



***AMENDED, RESTATED AND REVISED
LEADER REPLACEMENT SYSTEM
AGREEMENT***

***FOR A CALIFORNIA STATEWIDE
AUTOMATED WELFARE SYSTEM***

Base Agreement

**CalSAWS Consortium,
A California Joint Powers Authority**

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AMENDED, RESTATED AND REVISED AGREEMENT FOR A CALIFORNIA
STATEWIDE AUTOMATED WELFARE SYSTEM

THIS AMENDED, RESTATED AND REVISED AGREEMENT (hereafter “Agreement”) is made and entered into this ____ day of _____, 2019, by and between the CalSAWS Consortium (hereafter “CONSORTIUM”), and any successor entity, and Accenture LLP (hereafter “CONTRACTOR”) and amends and restates the Leader Replacement System Agreement previously executed between the County of Los Angeles (hereafter “LA COUNTY”), and CONTRACTOR on November 7, 2012 (hereafter “LRS AGREEMENT”), in order to provide the CONSORTIUM with the California Statewide Automated Welfare System (hereafter “CalSAWS”).

WHEREAS, CONTRACTOR is qualified by reason of experience, preparation, organization and staffing to provide to CONSORTIUM all of the goods and services contemplated by this Agreement; and

WHEREAS, CONTRACTOR is a subsidiary of Accenture plc and Accenture plc has agreed to guarantee the obligations of CONTRACTOR hereunder, pursuant to that certain Accenture plc Performance Guarantee (Exhibit D); and

WHEREAS, the CONSORTIUM has been established for the purpose of overseeing the consolidation of the three current automated welfare systems for this purpose and the implementation of CalSAWS in all fifty-eight (58) California counties; and

WHEREAS, the four (4) Counties of Merced, Riverside, San Bernardino, and Stanislaus contractually joined together in December 1998 to create the California Statewide Automated Welfare System Consortium IV Joint Powers Authority (“C-IV CONSORTIUM”) and executed a System Agreement with CONTRACTOR as of February 28, 2001 for the development, implementation, operation and maintenance of a system for the administration of certain public assistance programs for the C-IV CONSORTIUM; and

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

WHEREAS, the C-IV CONSORTIUM then executed an Amended and Restated Revised System Agreement with CONTACTOR as of June 29, 2007; and

WHEREAS, California Assembly Bill ABX1 16 (2011), as codified in Welfare and Institutions Code section 10823, requires that the 39 counties composing the C-IV CONSORTIUM migrate to a system jointly designed by the 39 counties and LA COUNTY and that the migration result in a consortium composed of the 40 counties; and

WHEREAS, LA COUNTY joined the CONSORTIUM in compliance with California Assembly Bill ABX1 16 (2011); and

WHEREAS, LA COUNTY executed the LRS AGREEMENT with CONTRACTOR as of November 7, 2012 for the development, implementation, operation and maintenance of the LEADER Replacement System ("LRS" as defined further below) following LA COUNTY'S Request for Proposals for a Los Angeles Eligibility, Automated Determination, Evaluation and Reporting Replacement System, of which CONTRACTOR submitted its proposal to LA COUNTY for such services; and

WHEREAS, California Assembly Bill ABX1 16 (2011), as codified in Welfare and Institutions Code section 10823, requires that the 39 counties composing the C-IV CONSORTIUM migrate to a system jointly designed by the 39 counties and LA COUNTY and that the migration result in a consortium composed of the 40 counties; and

WHEREAS, LA COUNTY joined the CONSORTIUM in compliance with California Assembly Bill ABX1 16 (2011); and

WHEREAS, LA COUNTY has assigned and/or transferred its rights and delegated its duties in and to the LRS Agreement to the CONSORTIUM as of September 1, 2017, and this Agreement incorporates all terms of the LRS Agreement with all prior Amendments (Amendment Nos. 1-12) and Change Notices (Change Notice Nos. 1&2) associated with the LRS Agreement, and further adds changes associated with the Consortium Migration (as further discussed below); and

WHEREAS, the system that shall be known as the CalSAWS System will be the combination of the CONSORTIUM's fully integrated software, hardware, data and networking on one platform, prime data centers, and, subject to further agreements, in one cloud-based data center; and

WHEREAS, the CalSAWS System will be used by the LRS under this Agreement and is ultimately intended to serve the 58 counties of the State of California; and

WHEREAS, the CONSORTIUM desires for CONTRACTOR to provide CONSORTIUM with Design, Development and Implementation Services (CalSAWS DD&I SERVICES) including migration services for CalSAWS as set forth in Exhibit U hereto; and

WHEREAS, the CONSORTIUM desires for CONTRACTOR to provide CONSORTIUM with cloud enablement services to re-platform the LRS application from its current "on premises" datacenter architecture to an Amazon Web Services ("AWS") cloud-hosted architecture (the "CalSAWS Cloud Enablement Project") as set forth in Exhibit W hereto; and

WHEREAS, the CONSORTIUM desires for CONTRACTOR to provide ongoing Maintenance and Operation Services following migration of the Counties to the CalSAWS System (CalSAWS M&O SERVICES) as set forth in Exhibit X hereto; and

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WHEREAS, this Agreement is authorized by California Government Code Sections 6509 and 6509, and Welfare and Institutions Code section 10823(a)(5); and

WHEREAS the Parties have agreed to amend and restate the LRS Agreement for the above purposes with CONSORTIUM.

NOW, THEREFORE, CONTRACTOR and CONSORTIUM agree as follows:

00. CALSAWS M&O EXTENSION:

The Parties anticipate C-IV Cutover will occur on September 30, 2021 and the term of Exhibit X (CalSAWS Maintenance and Operations Extension) will commence on October 1, 2021 and expire on October 31, 2023. In the event C-IV Cutover does not occur on September 30, 2021, CONTRACTOR agrees it will immediately assume its duties and responsibilities under Exhibit X (CalSAWS M&O Extension) on the business day following the actual date of the C-IV Cutover and CONSORTIUM agrees there will be an equitable adjustment to the Maximum Contract Sum for CalSAWS Maintenance and Operations to account for those additional days or weeks of Work. The term “Exhibit X Effective Date” shall be October 1, 2021 or the business day following the actual date of the C-IV Cutover, whichever triggers CONTRACTOR to commence Work under Exhibit X per the above.

