under chapters 2.68.010 and 39.29 RCW and by Court Rules.

[Vendor] submitted a timely Response to Purchaser's RFP (Exhibit B).

The Purchaser evaluated all properly submitted Responses to the above-referenced RFP and has identified *[Vendor]* as the apparently successful Vendor.

The Purchaser has determined that entering into a Contract with *[Vendor]* will meet Purchaser's needs and will be in Purchaser's best interest.

NOW THEREFORE, Purchaser awards to *[Vendor]* this Personal Services Contract, the terms and conditions of which shall govern Vendor's furnishing INH EDE Data Integration to Purchaser. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

1. Definition of Terms

The following terms as used throughout this Contract shall have the meanings set forth below.

Administrative Office of the Courts or **AOC** shall mean the same as Purchaser.

Appendix A: *Payment Schedule* shall mean the attachment to this Contract that identifies the authorized Prices for the authorized Services available under this Contract.

Appendix B: *Statement of Work* shall mean the attachment to this Contract that provides a separate statement of the work to be accomplished by Vendor under the terms and conditions of this Contract. Any changes or modifications to the original SOW under this contract will require authorization through mutual written approval of both parties. **Appendix B** shall also incorporate key performance indicators and other critical elements from **Exhibit B** regarding tasks, deliverables, milestones, and/or phases required for the Vendor to obtain acceptance of required Services.

Attachment A: ***Vendor Confidentiality Form*** shall mean the form required to be signed by all employees and consultants of Vendor including subcontractor employees confirming safeguarding any and all confidential information accessed, read, or handled in providing Services under this Contract.

Business Days and Hours shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

Confidential Information shall mean information that may be exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, criminal records or court case file.

Contract shall mean this document, all schedules and exhibits, Statements of Work, and all amendments hereto.

Effective Date shall mean the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

Exhibit A shall mean the RFP.

Exhibit B shall mean *[Vendor]*'s Response.

Services shall mean professional or technical expertise provided by Vendor to accomplish a specific study, project, task or duties as set forth in this Contract or a Statement of Work. Services shall include those services specified as Services in RCW 39.29.006.

Price shall mean charges, costs, rates, and/or fees charged for the Services under this Contract and shall be paid in United States dollars.

Product(s) shall mean any Vendor-supplied equipment, Software, and documentation.

Proprietary Information shall mean information owned by Vendor to which Vendor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

Price shall mean charges, costs, rates, and/or fees charged for the Services under this Contract and shall be paid in United States dollars.

Product(s) shall mean any Vendor-supplied equipment, Software, and documentation.

Proprietary Information shall mean information owned by Vendor to which Vendor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

Purchaser shall mean the state of Washington, the Administrative Office of the Courts, any division, section, office, unit or other entity of Purchaser or any of the officers or other officials lawfully representing Purchaser.

Purchaser Project Manager shall mean the person designated by Purchaser who is assigned as the primary contact person whom Vendor's Account Manager shall work

with for the duration of this Contract and as further defined in the section titled **Purchaser Project Manager.**

Purchaser Contract Administrator shall mean that person designated by Purchaser to administer this Contract on behalf of Purchaser.

Purchaser Contract Manager shall mean that person designated by Purchaser to amend or terminate this Contract on behalf of Purchaser.

Purchaser Contracting Officer shall mean Chief Information Officer for the Information Services Division, or the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Contract, an authorized representative of the Purchaser Contracting Officer acting within the limits of his/her authority.

RCW shall mean the Revised Code of Washington.

Response shall mean Vendor's Response to Purchaser's RFP for INH EDE Data Integration, Exhibit B hereto.

Software shall mean the object code version of computer programs licensed pursuant to this Contract. Software also means the source code version, where provided by Vendor. Embedded code, firmware, internal code, microcode, and any other term referring to software residing in the equipment that is necessary for the proper operation of the equipment is not included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections.

Specifications shall mean the technical and other specifications set forth in the RFP, Exhibit A, and any additional specifications set forth in Vendor's Response, Exhibit B.

Subcontractor shall mean one not in the employment of Vendor, who is performing all or part of the business activities under this Contract under a separate contract with Vendor. The term "Subcontractor" means Subcontractor(s) of any tier.

Vendor shall mean *[Vendor]*, its employees and agents. Vendor also includes any firm, provider, organization, individual, or other entity performing the business activities under this Contract. It shall also include any Subcontractor retained by Vendor as permitted under the terms of this Contract.

Vendor Account Manager shall mean a representative of Vendor who is assigned as the primary contact person whom the Purchaser Project Manager shall work with for the duration of this Contract and as further defined in the section titled **Vendor Account Manager**.

Vendor Contracting Officer shall mean *[title of Vendor officer with signature authority]*, or the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Contract, an authorized representative of Vendor Contracting Officer acting within the limits of his/her authority.

Work Product shall mean data and products produced under this Contract including but not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, software, databases, documents, pamphlets, advertisements,

books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law.

