

**Florida State Court System
General Contract Conditions for Services**

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1. Definitions. The State Court System Purchasing Directives govern Procurement within the Judicial Branch. The following additional terms are also defined:

(a) “Contract” means the enforceable agreement that results from a successful solicitation or other procurement. The parties to the Contract will be the Court and Contractor.

(b) “Court” means a State Court System entity that will procure services directly from the Contractor under the Contract.

2. Invoicing and Payment. Invoices must contain the Contract number and the appropriate vendor identification number. The Court may require any other information from the Contractor that the Court deems necessary to verify any deliverable under the Contract. Payment will be made in accordance with section 215.422, Florida Statutes, which governs time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors may result in a delay in payment. Contractors may call (850) 488-3730 Monday through Friday to inquire about the status of payments by the Court. The Court is responsible for all payments under the Contract. The Court’s failure to pay, or any delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Court.

3. Lobbying and Integrity. The Contractor shall not, in the performance of duties required under this Contract use funds provided by this Contract to lobby the legislature or any state agency. The Contractor shall not, in connection with this or any other agreement with the Court, directly or indirectly, (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any Court officer or employee’s decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any Court officer or employee. For purposes of clause (2), “gratuity” means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits, of money, services, employment, or contracts of any kind. Upon request of the Court’s Inspector General, or other authorized Court official, the Contractor shall provide any type of information deemed relevant to the Contractor’s integrity or responsibility. Such information may include, but shall not be limited to, the Contractor’s business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for three years after the expiration of the Contract. The Contractor agrees to reimburse the Court for the reasonable cost of investigation incurred by the Inspector General or other authorized Court official for investigations of the Contractor’s compliance with the terms of this or any other agreement between the Contractor and the Court which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any cost of investigations that do not result in the Contractor’s suspension or debarment.

4. Indemnification. The Contractor shall be fully liable for all actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the Court and its officers, agents, and employees, from suits, actions, damages, and cost of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors; provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Court. Further, the Contractor shall fully indemnify, defend, and hold harmless the Court from any suits, actions, damages, and costs of every name and description, including attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided that the Court shall give the Contractor (1) written notice of any such action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the Court in an infringement action without the Contractor's prior written consent, which shall not be unreasonably withheld. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense become non-fringing. If the Contractor is not reasonably able to modify or otherwise secure the Court the right to continue using the product, the Contractor shall remove the product and refund the Court the amounts paid in excess of a reasonable rental for past use. The Court shall not be liable for any royalties. Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, or consequential damages, including lost data or records (unless the purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The Court may, in addition to other remedies available to it at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The Court may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any Contract with the State. The first ten dollars paid on the awarded contract for an integrated digital court reporting system shall constitute the specific consideration for the Contractor's indemnification of the Court.

5. Limitation of Liability. For all claims against the Contractor regardless of the basis on which the claim is made, the Contractor's liability for direct damages shall be limited to the greater of \$100,000, the dollar amount of the Contract, or two times the charges rendered by the Contractor. This limitation shall not apply to claims arising under the Indemnification paragraph contained in this agreement.

Unless otherwise specifically enumerated in the Contract, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the purchase requires the Contractor to backup data or records), even if

the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or institutional operating savings. The Court may, in addition to other remedies available to it at law or equity and upon notice to the Contractor, retain such monies from the amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, cost and the like asserted by or against it. The Court may set off any liability or other obligation of the Contractor or its affiliates to the Court against any payments due the Contractor under any contract with the State.

6. Suspension of Work. The Court may in its sole discretion suspend any or all activities under the Contract, at any time, when in the best interests of the SCS to do. The Court shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Court shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract. Suspension of work shall not entitle the Contractor to any additional compensation except for work performed.

7. Termination for Convenience. The Court, by written notice to the Contractor, may terminate the Contract in whole or in part when the Court determines in its sole discretion that it is in the Court's interest to do so. The Contractor shall not furnish any continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

8. Termination for Cause. The Court may terminate the Contract if the Contractor fails to (1) provide deliverables within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, or regulatory, or licensing requirement. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted deliverables were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Court. The rights and remedies of the Court in this clause are in addition to any other rights and remedies provided by the law or under the Contract.