Except what is listed in Paragraph 00.1 below, all other Paragraphs, Subparagraphs, Exhibits and Schedules of this Agreement are hereby superseded and replaced as of the Exhibit X Effective Date. Further, following the Exhibit X Effective Date, the only operative Deliverables will be those created in Exhibits U (Scope of Work for CalSAWS Design, Development and Implementation Project) through the remainder of the Initial Term and Extended Term, if any.

00.1 EXHIBIT X EFFECTIVE DATE SURVIVAL:

The following, Paragraphs, Subparagraphs, Exhibit and Schedules of this Agreement shall continue in full force and effect, to the extent applicable, after Exhibit X Effective Date:

1. 00 CalSAWS M&O Extension
2. 00.1 Exhibit X Effective Date Survival
3. Definitions: 1.4.1 Agreement; 1.4.2 Amendment; 1.4.11 CalSAWS; 1.4.35 Consortium; 1.4.36 Consortium Executive Director;

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11. 41 Authorization Warranty
12. 60 Assignment by Consortium
13. Exhibit X (CalSAWS Maintenance and Operations Extension)

1. APPLICABLE DOCUMENTS AND DEFINITIONS:

1.1 INTERPRETATION:

This document, without Exhibits, is referred to as the “Base Agreement”. The Base Agreement, together with Exhibits A, B, C, D, E, F, G, H, I, J, K, L, L-1, L-2, M, N, O, P, Q, T, U, V, W, X and Y attached hereto, and Exhibits R and S referenced below but not attached hereto, form this Agreement. In the event of any contradiction, conflict, or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any Task, Subtask, Deliverable, good or service, between the Base Agreement and the Exhibits, or between Exhibits, such contradiction, conflict, or inconsistency shall be resolved by giving precedence first to the Base Agreement, and then to the Exhibits according to the following priority:

1. Exhibit U – Scope of Work for CalSAWS Design, Development and Implementation Project
2. Exhibit W – Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations

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3. Exhibit V – Statement of Work for CalSAWS Cloud Enablement Project - Bridge
4. Exhibit Y – Services To Be Performed in GDN – Security, Access and Technology Requirements
5. Exhibit T – Scope of Work for CalACES Cloud Enablement Proof of Concept Project
6. Exhibit A – Statement of Work
7. Exhibit B – Statement of Requirements
8. Exhibit C – Schedule of Payments
9. Exhibit D – Accenture plc Performance Guarantee
10. Exhibit E – Pre-Existing Software Components
11. Exhibit F – Certain LRS Components as of the Effective Date
12. Exhibit G – Estimates, Quantities and Assumptions
13. Exhibit H – Work Acceptance Certificate
14. Exhibit I – Performance Bond
15. Exhibit J – CONTRACTOR Employee Acknowledgement, Confidentiality, and Copyright Assignment Agreement and Assignment and Transfer of Copyright
16. Exhibit K – CONTRACTOR and Subcontractor Staff Criminal Conviction Notice and Certification
17. Exhibit L – Required Subcontract Provisions
18. Exhibit M – Intentionally Omitted
19. Exhibit N – CONTRACTOR’s EEO Certification
20. Exhibit O – Jury Service Ordinance
21. Exhibit P – IRS Notice 1015
22. Exhibit Q – Safely Surrendered Baby Law

23. Exhibit R – LA COUNTY’s Request for Proposals for a LEADER Replacement System, dated November 30, 2007, including Addendum One, dated December 12, 2007, Addendum Two, dated February 25, 2008, Addendum Three, dated February 29, 2008, Addendum Four, dated March 5, 2008, Addendum Five, dated April 8, 2008, Addendum Six, dated May 1, 2008, Addendum Seven, dated June 30, 2008, Addendum Eight, dated August 15, 2008, and Addendum Nine, dated January 8, 2009
24. Exhibit S – CONTRACTOR’s Proposal for a LEADER Replacement System, dated May 15, 2008, including response to Addendum Seven, dated July 15, 2008, response to Addendum Eight, dated September 2, 2008, and response to Addendum Nine, dated February 9, 2009

In the event of a contradiction, conflict or inconsistency between prior specifications, requirements, and standards and a later CONSORTIUM-approved Deliverable, the contradiction, conflict, or inconsistency shall be resolved in favor of the latest CONSORTIUM-approved Deliverable, unless otherwise determined by CONSORTIUM.

From the Effective Date until September 1, 2017, LA COUNTY was a party to this Agreement. As of September 1, 2017, LA COUNTY assigned its rights and obligations under this Agreement to CONSORTIUM. As specifically noted in Paragraph 29 (Waiver), the award of this Agreement does not constitute a waiver by either party to this Agreement to enforce any right, obligation, term, defense, or provision that was in place from the Effective Date until September 1, 2017.

1.2 ENTIRE AGREEMENT:

The Base Agreement of this Agreement, together with the Recitals and the Exhibits, (collectively referred to herein as "Agreement"), shall constitute the complete and exclusive statement of understanding between the Parties which supersedes all previous agreements, written or oral, and all communications between the Parties relating to the subject matter of this Agreement.