Contract Term

2. Term

2.1. Term of Contract

a) This Contract's initial term shall be for one (1) year, commencing upon the Effective Date.

b) This Contract's initial contract term shall expire on *[Month Date, Year]* and may be extended by four (4) additional one (1) year terms, provided that the extensions shall be at Purchaser's option and shall be effected by Purchaser giving written notice of its intent to extend this Contract to Vendor not less than thirty (30) calendar days prior to the then-current Contract term's expiration and Vendor accepting such extension prior to the then-current Contract term's expiration. The total term of this Contract shall not exceed five (5) years. No change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing.

2.2. Term of Statement of Work (SOW). The term of any SOW executed pursuant to this Contract shall be set forth in the SOW. The term of the SOW shall not exceed the term of this Contract. The SOW may be terminated in accordance with the termination sections of this Contract or as mutually agreed between the parties.

3. Survivorship

All license and purchase transactions executed and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled **Overpayments to Vendor; Ownership/Rights in Data; Vendor's Commitments, Warranties and Representations; Protection of Purchaser's Confidential Information; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Review of Vendor's Records; Patent and Copyright Indemnification; Vendor's Proprietary Information; Disputes;** and **Limitation of Liability** shall survive the termination of this Contract.

Pricing, Invoice and Payment

4. Pricing

4.1. The total amount expended under this Contract shall not exceed *[_____]* dollars *($___) [Specify maximum dollar amount]*.

4.2. Vendor agrees to provide the Services at the Prices set forth in **Appendix A**. No other Prices shall be charged by Vendor for implementation of Vendor's Response.

4.3. Prices may not be increased during any term of the Contract.

4.4. If Vendor reduces its Prices for any of the Services during the term of this Contract, Purchaser shall have the immediate benefit of such lower Prices for new purchases. Vendor shall send notice to the Purchaser Contract Administrator with the reduced Prices within fifteen (15) Business Days of the reduction taking effect.

5. Advance Payment Prohibited

Per Washington State Constitution, Article VIII, Section 5, no advance payment shall be made for Services furnished by Vendor pursuant to this Contract.

6. Taxes

6.1. Purchaser will pay sales and use taxes, if any, imposed on the Services acquired hereunder. Vendor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Vendor's income or gross receipts, or personal property taxes levied or assessed on Vendor's personal property. Purchaser, as an agency of Washington State government, is exempt from property tax.

6.2. Vendor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

6.3. All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Vendor or Vendor's staff shall be Vendor's sole responsibility.

7. Invoice and Payment

7.1. Vendor will submit properly prepared itemized invoices to Purchaser Contract Administrator via email per Section 20 for initial audit for review and accuracy. Once approval has been granted by Purchaser Contract Adminsitrator, then Vendor will be forward approved invoices via email to MSDFinancialServices@courts.wa.gov. Invoices shall be submitted to Purchaser by Vendor no more frequently than once a month.

7.2. Invoices shall provide and itemize, as applicable:

a) Purchaser Contract number PSC*XXXXX*;
b) Purchaser Project Title;
c) Vendor name, address, phone number, and Federal Tax Identification Number;
d) Description of Services provided;
e) Date(s) that Services were provided;
f) Vendor's Price for Services;
g) Net invoice Price for each Service;
h) All applicable credits (i.e., holdback, etc.);
i) Applicable taxes;
j) Other applicable charges;
k) Total invoice Price; and
l) Payment terms including any available prompt payment discounts.

7.3. Payments shall be due and payable within thirty (30) calendar days after provision and acceptance of Services or thirty (30) calendar days after receipt of properly prepared invoices, whichever is later.

7.4. Prior to submittal of any invoice related to PSC*XXXXX*. Vendor shall complete registration with the Washington State Department of Enterprise Services (DES) as a Statewide Vendor. Through registration as a Statewide Vendor with DES, Vendor shall have the option to receive all payments from state agencies as electronic fund transfers., which is the preferred method of payment by the State of Washington.

7.5. Incorrect or incomplete invoices will be returned by Purchaser to Vendor for correction and reissue.

7.6. Purchaser Contract number PSC*XXXXX* and Purchaser Project Title must appear on all bills of lading, packages, and correspondence relating to this Contract.

7.7. Purchaser shall not honor drafts, nor accept goods on a sight draft basis.

7.8. If Purchaser fails to make timely payment, Vendor may invoice Purchaser one percent (1%) per month on the amount overdue or a minimum of one dollar ($1). Payment will not be considered late if payment is deposited electronically in Vendor's bank account or if a check or warrant is postmarked within thirty (30) calendar days of acceptance of the Services or receipt of Vendor's properly prepared invoice, whichever is later.

8. Overpayments to Vendor

Vendor shall refund to Purchaser the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days' written notice. If Vendor fails to make timely refund, Purchaser may charge Vendor one percent (1%) per month on the amount due, until paid in full.