9. Public Records Requirement. The Court may terminate a Contract if the Contractor refuses to allow public access to all documents, papers, letters or other material made or

received by the contractor in conjunction with the Contract, unless the records are exempt from 2.051 Rule of Judicial Administration.

10. Force Majeure, Notice of Delay, and No Damages for Delay. The Contractor shall not be responsible for the delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Court in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could not reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Court. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Court for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Court determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Courts, in which case the Court may (1) accept allocated performance or deliverables from the Contractor, provided that the Contractor grants preferential treatment to Courts with respect to deliverables subject to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the deliverables that are subject of the delay, which may be deducted from the Contract total, or (3) terminate the Contract in whole or in part.

11. Scope Changes. The Court may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Court may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld.

12. Renewal. Upon mutual agreement, the Court and the Contractor may renew the contract, in whole or part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both

parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

13. Advertising. The Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Court, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Court or otherwise linking the Contractor's name and either a description of the Contract or the Court in any material published, either in print or electronically, to any entity that is not a party to Contract.

14. Assignment. The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Court; provided, the Contractor assigns to the Court any and all claims it has with respect to the Contract under the antitrust laws of the United States and the Court. In the event of any assignment, the Contractor remains secondarily liable for performance of the Contract, unless the Court expressly waives such secondary liability. The Court may assign the Contract with prior written notice to Contractor of its intent to do so.

15. Dispute Resolution. Any dispute concerning performance of the Contract shall be decided by Court Administration, or other designated Court employee, who shall reduce the decision to writing and serve a copy on the Contractor. The exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in the county of contract execution; in any such action, Florida law shall apply and the parties waive any right to jury trial.

16. Employees, Subcontractors, and Agents. All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Court. The Court may conduct, and the Contractor shall cooperate in, a security background check on any employee, subcontractor, or agent furnished by the Contractor. The Court may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualification, quality of work, change in security status, or non-compliance with a Court's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The Court may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

17. Security and Confidentiality. The Contractor shall comply fully with all security requirements and procedures of the Court in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers, or employees in the course of performing Contract work, including, but not limited to, security

procedures, business operations information, or commercial proprietary information in the possession of the Court. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the Court's confidential information, or material that is otherwise obtainable under State law as a public record. The Contractor shall take appropriate steps with its personnel, agents, and subcontractors to insure confidentiality. The warranties of this paragraph shall survive the Contract.

18. Contractor Employees, Subcontractors, and other Agents. The Contractor, its employees, subcontractors and agents are not employees or agents of the Court.

19. Insurance Requirements. During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide a certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

20. Warranty of Authority. Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

21. Warranty of Ability to Perform. The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133, Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Court in writing if its ability to perform is compromised in any manner during the term of the Contract.

22. Notices. All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the Court. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated recipient may notify the other, in writing, if someone else is designated to receive notice.

23. Modification of Terms. The Contract contains all the terms and conditions agreed upon by the parties. The Contract may only be modified or amended upon mutual written agreement of the Court and the Contractor. No alteration or modification of the Contract terms, including substitution of deliverables, shall be valid or binding against the Court.

24. Cooperative Purchasing. Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Court purchases are independent of the agreement between Court and Contractor, and the Court shall not be a party to any transaction between the Contractor and any other purchaser.

25. Waiver. The delay or failure by the Court to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Court's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

26. Annual Appropriations. The Court's performance and obligation to pay under this contract are contingent upon the availability of funds appropriated by the Legislature.

27. Execution in Counterparts. The contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

28. Severability. If the Court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

29. Travel. Travel expenses will be paid in accordance with s.112.061, Florida Statutes. The Court may establish rates lower than the maximum provided in s. 112.061.

30. Right to Audit. Records of expenses pertaining to all services shall be kept in accordance with generally accepted accounting principles and procedures. The Vendor shall keep all records relating to this contract in such a way as to permit their inspection pursuant to Florida Rules of Judicial Administration 2.051. The Court and the State of Florida reserve the right to audit such records.

31. Rule of Interpretation. All specific conditions will prevail over a general condition on the same subject.

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