1.3 CONSTRUCTION OF TERMS:

In construing the terms of this Agreement, the following rules shall apply:

- (A) Singular nouns, and phrases incorporating them (e.g., referring to objects, persons, events, or otherwise), shall be construed to also include the plural except where reference to a single item is implied or necessary pursuant to the context of the word or phrase in question and except as otherwise expressly stated for particular defined terms set forth in Subparagraph 1.4 (Definitions). Plural nouns, and phrases incorporating them, shall be construed to also include the singular except where reference to multiple items is implied or necessary pursuant to the context of the word or phrase in question and except as otherwise expressly stated for particular defined terms set forth in Subparagraph 1.4 (Definitions).
- (B) Any use of the masculine gender shall be construed to include the feminine, and vice versa.
- (C) Examples provided by using words and phrases, such as “including”, “include”, “includes”, or “e.g.”, shall not be construed as limiting the term clarified thereby. For example, “including” shall be construed as “including, but not limited to.”
- (D) References in this Agreement to federal, State, county and/or other governmental laws, rules, regulations, ordinances, guidelines, directives, policies and/or procedures shall mean such laws, rules, regulations, ordinances, guidelines and/or directives as amended from time-to-time.
- (E) Unless expressly stated otherwise, all approvals, consents, or determinations by or on behalf of CONSORTIUM under this Agreement, will be in writing, and may be given or withheld in the sole discretion or judgment of the person or entity authorized to provide or make such approval, consent, or determination, provided that the approval, consent, or determination is reasonable and consistent with this Agreement. Notwithstanding the foregoing, any determination by CONSORTIUM

pursuant to Subparagraph 1.4.92 (Specifications) Subpart B and Subpart C will be based upon the agreement, as set forth in writing, between CONSORTIUM and CONTRACTOR.

- (F) When applying the terms of the Base Agreement to Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), unless otherwise specified, such terms shall be read to apply on a statewide rather than countywide basis, and shall be read to apply to the CalSAWS Project in addition to the LRS Project consistent with the purposes of such Exhibit and with the CONSORTIUM as the successor to all rights and obligations of the LA COUNTY. The terms shall be construed in recognition of the fact that the LRS has achieved Final Acceptance, while the CalSAWS PROJECT is just beginning. In the event of an ambiguity, the applicable terms shall be interpreted with a meaning that best supports the further extension and development of the LRS to achieve the success of the CalSAWS Project as described in Exhibit U.

1.4 DEFINITIONS:

1.4.1 Agreement

The term "Agreement" shall have the meaning specified in Subparagraph 1.2 (Entire Agreement).

1.4.2 Amendment

The term "Amendment" shall have the meaning specified in Paragraph 5 (Change Notices and Amendments).

1.4.3 Application Software Modifications and/or Enhancements; M&E

The terms "Application Software Modifications and/or Enhancements" and "M&E" shall mean the product, including software, interfaces, utilities, and tools, provided by CONTRACTOR, upon the request and approval by CONSORTIUM, resulting from enhancements to, additions to, deletions from, and/or other modifications of the most recent version of the LRS Application Software, including all related Source Code,

Object Code, and Documentation. When an M&E has been implemented by CONTRACTOR, the M&E shall be a component of Baseline Application Software for all purposes under this Agreement. Reference to Application Software Modifications and/or Enhancements or M&E may include one or more components thereof or all Application Software Modifications and/or Enhancements or M&E.

1.4.4 Application Software Modifications and/or Enhancements Services; M&E Services

The terms “Application Software Modifications and/or Enhancements Services” and “M&E Services” shall mean all CONTRACTOR-furnished goods and services to provide, design, develop, and implement Application Software Modifications and/or Enhancements as described in this Agreement. Reference to Application Software Modifications and/or Enhancements Services or M&E Services may include one or more components thereof or all Application Software Modifications and/or Enhancements Services or M&E Services.

1.4.5 Backup Central Site

The term “Backup Central Site” shall mean CONTRACTOR’s alternate data processing facility located at a premises in the fifty (50) United States and the District of Columbia as approved by CONSORTIUM Executive Director. It shall house the Backup Central Site Hardware.

1.4.6 Backup Central Site Hardware

The term “Backup Central Site Hardware” shall mean all CONTRACTOR-supplied and maintained hardware at the Backup Central Site, including hardware used for the various processing environments (e.g., production environment, development environment, test environment, staging environment, reporting environment, and training environment) and the large-scale computing device(s) used to store, process, and deliver the Program Data in the various processing

environments. Reference to the Backup Central Site Hardware may include one or more components thereof or all Backup Central Site Hardware.

1.4.7 Backup Print Facility

The term “Backup Print Facility” shall mean CONTRACTOR’s alternate print processing facility located at a premise in the fifty (50) United States and the District of Columbia as approved by CONSORTIUM Executive Director. It shall house the Backup Print Facility Site Hardware.

1.4.8 Backup Print Facility Site Hardware

The term “Backup Print Facility Site Hardware” shall mean all CONTRACTOR-supplied and maintained hardware at the Backup Print Facility, including specialized printers used for the purpose of high-volume batch print and mail processing. Reference to the Backup Print Facility Site Hardware may include one or more components thereof or all Backup Print Facility Site Hardware.

1.4.9 Base Agreement

The term “Base Agreement” shall have the meaning specified in Subparagraph 1.1 (Interpretation).

1.4.10 Baseline Application Software

The term “Baseline Application Software” shall mean:

- (i) Pre-existing Application Software;
- (ii) all modifications and enhancements of Pre-existing Application Software developed by CONTRACTOR under this Agreement or CONSORTIUM, including all related Source Code, Object Code, Updates, and Documentation;
- (iii) Pre-existing Accenture Framework Software;
- (iv) all modifications and enhancements of Pre-existing Accenture Framework Software developed by CONTRACTOR under this

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Agreement or CONSORTIUM, including all related Source Code, Object Code, Updates, and Documentation;

- (v) all other software, including interfaces, utilities, helper applications, and tools, designed and developed in Tasks 2 (Development Methodology and Technical Practices), 6 (Functional Design), 8 (Baseline Application Software and Conversion and Archiving Tools), and 9 (Testing), of Exhibit A (Statement of Work), including all related Source Code, Object Code, Updates, and Documentation;
- (vi) all Application Software Modifications and/or Enhancements upon implementation by CONTRACTOR; and
- (vii) all configurations and other uses of Commercially Available Software developed by CONTRACTOR or CONSORTIUM and implemented by CONTRACTOR or CONSORTIUM.