Vendor's Responsibilities

9. Professional Services and Statement of Work

9.1. All Services shall be performed pursuant to the terms of this Contract and shall be documented in an SOW established between Purchaser and Vendor.

9.2. The SOW shall at a minimum:

a) Reference this Contract Number PSC*XXXXX*;

b) Define project or task objectives;

c) Describe the scope of Services or work to be performed;

d) Identify deliverables and associated milestones and tasks;

e) Specify a timeline and period of performance;

f) Specify compensation and payment (i.e., the fixed price for a deliverable), total cost of the project, and, if applicable, reimbursable Vendor expenses;

g) Describe Vendor's roles and responsibilities and identify specific Vendor staff;

h) Describe Purchaser's roles and responsibilities;

9.3. The terms and conditions of any SOW cannot conflict with the terms and conditions of this Contract. In the event of any conflict, the Contract shall prevail.

10. Commencement of Work

No work shall be performed by Vendor until Contract Number PSC*XXXXX* is executed with mutual authorizing signatures from both Vendor and Purchaser.

11. Ownership/Rights in Data

11.1. Purchaser and Vendor agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and shall be owned by Purchaser. Vendor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

11.2. If for any reason the Work Product would not be considered a work made for hire under applicable law, Vendor assigns and transfers to Purchaser the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

11.3. Vendor shall execute all documents and perform such other proper acts as Purchaser may deem necessary to secure for Purchaser the rights pursuant to this section.

11.4. Vendor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Vendor ownership in any Work Product, without the prior written permission of Purchaser. Vendor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

11.5. Material that is delivered under this Contract, but that does not originate therefrom ("Preexisting Material"), shall be transferred to Purchaser with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such license shall be limited to the extent to which Vendor has a right to grant such a license. Vendor shall exert all reasonable effort to advise Purchaser at the time of delivery of Preexisting Material furnished under this Contract, of all known or potential infringements of publicity, privacy or of intellectual property contained therein and of any portion of such document which was not produced in the performance of this Contract. Vendor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. Purchaser shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Vendor with respect to any Preexisting Material delivered under this Contract. Purchaser shall have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Vendor.

12. Site Security

While on Purchaser's premises, Vendor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations, provided that Purchaser provides such rules, policies and regulations to Vendor in writing in advance. Purchaser staff must be present at all times when Vendor is onsite. Failure to comply with safety regulations may be grounds for revoking or suspending security access to these facilities. Purchaser reserves the right and authority to immediately revoke security access to Vendor staff for any real or threatened breach of this provision. Upon reassignment or termination of any Vendor staff, Vendor agrees to promptly notify Purchaser.

13. Standard of Performance and Acceptance

Acceptance criteria shall be established in **Appendix B** of this Contract which shall identify associated milestones and tasks required to be completed for each deliverable. At a minimum, Vendor shall provide each draft deliverable to Purchaser Project Manager for review and consideration no later than the due date of the deliverable. If Purchaser requires additional modifications to a draft deliverable, Purchaser Project Manager will notify Vendor of all required edits required to be completed before Purchaser will provide acceptance of the deliverable as final. All deliverables must be provided acceptance by Purchaser prior to issuance of invoice by Vendor for any deliverable.

14. Vendor Commitments, Warranties and Representations

Any written commitment by Vendor within the scope of this Contract shall be binding upon Vendor. Failure of Vendor to fulfill such a commitment may constitute breach and shall render Vendor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Vendor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Vendor in its Response or contained in any Vendor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to Purchaser.

15. Background Investigation

Vendor agrees that as a requirement of this contract Vendor, and any employee, assistant, agent or subcontractor of the Vendor completing work under this contract, shall be required to provide results of a recent criminal background investigation. Such an investigation may include, but not be limited to, fingerprinting and criminal history records checks. Vendor further agrees to cooperate fully with the AOC in completion of this requirement. Results of the investigation and/or failure of the Vendor to cooperate fully may be grounds for termination of this contract.

16. Hardware and Software

Vendor shall ensure that its representatives have the hardware and software necessary to complete the engagement as identified in the Scope of Work. AOC will not supply hardware or software to the Vendor unless specifically agreed to under a mutually signed amendment to this contract.

17. Protection of Purchaser's Confidential Information

17.1. Vendor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, court case files, criminal records, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, , or information identifiable to an individual that relates to any of these types of information. Vendor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Vendor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Vendor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

17.2. Any employee or consultant of the Vendor will be required to sign a confidentiality agreement safeguarding any and all confidential information accessed, read, or handled in providing the Services required under this Contract. Any subcontractor providing Services on behalf of the Vendor under this Conract shall comply with this mandatory requirement. See **Attachment A** for more information.

17.3. Immediately upon expiration or termination of this Contract, Vendor shall, at Purchaser's option: (i) certify to Purchaser that Vendor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Vendor to protect Purchaser's Confidential Information.

17.4. Vendor shall maintain a log documenting the following: the Confidential Information received in the performance of this Contract; the purpose(s) for which the Confidential Information was received; who received, maintained and used the Confidential Information; and the final disposition of the Confidential Information. Vendor's records shall be subject to inspection, review or audit in accordance with **Review of Vendor's Records**.

17.5. Purchaser reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Vendor through this Contract. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

17.6. Violation of this section by Vendor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

Contract Administration

18. Legal Notices

18.1. Any notice or demand or other communication required or permitted to be given under this Contract or applicable law shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, or by electronic mail, to the parties at the addresses or e-mail addresses provided in this section. For purposes of complying with any provision in this Contract or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form.

To Vendor at:	**To Purchaser at:**
[Vendor]	Washington State Administrative Office of the Courts
Attn: *[Vendor address]*	**Attn:** Jonathan Sutter 1112 Quince Street SE Olympia, WA 98504-1170
Phone: Fax: E-mail:	Phone: (360) 705-5265 Fax: (360) 956-5700 E-mail: jonathan.sutter@courts.wa.gov

18.2. Notices shall be effective upon receipt by Purchaser. The notice address as provided herein may be changed by written notice given as provided above.

18.3. In the event that a subpoena or other legal process commenced by a third party in any way concerning the Services provided pursuant to this Contract is served upon Vendor or Purchaser, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Vendor and Purchaser further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

19. Purchaser Project Manager

Purchaser shall appoint *[name]* who will be the Purchaser Project Manager for this Contract and will provide oversight of the activities conducted hereunder. Purchaser Project Manager will be the principal contact for Vendor concerning business activities under this Contract. Purchaser shall notify Vendor, in writing, when there is a new Purchaser Project Manager assigned to this Contract. Modification of this section will be incorporated into the Contract through the execution of a Contract Amendment.

Purchaser Project Manager: *Name, Title*
Address: *Street Address, City, State Zip Code+4*

Phone: *(XXX) XXX-XXXX* Fax: *(XXX) XXX-XXXX* E-mail: *XXX@courts.wa.gov*

20. Purchaser Contract Administrator

Purchaser shall appoint Jonathan Sutter, or her designee, as Contract Administrator for this Contract, and is designated to receive legal notices, and to administer this Contract. In coordination with the Purchaser Project Manager, all contract documents under PSC*XXXXX* requiring modification will be negotiated by Contract Administrator then forward to Purchaser Contract Manager, or his designee, for final approval. Contract Administrator will submit any finalized contract document to Vendor for acceptance and signature.

Purchaser Contract Administrator: Jonathan Sutter
Address: 1112 Quince Street SE, PO Box 41170, Olympia, WA 98504-1170
(360) 705-5265 Fax (360) 956-5700 E-mail: jonathan.sutter@courts.wa.gov

21. Purchaser Contract Manager

Purchaser shall appoint John Bell, or his designee, as Contract manager for this Contract, and is designated to amend, or terminate this Contract. All contract documents under PSC*XXXXX* will be processed by the Contract Manager, or his designee.

Purchaser Contract Manager: John Bell
Address: 1112 Quince Street SE, PO Box 41170, Olympia, WA 98504-1170
Phone: (360) 704-4029 Fax: (360) 956-5700 E-mail: john.bell@courts.wa.gov

22. Vendor Account Manager

Vendor shall appoint an Account Manager for Purchaser's account under this Contract who will provide oversight of Vendor activities conducted hereunder. Vendor's Account Manager will be the principal point of contact for Purchaser concerning Vendor's performance under this Contract. Vendor shall notify Purchaser Contract Administrator and Purchaser Project Manager, in writing, when there is a new Vendor Account Manager assigned to this Contract. The Vendor Account Manager information is:

Vendor Account Manager *Name, Title*
Address: *Street Address, City, State Zip Code+4*
Phone: *(XXX) XXX-XXXX* Fax: *(XXX) XXX-XXXX* E-mail: *XXXX@XXXX*

23. Section Headings, Incorporated Documents and Order of Precedence

23.1. Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.

a) Appendices A, and B *[if applicable]*;
b) Attachment A *[include other attachments, if appropriate]*
c) Administrative Office of the Courts' RFP dated *[date]*;
d) Vendor's Response to AOC's RFP dated *[date]*;
e) Any SOW entered into pursuant to this Contract;

f) The terms and conditions contained on Purchaser's purchase documents, if used; and

g) All Vendor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Vendor made available to Purchaser and used to effect the sale of Services to Purchaser.

23.2. In the event of any inconsistency in this Contract, the inconsistency shall be resolved in the following order of precedence:

a) Applicable federal and state statutes, laws, and regulations;

b) Sections of this Contract;

c) Appendices A; *[include other Schedules, if appropriate]*

d) Administrative Office of the Courts' RFP dated *[date]*;

e) Vendor's Response to AOC's RFP dated *[date]*;

f) Any SOW entered into pursuant to this Contract;

g) The terms and conditions contained on Purchaser's order documents, if used; and

h) All Vendor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Vendor made available to Purchaser and used to effect the sale of Services to Purchaser.