Reference to Baseline Application Software may include one or more components thereof or all Baseline Application Software.

1.4.11 CalSAWS

The term “CalSAWS” shall mean the California Statewide Automated Welfare System.

1.4.12 CalSAWS Cloud Enablement Project

The term “CalSAWS Cloud Enablement Project” shall mean all Work necessary to replatform the LRS Application from its current “on premise” datacenter architecture to an Amazon Web Services (“AWS”) cloud hosted architecture pursuant to Exhibit W (Scope of Work for

CalSAWS Cloud Enablement Project and Interim Maintenance and Operations).

1.4.13 CalSAWS Component

The term “CalSAWS Component” shall mean, individually and collectively, each and every component of the CalSAWS Hardware, CalSAWS Software, and CalSAWS DD&I Services.

1.4.14 CalSAWS DD&I Services

The term “CalSAWS DD&I Services” shall mean those design, development, and implementation services as described in Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation).

1.4.15 CalSAWS Hardware

The term “CalSAWS Hardware” shall mean all equipment and other goods supplied by CONTRACTOR or CONSORTIUM related to the CalSAWS System pursuant to this Agreement, including Central Sites Hardware, Project Office Hardware, and Enterprise Connecting Hardware, and all related updates and Documentation used or prepared by CONTRACTOR regarding such equipment and other goods. Reference to the CalSAWS Hardware may include one or more components thereof or all CalSAWS Hardware.

1.4.16 CalSAWS Maintenance and Operations; CalSAWS M&O

The terms “CalSAWS Maintenance and Operations” and “CalSAWS M&O” shall mean all Work detailed in Schedule 1 (Scope of Work for CalSAWS Maintenance and Operations Project) of Exhibit X (CalSAWS Maintenance and Operations Extension).

1.4.17 CalSAWS Project

The term “CalSAWS Project” shall mean all Work necessary to provide the CalSAWS System to CONSORTIUM pursuant to Exhibit U (Scope

of Work for CalSAWS Design, Development and Implementation), Exhibit V (Scope of Work for CalSAWS Cloud Enablement Project – Bridge), Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations) and Exhibit X (CalSAWS Maintenance and Operations Extension).

1.4.18 CalSAWS Software

The term “CalSAWS Software” shall mean: (i) all CalSAWS application software, and (ii) all Commercially Available Software provided or used under this Agreement pertaining to such application software. Reference to CalSAWS Software may include one or more components thereof or all CalSAWS Software.

1.4.19 CalSAWS System

The term “CalSAWS System” shall mean: all CalSAWS Hardware, CalSAWS Software, and CalSAWS DD&I Services described in this Agreement and as otherwise agreed to in writing by CONSORTIUM and CONTRACTOR pursuant to Paragraph 5 (Change Notices and Amendments), collectively comprising the California Statewide Automated Welfare System for CONSORTIUM. Reference to the CalSAWS System may include one or more components thereof or the entire CalSAWS System.

1.4.20 Central Print Facility

The term “Central Print Facility” shall mean CONTRACTOR’s primary print processing facility located at a premise in Los Angeles County as approved by CONSORTIUM Executive Director. It shall house the Central Print Facility Site Hardware.

1.4.21 Central Print Facility Site Hardware

The term "Central Print Facility Site Hardware" shall mean all CONTRACTOR-supplied and maintained hardware at the Central Print Facility, including specialized printers used for the purpose of high-

volume batch print and mail processing. Reference to the Central Print Facility Site Hardware may include one or more components thereof or all Central Print Facility Site Hardware.

1.4.22 Central Sites

The term “Central Sites” shall mean the Primary Central Sites and the Backup Central Site.

1.4.23 Central Sites Hardware

The term “Central Sites Hardware” shall mean all Primary Central Site Hardware and Backup Central Site Hardware. Reference to the Central Sites Hardware may include one or more components thereof or all Central Sites Hardware.

1.4.24 Central Sites Services

The term “Central Sites Services” shall mean all goods and services provided by CONTRACTOR at the Central Sites, including data processing services, monitoring services, maintenance services, security services, backup services, business continuity/disaster recovery services, LRS Hardware, LRS Software, CalSAWS Hardware, and CalSAWS Software as described in this Agreement. Reference to the Central Sites Services may include one or more components thereof or all Central Sites Services.

1.4.25 Change Notice

The term "Change Notice" shall have the meaning specified in Paragraph 5 (Change Notices and Amendments).

1.4.26 C-IV Cutover

The term “C-IV Cutover” shall mean the day on which the 39 C-IV Consortium Counties cutover to the CalSAWS System running in the AWS Cloud.

1.4.27 Commercially Available Software

The term “Commercially Available Software” shall have the meaning specified in Subparagraph 12.2.4 (Commercially Available Software). Reference to Commercially Available Software may include one or more components thereof or all Commercially Available Software.

1.4.28 CONSORTIUM Members

The term “CONSORTIUM Members” shall mean all counties that are a member of the CONSORTIUM. The singular shall mean one-member county of the CONSORTIUM.

1.4.29 CONTRACTOR

The term “CONTRACTOR” shall have the meaning specified in the introductory paragraph to this Agreement.

1.4.30 CONTRACTOR Key Staff

The term “CONTRACTOR Key Staff” shall mean CONTRACTOR Project Executive, CONTRACTOR Project Director, System Architect, Technical Manager, Functional Manager, Implementation Manager, Conversion and Archive Manager, and Project Controller. Reference to CONTRACTOR Key Staff may include one (1) or more staff thereof or all CONTRACTOR Key Staff.