24. Entire Agreement

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section titled **Vendor Commitments, Warranties and Representations**, understandings, agreements, representations, or warranties not contained in this Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, Price, quality, or Specifications of this Contract will be effective without the written consent of both parties.

25. Authority for Modifications and Amendments

No modification, amendment, alteration, addition, or waiver of any section or condition of this Contract or any SOW under this Contract shall be effective or binding unless it is in writing and signed by Purchaser and Vendor Contracting Officers. Only Purchaser Contracting Officer shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Contract or SOW on behalf of Purchaser.

26. Independent Status of Vendor

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Vendor shall not make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW or Title 51 RCW.

27. Governing Law

This Contract shall be governed in all respects by the law and statutes of the state of Washington, without reference to conflict of law principles. However, if the Uniform Computer Information Transactions Act (UCITA) or any substantially similar law is enacted as part of the law of the state of Washington, said statute will not govern any aspect of this Contract or any license granted hereunder, and instead the law as it existed prior to such enactment will govern. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

28. Subcontractors

Vendor may, with prior written permission from Purchaser Contracting Officer, which consent shall not be unreasonably withheld, enter into subcontracts with third parties for its performance of any part of Vendor's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of Vendor to Purchaser for any breach in the performance of Vendor's duties. For purposes of this Contract, Vendor agrees that all Subcontractors shall be held to be agents of Vendor. Vendor shall be liable for any loss or damage to Purchaser, including but not limited to personal injury, physical loss, harassment of Purchaser employee, or violations of the **Patent and Copyright Indemnification, Protection of Purchaser's Confidential Information**, and **Ownership/Rights in Data** sections of this Contract occasioned by the acts or omissions of Vendor's Subcontractors, their agents or employees. The **Patent and Copyright Indemnification**, **Protection of Purchaser's Confidential Information**, **Ownership/Rights in Data, Publicity** and **Review of Vendor's Records** sections of this Contract shall apply to all Subcontractors.

29. Assignment

29.1. With the prior written consent of Purchaser Contracting Officer, which consent shall be at Purchaser's sole option, Vendor may assign this Contract including the proceeds hereof, provided that such assignment shall not operate to relieve Vendor of any of its duties and obligations hereunder, nor shall such assignment affect any remedies available to Purchaser that may arise from any breach of the sections of this Contract, Statements of Work, or warranties made herein including but not limited to, rights of setoff.

29.2. Purchaser may assign this Contract or Statements of Work to any public agency, commission, board, or the like, within the political boundaries of the state of Washington, provided that such assignment shall not operate to relieve Purchaser of any of its duties and obligations hereunder.

30. Publicity

30.1. The award of this Contract to Vendor is not in any way an endorsement of Vendor or Vendor's Services by Purchaser and shall not be so construed by Vendor in any advertising or other publicity materials.

30.2. Vendor agrees to submit to Purchaser, all advertising, sales promotion, and other publicity materials relating to this Contract and Services furnished by Vendor wherein Purchaser's name is mentioned, language is used, or Internet links are provided from which the connection of Purchaser's name therewith may, in

Purchaser's judgment, be inferred or implied. Vendor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of Purchaser *prior* to such use.

31. Review of Vendor's Records

31.1. Vendor and its Subcontractors shall maintain books, records, documents and other evidence relating to this Contract, including but not limited to Minority and Women's Business Enterprise participation, protection and use of Purchaser's Confidential Information, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Contract. Vendor shall retain all such records for six (6) years after the expiration or termination of this Contract. Records involving matters in litigation related to this Contract shall be kept for either one (1) year following the termination of litigation, including all appeals, or six (6) years from the date of expiration or termination of this Contract, whichever is later.

31.2. All such records shall be subject at reasonable times and upon prior notice to examination, inspection, copying, or audit by personnel so authorized by the Purchaser's Contract Administrator and/or the Office of the State Auditor and federal officials so authorized by law, rule, regulation or contract, when applicable, at no additional cost to the State. During this Contract's term, Vendor shall provide access to these items within Thurston County. Vendor shall be responsible for any audit exceptions or disallowed costs incurred by Vendor or any of its Subcontractors.

31.3. Vendor shall incorporate in its subcontracts this section's records retention and review requirements.

31.4. It is agreed that books, records, documents, and other evidence of accounting procedures and practices related to Vendor's cost structure, including overhead, general and administrative expenses, and profit factors shall be excluded from Purchaser's review unless the cost or any other material issue under this Contract is calculated or derived from these factors.