1.4.31 CONTRACTOR Materials

The term “CONTRACTOR Materials” shall have the meaning specified in Subparagraph 23.5.

1.4.32 CONTRACTOR Project Executive

The term “CONTRACTOR Project Executive” shall have the meaning specified in Subparagraph 3.1 (CONTRACTOR Project Executive).

1.4.33 CONTRACTOR Project Director

The term “CONTRACTOR Project Director” shall have the meaning specified in Subparagraph 3.2 (CONTRACTOR Project Director).

1.4.34 CONTRACTOR Tools

The term “CONTRACTOR Tools” shall have the meaning specified in Subparagraph 12.3 (CONTRACTOR Tools). Reference to CONTRACTOR Tools may include one or more components thereof or all CONTRACTOR Tools.

1.4.35 Cosmetic Deficiency

The term “Cosmetic Deficiency” shall mean a Deficiency which is cosmetic or otherwise insignificant as determined by CONSORTIUM Executive Director.

1.4.36 CONSORTIUM

The term "CONSORTIUM" shall mean the California Joint Powers Authority known as the CalSAWS Consortium.

1.4.37 CONSORTIUM Executive Director

The term “CONSORTIUM Executive Director” shall have the meaning specified in Subparagraph 2.1 (CONSORTIUM Executive Director).

1.4.38 CONSORTIUM Materials

The term “CONSORTIUM Materials” shall have the meaning specified in Subparagraph 23.1.

1.4.39 CONSORTIUM Repository

The term “CONSORTIUM Repository” shall mean the CONTRACTOR-supplied goods and services at the Project Office where all LRS

Application Software, CalSAWS Software, Documentation, and System Data are centrally stored, managed, and maintained. Reference to CONSORTIUM Repository may include one or more components thereof or the entire CONSORTIUM Repository.

1.4.40 Countywide Implementation

The term "Countywide Implementation" shall mean that CONTRACTOR has completed all Work necessary for the LEADER Replacement System to be available for Production Use by all Users and that LA COUNTY has approved CONTRACTOR's certification in Deliverable 13.5.2 (Certification of Countywide Implementation) of Exhibit A (Statement of Work), which occurred on July 27, 2017.

1.4.41 Day

The terms "Day" and "day" shall mean a calendar day and not a Working Day, unless otherwise indicated.

1.4.42 DCFS

The term "DCFS" shall mean LA COUNTY's Department of Children and Family Services.

1.4.43 DCFS Programs

The term "DCFS Programs" shall mean the Foster Care Programs, Adoption Assistance Program (AAP), and Kinship Guardianship Assistance Payment Program (Kin-GAP). Reference to the DCFS Programs may include one or more components thereof or all DCFS Programs.

1.4.44 DCFS Systems

The term "DCFS Systems" shall mean LA COUNTY systems that automate and support eligibility determination, benefit calculation, benefit issuance, eligibility case maintenance, notification, fiscal reporting, and other processes, for DCFS Programs. These systems are:

(i) Automated Provider Payment System (APPS), Adoption Assistance Payments System (AAPS), Integrated Financial System (IFS), Welfare Case Management Information System (WCMIS), and EW Works, and (ii) certain manual processes of DCFS. Reference to the DCFS Systems may include one or more components thereof or all DCFS Systems.

1.4.45 Deficiency

The term “Deficiency” shall mean defects in design, development, programming, implementation, materials, workmanship, errors, omissions, deviations from any published or mutually agreed upon standards, any of the requirements, or any CONSORTIUM-approved Deliverables, or other problems, which result in the LEADER Replacement System or CalSAWS System not performing in accordance with the provisions of this Agreement, including the Specifications. Deficiency shall not include any of the foregoing to the extent that they are the result of any of the following, as determined by CONSORTIUM Executive Director:

- (A) The negligent or intentional misuse of the LEADER Replacement System or CalSAWS System by a User.
- (B) The improper performance or non-performance of any hardware or software that CONSORTIUM procures from third party vendors and for which CONTRACTOR has no obligation to provide maintenance and support under this Agreement.
- (C) The negligent or intentional act of a User to modify, customize, or change the LRS Application Software or CALSAWS Software without CONTRACTOR’s prior written approval.

1.4.46 Deliverable

The terms “Deliverable” and "deliverable" shall mean a good or service to be provided by CONTRACTOR under this Agreement, including those identified as a Deliverable in Exhibit A (Statement of Work), Exhibit T

(Scope of Work for CalACES Cloud Enablement Proof of Concept Project), Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations) and Exhibit X (CalSAWS Maintenance and Operations Extension).

1.4.47 Design/Development/Implementation Phase

The term “Design/Development/Implementation Phase” shall have the meaning specified in Paragraph 7 (Term).

1.4.48 Design/Development/Implementation Services

The term “Design/Development/Implementation Services” shall mean all CONTRACTOR-provided goods and services for the design, development, and Countywide Implementation of the LEADER Replacement System, or the design, development, and Statewide Implementation of the CalSAWS System, as applicable and as described in this Agreement. Reference to the Design/Development/Implementation Services may include one or more components thereof or all Design/Development/Implementation Services.

1.4.49 Disabling Device

The term "Disabling Device" shall have the meaning specified in Subpart (D) of Subparagraph 11.7 (Additional Warranties).

1.4.50 Documentation

The term “Documentation” shall mean all training course materials, Specifications, technical manuals, handbooks, flow charts, technical specifications, technical diagrams, reference materials, user manuals, operating manuals, artifacts, and all user instructions regarding the capabilities, operation, installation and use of the LEADER Replacement System or applicable LRS Component, or the CalSAWS System or applicable CalSAWS Component.

1.4.51 DPSS

The term “DPSS” shall mean the LA COUNTY Department of Public Social Services.

1.4.52 DPSS Director

The term “DPSS Director” shall mean the Director of LA COUNTY’s Department of Public Social Services or his designee.