32. Right of Inspection

Vendor shall provide right of access to its facilities to Purchaser, or any of Purchaser's officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

General Provisions

33. Patent and Copyright Indemnification

33.1. Vendor, at its expense, shall defend, indemnify, and save Purchaser harmless from and against any claims against Purchaser that any Product or Work Product supplied hereunder, or Purchaser's use of the Product or Work Product within the terms of this Contract, infringes any patent, copyright, utility model, industrial design, mask work, trade secret, trademark, or other similar proprietary right of a

third party worldwide. Vendor shall pay all costs of such defense and settlement and any penalties, costs, damages and attorneys' fees awarded by a court or incurred by Purchaser provided that Purchaser:

a) Promptly notifies Vendor in writing of the claim, but Purchaser's failure to provide timely notice shall only relieve Vendor from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Vendor; and

b) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Vendor sole control of the defense and all related settlement negotiations.

33.2. If such claim has occurred, or in Vendor's opinion is likely to occur, Purchaser agrees to permit Vendor, at its option and expense, either to procure for Purchaser the right to continue using the Product or Work Product or to replace or modify the same so that they become noninfringing and functionally equivalent. If use of the Product or Work Product is enjoined by a court and Vendor determines that none of these alternatives is reasonably available, Vendor, at its risk and expense, will take back the Product or Work Product and provide Purchaser a refund. In the case of Work Product, Vendor shall refund to Purchaser the entire amount Purchaser paid to Vendor for Vendor's provision of the Work Product. In the case of Product, Vendor shall refund to Purchaser its depreciated value. No termination charges will be payable on such returned Product, and Purchaser will pay only those charges that were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of four (4) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated on the basis of three hundred sixty-five (365) days per year. In the event the Product has been installed less than one (1) year, all costs associated with the initial installation paid by Purchaser shall be refunded by Vendor.

33.3. Vendor has no liability for any claim of infringement arising solely from:

a) Vendor's compliance with any designs, specifications or instructions of Purchaser;

b) Modification of the Product or Work Product by Purchaser or a third party without the prior knowledge and approval of Vendor; or

c) Use of the Product or Work Product in a way not specified by Vendor;

unless the claim arose against Vendor's Product or Work Product independently of any of these specified actions.

34. Save Harmless

Vendor shall defend, indemnify, and save Purchaser harmless from and against any claims, including reasonable attorneys' fees resulting from such claims, by third parties for any or all injuries to persons or damage to property of such third parties arising from intentional, willful or negligent acts or omissions of Vendor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents. Vendor's obligation to defend, indemnify, and save Purchaser harmless shall not be eliminated or reduced by any alleged concurrent Purchaser negligence.

35. Insurance

35.1. Vendor shall, during the term of this Contract, maintain in full force and effect, the insurance described in this section. Vendor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the state of Washington and having a rating of A-, Class VII or better, in the most recently published edition of *Best's Reports*. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Contract, Vendor shall provide written notice of such to Purchaser within one (1) Business Day of Vendor's receipt of such notice. Failure to buy and maintain the required insurance may, at Purchaser's sole option, result in this Contract's termination.

35.2. The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

a) Commercial General Liability 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;

b) Business Automobile Liability (owned, hired, or non-owned) 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;

c) Employers Liability insurance covering the risks of Vendor's 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;

d) Umbrella policy providing excess limits over the primary policies in an amount not less than $3 million;

e) Professional Liability Errors and Omissions, with a deductible not to exceed $25,000, conditioned upon subsection 35.3 below, and coverage of not less than $1 million per occurrence/$2 million general aggregate; and

f) Crime Coverage with a deductible not to exceed $1 million, and coverage of not less than $5 million single limit per occurrence and $10 million in the aggregate, which shall at a minimum cover occurrences falling in the following categories: Computer Fraud; Forgery; Money and Securities; and Employee Dishonesty.

35.3. For Professional Liability Errors and Omissions coverage and Crime Coverage, Vendor shall continue such coverage for six (6) years beyond the expiration or termination of this Contract, naming Purchaser as an additional insured and providing Purchaser with certificates of insurance on an annual basis and for six (6) years beyond the expiration or termination of this Contract to pay for any premiums to continue such claims-made policies, or available tails, whichever is appropriate, at Purchaser's sole option, in the event Vendor fails to do so.

35.4. Vendor shall pay premiums on all insurance policies. Such insurance policies shall name Purchaser as an additional insured on all general and automobile liability policies. Such policies shall also reference this Contract PSC*XXXXX* and shall meet the following conditions: (1) except for nonp ayment of premiums, the poicy shall not be cancelled by the insurrer until forty-five (45) calendar days after notice of intended revocation thereof shall have been given to Purchaser by the insurer; and (2) ff an

insurer cancels for nonpayment of premium, the policy shall not be cnaclled by the insurer until after ten (10) calendar days after notice of intended cancellation is given to Purchaser by the insurer .

35.5. All insurance provided by Vendor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.

35.6. Vendor 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 Vendor's liability or responsibility.

35.7. Vendor shall furnish to Purchaser copies of certificates of all required insurance within thirty (30) calendar days of this Contract's Effective Date, and copies of renewal certificates of all required insurance within thirty (30) calendar days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at Purchaser's sole option, result in this Contract's termination.