1.4.53 DPSS Systems

The term “DPSS Systems” shall mean LA COUNTY systems that automate and support eligibility determination, data collection, benefit calculation, benefit issuance, case maintenance, client correspondence, the generation and distribution of reports, and other processes, for California Work Opportunities and Responsibility to Kids (CalWORKs), Food Stamp, General Relief (GR), Cash Assistance Program for Immigrants (CAPI), In-Home Supportive Services (IHSS), Greater Avenues for Independence (GAIN), Cal-Learn, General Relief Opportunities for Work (GROW), and all related subprograms. These systems are the existing LEADER System, GAIN Employment Activity Reporting System (GEARS), and GROW System. Reference to the DPSS Systems may include one or more components thereof or all DPSS Systems.

1.4.54 Effective Date

The term “Effective Date” shall mean the date of execution of the LRS Agreement by LA COUNTY’s Board of Supervisors.

1.4.55 Enterprise Connecting Hardware

The term “Enterprise Connecting Hardware” shall mean all CONTRACTOR-supplied and maintained goods and services, including telecommunications, necessary for: (i) the transmission of data and information, including LEADER Replacement System and CalSAWS System information and Program Data, among and between the Central

Sites, the Print Facility Sites, the Project Office, and CONSORTIUM-specified locations and systems, (ii) providing connectivity between the LEADER Replacement System and the LAnet/EN at the Gateway, and (iii) providing connectivity between the LEADER Replacement System and the Internet; (iv) providing connectivity between the CalSAWS System and the CONSORTIUM Members network model at the Gateway, and (v) providing connectivity between the CalSAWS System and the Internet. The Enterprise Connecting Hardware shall include the Gateway. Reference to the Enterprise Connecting Hardware may include one or more components thereof or all Enterprise Connecting Hardware.

1.4.56 Exclusion

The term “Exclusion” shall have the meaning specified in Subparagraph (O) (Price Warranty).

1.4.57 Extended Term

The term “Extended Term” will have the meaning specified in Subparagraph 7.2 (Extended Term).

1.4.58 Final Acceptance

The term “Final Acceptance”, with respect to the LRS shall mean COUNTY’s approval of CONTRACTOR’s certification in Deliverable 15.2.2 (Final Acceptance Certification) of Exhibit A (Statement of Work) provided during Phase 3 (Operational Phase). The term “Final Acceptance”, and with respect to the CalSAWS System shall mean CONSORTIUM’s approval of CONTRACTOR’s certification of Deliverable 96 (CalSAWS Migration Final Acceptance Certification) of Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation) during Phase 4 (CalSAWS Project).

1.4.59 Gateway

The term “Gateway” shall mean all CONTRACTOR-supplied and maintained goods and services, including telecommunications, necessary

to provide the points located in two (2) LA COUNTY sites approved by CONSORTIUM Executive Director, at which the LEADER Replacement System connects to the LAnet/EN.

1.4.60 Initial Term

The term “Initial Term” will have the meaning specified in Subparagraph 7.1 (Initial Term).

1.4.61 Key Deliverable

The term “Key Deliverable” shall mean a Deliverable identified with the word “KEY” in the applicable Project Control Document.

1.4.62 Key Deliverable Due Date

The term "Key Deliverable Due Date" shall have the meaning specified in Subparagraph 10.2 (Liquidated Damages for Failure to Meet Certain Key Deliverables).

1.4.63 LA COUNTY

The term “LA COUNTY” shall have the meaning specified in the introductory paragraph to this Agreement.

1.4.64 LA COUNTY Enterprise Network; LAnet/EN

The terms “LA COUNTY Enterprise Network” and “LAnet/EN” shall mean LA COUNTY-operated telecommunications infrastructure over which LA COUNTY communicates a high volume of data as part of its LRS System.

1.4.65 LA COUNTY Pre-existing Application Software

The term “LA COUNTY Pre-existing Application Software” shall mean all application software and related Source Code, Object Code, and documentation, used for DPSS Systems and DCFS Systems. LA COUNTY Pre-existing Application Software and all right, title and interest, including all copyrights, patents, and trade secret rights, therein and thereto are and shall remain the property of LA COUNTY.

1.4.66 LEADER Replacement System; LRS

The terms “LEADER Replacement System” and “LRS” shall mean all LRS Hardware, LRS Software, and LRS Services described in this Agreement and as otherwise agreed to in writing by CONSORTIUM and CONTRACTOR pursuant to Paragraph 5 (Change Notices and Amendments), collectively comprising the Los Angeles Eligibility, Automated Determination, Evaluation and Reporting Replacement System for CONSORTIUM. A graphical chart illustrating the LEADER Replacement System as of the Effective Date is set forth in Exhibit F (Certain LRS Components as of the Effective Date). Reference to the LEADER Replacement System may include one or more components thereof or the entire LEADER Replacement System. In the construction of the terms of this Agreement, the LRS is complete and has received Final Acceptance, while the design, development and implementation of the CalSAWS Software is new scope as of the Restatement Effective Date of this Agreement. As such, the LRS definition should not be read as applying to the CalSAWS Software.

1.4.67 Liquidated Damages

The term "Liquidated Damages" shall mean a payment due from CONTRACTOR to CONSORTIUM either in the form of a cash payment or a credit against any payments, due to CONTRACTOR from CONSORTIUM under this Agreement or otherwise, that is assessed by CONSORTIUM against CONTRACTOR in accordance with Paragraph 10 (Liquidated Damages).

1.4.68 Local Office Site

The term “Local Office Site” shall mean any site or location approved by CONSORTIUM Executive Director from which a CONSORTIUM - specified User may access the LEADER Replacement System, including DPSS offices, non-DPSS offices, and remote access locations.

1.4.69 LRS Application Software

The term “LRS Application Software” shall mean all Baseline Application Software and Application Software Modifications and/or Enhancements. Reference to LRS Application Software may include one or more components thereof or all LRS Application Software.

1.4.70 LRS Component

The term “LRS Component” shall mean, individually and collectively, each and every component of the LRS Hardware, LRS Software, and LRS Services.

1.4.71 LRS Conversion

The term “Conversion” shall mean the date on which the LRS System, as modified pursuant to this Agreement, is deployed in a county other than LA COUNTY. Upon LRS Conversion, the LRS System shall become the CalSAWS System.

1.4.72 LRS Hardware

The term “LRS Hardware” shall mean all equipment and other goods supplied by CONTRACTOR related to the LRS System pursuant to this Agreement, including Central Sites Hardware, Print Facility Sites Hardware, Project Office Hardware, and Enterprise Connecting Hardware, and all related updates and Documentation used or prepared by CONTRACTOR regarding such equipment and other goods. Reference to the LRS Hardware may include one or more components thereof or all LRS Hardware.

1.4.73 LRS Project

The term “LRS Project” shall mean all Work necessary to provide the LEADER Replacement System to CONSORTIUM, including planning services, design services, development services, implementation services, provision of Source Code, Object Code, and Documentation, provision of

modifications and enhancements, and the management, operations, and support of the LEADER Replacement System.

1.4.74 LRS Project Director

The term “LRS Project Director” shall have the meaning specified in Subparagraph 2.2 (LRS Project Director).

1.4.75 LRS Services

The term “LRS Services” shall mean all Design/Development/Implementation Services, Application Software Modifications and/or Enhancements Services, Management and Operations Services, and any other services provided by CONTRACTOR as described in this Agreement. Reference to the LRS Services may include one or more components thereof or all LRS Services.

1.4.76 LRS Software

The term “LRS Software” shall mean: (i) all LRS Application Software, and (ii) all Commercially Available Software provided or used under this Agreement. Reference to LRS Software may include one or more components thereof or all LRS Software.

1.4.77 Management and Operations Services; M&O Services

The terms “Management and Operations Services” and “M&O Services” shall mean all Central Sites Services, Print Facility Sites Services, Project Office Services, Enterprise Connecting Hardware goods and services, project management goods and services, goods and services provided regarding M&O Requests, goods and services provided regarding an M&E Proposal prior to CONSORTIUM approval of such M&E Proposal, and any other goods and services provided by CONTRACTOR for the management, operations, and support of the LEADER Replacement System as described in this Agreement. Reference to Management and Operations Services or M&O Services may include one or more

components thereof or all Management and Operations Services or M&O Services.

1.4.78 M&E Proposal

The term “M&E Proposal” shall mean the written proposal submitted by CONTRACTOR to CONSORTIUM Executive Director, in accordance with Exhibit A (Statement of Work), that responds to an M&E Request.

1.4.79 M&E Request

The term "M&E Request" shall mean a written request submitted by CONSORTIUM Executive Director to CONTRACTOR, in accordance with Exhibit A (Statement of Work), that CONTRACTOR shall provide the specified M&E.

1.4.80 M&O Request

The term "M&O Request" shall mean a written request submitted by CONSORTIUM Executive Director to CONTRACTOR, in accordance with Exhibit A (Statement of Work), that CONTRACTOR shall change specified M&O Services, provided that such change does not expand the scope of M&O Services, as determined by CONSORTIUM Executive Director. All goods and services provided by CONTRACTOR regarding M&O Requests shall be at no additional cost to CONSORTIUM.

1.4.81 Non-cosmetic Deficiency

The term “Non-cosmetic Deficiency” shall mean a Deficiency which is not a Cosmetic Deficiency as determined by CONSORTIUM Executive Director.

1.4.82 Object Code

The term “Object Code” shall mean the representation of code (e.g., converted into an executable file by a compiler or executed on the fly from the human readable form with the aid of a software interpreter), and all

documentation thereof, that a compiler generates by processing a Source Code file.

1.4.83 Off Prime Business Hours

The term “Off Prime Business Hours” shall mean 9:01 p.m. to 5:59 a.m., Pacific Time, Monday through Sunday.

1.4.84 Operational Phase

The term “Operational Phase” shall have the meaning specified in Paragraph 7 (Term).

1.4.85 Parties

The term "Parties" shall mean the CONSORTIUM and the CONTRACTOR.

1.4.86 Peak Usage Hours

The term “Peak Usage Hours” shall mean 9:00 a.m. to 4:00 p.m., Pacific Time, Monday through Friday.

1.4.87 Performance Verification Phase

The term “Performance Verification Phase” shall have the meaning specified in Paragraph 7 (Term).

1.4.88 Phase

The term “Phase” shall have the meaning specified in Subparagraph 4.5 (Phases).

1.4.89 Pre-existing Accenture Framework Software

The term “Pre-existing Accenture Framework Software” shall mean the enterprise architecture software, including frameworks, technical services components, and development templates, that: (i) was developed by CONTRACTOR prior to the Effective Date as shown in Exhibit E (Pre-Existing Software Components), (ii) was not designed, developed, or installed with federal financial participation (FFP), and (iii) is owned by

CONTRACTOR. It includes Source Code, Object Code, and documentation.

1.4.90 Pre-existing Application Software

The term “Pre-existing Application Software” shall mean application software developed prior to the Effective Date for social service systems similar to the LRS, including the California Statewide Automated Welfare System (SAWS) Consortium IV (C-IV), and owned by third parties. Pre-existing Application Software is the base which shall be used by CONTRACTOR to develop the LRS Application Software. It includes Source Code, Object Code, and documentation.

1.4.91 Primary Central Sites

The term “Primary Central Sites” shall mean CONTRACTOR’s primary data processing facilities located at premises in the fifty (50) United States and the District of Columbia as approved by CONSORTIUM Executive Director. They shall house the Primary Central Site Hardware.