35.8. By requiring insurance herein, Purchaser does not represent that coverage and limits will be adequate to protect Vendor. Such coverage and limits shall not limit Vendor's liability under the indemnities and reimbursements granted to Purchaser in this Contract.

36. Industrial Insurance Coverage

Prior to performing work under this Contract, Vendor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Contract. Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Vendor, or any Subcontractor or employee of Vendor, which might arise under the industrial insurance laws during the performance of duties and services under this Contract.

37. Licensing Standards

Vendor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements and standards necessary in the performance of this Contract. (See, for example, chapter 19.02 RCW for state licensing requirements and definitions.)

38. Antitrust Violations

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

39. Compliance with Civil Rights Laws

During the performance of this Contract, Vendor 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 Title 49.60 RCW, Washington Law Against Discrimination. In the event of Vendor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under the **Termination for Default** sections, and Vendor may be declared ineligible for further contracts with Purchaser.

40. Severability

If any term or condition of this Contract or the application thereof 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 Contract are declared severable.

41. Waiver

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

42. Treatment of Assets

42.1. Title to all property furnished by Purchaser shall remain in Purchaser. Title to all property furnished by Vendor, for which Vendor is entitled to reimbursement, other than rental payments, under this Contract, shall pass to and vest in Purchaser pursuant to the **Ownership/Rights in Data** section. As used in this section **Treatment of Assets**, if the "property" is Vendor's proprietary, copyrighted, patented, or trademarked works, only the applicable license, not title, is passed to and vested in Purchaser.

42.2. Any Purchaser property furnished to Vendor shall, unless otherwise provided herein or approved by Purchaser, be used only for the performance of this Contract.

42.3. Vendor shall be responsible for any loss of or damage to property of Purchaser that results from Vendor's negligence or that results from Vendor's failure to maintain and administer that property in accordance with sound management practices.

42.4. Upon loss or destruction of, or damage to any Purchaser property, Vendor shall notify Purchaser thereof and shall take all reasonable steps to protect that property from further damage.

42.5. Vendor shall surrender to Purchaser all Purchaser property prior to completion, termination, or cancellation of this Contract.

42.6. All reference to Vendor under this section shall also include Vendor's employees, agents, or Subcontractors.

43. Vendor's Proprietary Information

Vendor acknowledges that Purchaser is subject to chapter 42.17 RCW and that this Contract shall be a public record as defined in chapter 42.17 RCW. Any specific information that is claimed by Vendor to be Proprietary Information must be clearly identified as such by Vendor. To the extent consistent with chapter 42.17 RCW, Purchaser shall maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Vendor's Proprietary Information, Purchaser will notify Vendor of the request and of the date that such records will be released to the requester unless Vendor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Vendor fails to obtain the court order enjoining disclosure, Purchaser will release the requested information on the date specified.

Disputes and Remedies

44. Disputes

44.1. In the event a bona fide dispute concerning a question of fact arises between Purchaser and Vendor and it cannot be resolved between the parties, either party may initiate the dispute resolution procedure provided herein.

44.2. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

a) If the dispute cannot be resolved after three (3) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three (3) Business Days.

b) The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

c) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

44.3. Both parties agree to be bound by the determination of the Dispute Resolution Panel.

44.4. Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

44.5. Purchaser and Vendor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

44.6. If the subject of the dispute is the amount due and payable by Purchaser for Services being provided by Vendor, Vendor shall continue providing Services pending resolution of the dispute provided Purchaser pays Vendor the amount

Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Vendor, in good faith, believes is due and payable.

45. Attorneys' Fees and Costs

45.1. If any litigation is brought to enforce any term, condition, or section of this Contract, or as a result of this Contract in any way, the prevailing party shall be awarded its reasonable attorneys' fees together with expenses and costs incurred with such litigation, including necessary fees, costs, and expenses for services rendered at both trial and appellate levels, as well as subsequent to judgment in obtaining execution thereof.

45.2. In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

46. Non-Exclusive Remedies

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

47. Failure to Perform

If Vendor fails to perform any substantial obligation under this Contract, Purchaser shall give Vendor written notice of such Failure to Perform. If after thirty (30) calendar days from the date of the written notice Vendor still has not performed, then Purchaser may withhold all monies due and payable to Vendor, without penalty to Purchaser, until such Failure to Perform is cured or otherwise resolved.

48. Limitation of Liability

48.1. The parties agree that neither Vendor nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled **Termination for Default** and **Review of Vendor's Records** are not consequential, incidental, indirect, or special damages as that term is used in this section.

48.2. Neither Vendor nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Vendor or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be

beyond the reasonable control and without fault or negligence of Vendor, Purchaser, or their respective Subcontractors.

48.3. If delays are caused by a Subcontractor without its fault or negligence, Vendor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Vendor to meet its required performance schedule.

48.4. Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

Contract Termination

49. Termination for Default

49.1. If either Purchaser or Vendor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party written notice of such failure or violation. The responsible party will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed in writing. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party to the other party. The option to terminate shall be at the sole discretion of the aggrieved party. Purchaser reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit Vendor from incurring additional obligations of funds during investigation of any alleged Vendor compliance breach and pending corrective action by Vendor or a decision by Purchaser to terminate the Contract.

49.2. In the event of termination of this Contract by Purchaser, Purchaser shall have the right to procure the Services that are the subject of this Contract on the open market and Vendor shall be liable for all damages, including, but not limited to: (i) the cost difference between the original Contract price for the Services and the replacement costs of such Services acquired from another Vendor; (ii) if applicable, all administrative costs directly related to the replacement of this Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, staff time costs; and, (iii) any other costs to Purchaser resulting from Vendor's breach. Purchaser shall have the right to deduct from any monies due to Vendor, or that thereafter become due, an amount for damages that Vendor will owe Purchaser for Vendor's default.

49.3. If the Failure to Perform is without the defaulting party's control, fault, or negligence, the termination shall be deemed to be a **Termination for Convenience**.

49.4. This section shall not apply to any failure(s) to perform that results from the willful or negligent acts or omissions of the aggrieved party.

50. Termination for Convenience

When, at the sole discretion of Purchaser, it is in the best interest of the State, Purchaser Contracting Officer may terminate this Contract, including all Statement(s) of Work, in whole or in part, by a fourteen (14) calendar days written notice to Vendor. If

this Contract is so terminated, Purchaser is liable only for payments required by the terms of this Contract or any SOW for Services received and accepted by Purchaser prior to the effective date of termination.

51. Termination for Withdrawal of Authority

In the event that Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, Purchaser may terminate this Contract by seven (7) calendar days written notice to Vendor. No penalty shall accrue to Purchaser in the event this section shall be exercised. This section shall not be construed to permit Purchaser to terminate this Contract in order to acquire similar Services from a third party.

52. Termination for Non-Allocation of Fund

If funds are not allocated to Purchaser to continue this Contract in any future period, Purchaser may terminate this Contract by seven (7) calendar days written notice to Vendor or work with Vendor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for Services including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. Purchaser agrees to notify Vendor in writing of such non-allocation at the earliest possible time. No penalty shall accrue to Purchaser in the event this section shall be exercised. This section shall not be construed to permit Purchaser to terminate this Contract in order to acquire similar Services from a third party.

53. Termination for Conflict of Interest

Purchaser may terminate this Contract by written notice to Vendor if Purchaser determines, after due notice and examination, that any party has violated chapter 42.52 RCW, Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, Purchaser shall be entitled to pursue the same remedies against Vendor as it could pursue in the event Vendor breaches this Contract.

54. Termination Procedure

54.1. In addition to the procedures set forth below, if Purchaser terminates this Contract, Vendor shall follow any procedures Purchaser specifies in Purchaser's Notice of Termination.

54.2. Upon termination of this Contract, Purchaser, in addition to any other rights provided in this Contract, may require Vendor to deliver to Purchaser any property or Work Product specifically produced or acquired for the performance of such part of this Contract as has been terminated. The section titled **Treatment of Assets** shall apply in such property transfer.

54.3. Unless otherwise provided herein, Purchaser shall pay to Vendor the agreed-upon Price, if separately stated, for the Services received by Purchaser, provided that in no event shall Purchaser pay to Vendor an amount greater than Vendor would have been entitled to if this Contract had not been terminated. Failure to agree with such determination shall be a dispute within the meaning of the **Disputes** section of this Contract. Purchaser may withhold from any amounts

due Vendor such sum as Purchaser determines to be necessary to protect Purchaser from potential loss or liability.

54.4. Vendor shall pay amounts due Purchaser as the result of termination within thirty (30) calendar days of notice of the amounts due. If Vendor fails to make timely payment, Purchaser may charge interest on the amounts due at one percent (1%) per month until paid in full.

55. Covenant Against Contingent Fees

55.1. In the event Vendor breaches this section, Purchaser shall have the right to either annul this Contract without liability to Purchaser or, in Purchaser's discretion, deduct from payments due to Vendor, or otherwise recover from Vendor, the full amount of such commission, percentage, brokerage, or contingent fee.

Contract Execution

56. Authority to Bind

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

57. Counterparts

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

In Witness Whereof, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

[Add Effective Date below.]

This Contract is effective this _____ day of _____, 201__.

Approved Washington State Administrative of the Courts	**Approved** *[Vendor]*
Signature	Signature
Vonnie Diseth Print or Type Name	Print or Type Name
ISD Chief Information Officer Title Date	Title Date

Approved as to Form

Washington State
Administrative Office of the Courts

On file
Signature

John Bell
Print or Type Name

MSD Contracts Manager
Title Date