1.4.92 Primary Central Site Hardware

The term “Primary Central Site Hardware” shall mean all CONTRACTOR-supplied and maintained hardware at the Primary Central Site, including hardware used for the various processing environments (e.g., production environment, development environment, test environment, staging environment, reporting environment, and training environment) and the large-scale computing device(s) used to store, process, and deliver the Program Data in the various processing environments. Reference to the Primary Central Site Hardware may include one or more components thereof or all Primary Central Site Hardware.

1.4.93 Prime Business Hours

The term “Prime Business Hours” shall mean 6:00 a.m. to 9:00 p.m., Pacific Time, Monday through Sunday.

1.4.94 Print Facility Sites

The term “Print Facility Sites” shall mean the Central Print Facility and the Backup Print Facility.

1.4.95 Print Facility Sites Hardware

The term “Print Facility Sites Hardware” shall mean all Central Print Facility Site Hardware and Backup Print Facility Site Hardware. Reference to the Print Facility Sites Hardware may include one or more components thereof or all Print Facility Sites Hardware.

1.4.96 Print Facility Sites Services

The term “Print Facility Sites Services” shall mean all goods and services provided by CONTRACTOR at the Print Facility Sites, including print and mail processing services, monitoring services, maintenance services, security services, backup services, business continuity/disaster recovery services, LRS Hardware, and LRS Software, as described in this Agreement. Reference to the Print Facility Sites Services may include one or more components thereof or all Print Facility Sites Services. As of the Restatement Effective Date, Print Facility Sites Services for the CalSAWS System are not in scope under this Agreement. If CONSORTIUM elects to have CONTRACTOR perform such services, the Parties will agree on the price and any applicable terms for such services in a future Amendment. In the absence of such Agreement, nothing herein shall be deemed to have reduced the obligations of CONTRACTOR to provide such services as set forth in this Agreement for the LRS System.

1.4.97 Production Use

The term “Production Use” shall mean the actual use of the LEADER Replacement System or the CalSAWS Software by Users to perform CONSORTIUM’s business operations.

1.4.98 Program Data

The term “Program Data” shall mean all federal, State, county, and/or other data and information: (i) which is (a) stored online, stored off-line, or computed, and used or accessed by CONTRACTOR for providing services under this Agreement and all backups of such data and information, and/or (b) placed into, used within, or resulting from the use of, the LEADER Replacement System or the CalSAWS Software and all backups of such data and information and (ii) which is not System Data.

1.4.99 Project Control Document; PCD

The terms "Project Control Document" and “PCD” shall have the meaning specified in Subparagraph 6.1 (Delivery and Approval of Project Control Document).

1.4.100 Project Office

The term "Project Office" shall mean the CONTRACTOR-supplied location in the County of Los Angeles or County of Sacramento, from which all Work, as determined by CONSORTIUM Executive Director, shall take place and which shall house CONTRACTOR staff, including Subcontractor staff, and CONSORTIUM staff. It shall house the Project Office Hardware. The Project Office location shall be proposed by CONTRACTOR and approved in advance by CONSORTIUM Executive Director in accordance with both Exhibit A (Statement of Work) and Exhibit U (Scope of Work for CalSAWS Design, Development & Implementation). For purpose of this Section 1.4.96 as applied to the CalSAWS Project, the CONSORTIUM Executive Director’s discretion to determine the locations where the Work shall take place will be subject to CONSORTIUM bearing any costs resulting from a directive to relocate the Work from the approved Project Office. In the event of any dispute regarding those costs to be borne by CONSORTIUM including, but not limited to, the reasonableness of the relocation costs incurred, the dispute

will be resolved using the Dispute Resolution process described at Section 48 of this Agreement.

1.4.101 Project Office Hardware

The term “Project Office Hardware” shall mean all CONTRACTOR-supplied and maintained hardware at the Project Office, including workstations, laptops, printers, network components, and servers, that will be used by CONTRACTOR, and CONSORTIUM to support the Work.

1.4.102 Project Office Services

The term “Project Office Services” shall mean all goods and services provided by CONTRACTOR at the Project Office, including planning and analysis services, performance monitoring services, reporting and analysis services, maintenance services, LRS Hardware, and LRS Software, as described in this Agreement. Reference to the Project Office Services may include one or more components thereof or all Project Office Services.

1.4.103 Regulatory & Administrative Change Budget Services

The term "Regulatory & Administrative Change Budget Services" shall mean additional Work authorized by CONSORTIUM to be performed by CONTRACTOR for regulatory, administrative and legal changes, including premise funding, during Phase 1 (Design/Development/Implementation Phase), Phase 2 (Performance Verification Phase) or Phase 3 (Operational Phase) that is added by Amendment and explicitly identified as Regulatory & Administrative Change Budget Services, that are in excess of the twenty-thousand (20,000) hours set forth in Exhibit G (Estimates, Quantities and Assumptions).

1.4.104 Restatement Effective Date

The term “Restatement Effective Date” shall mean February 28, 2019.

1.4.105 Scheduled Downtime

The term “Scheduled Downtime” shall mean a pre-scheduled period, not during Peak Usage Hours, for the purpose of required maintenance or modifications, as mutually agreed in advance by CONSORTIUM Executive Director and CONTRACTOR Project Director. During Scheduled Downtime, the LEADER Replacement System or CalSAWS System is not available for all online functions for all Users.

1.4.106 Security Management

The term “Security Management” shall mean the operation and management of all controls (e.g., administrative, physical, and technical) that ensure the confidentiality, integrity, protection, and availability of the LEADER Replacement System and CalSAWS System, data transmitted to or through the LEADER Replacement System or CalSAWS System, and data available to the LEADER Replacement System or CalSAWS System.

1.4.107 Source Code

The term “Source Code” shall mean the sequence of instructions, written in a human-readable computer programming language, and all documentation thereof, that is used by programmers to create a computer-executable form, including initialization files, configuration files, code libraries (both static and dynamic link), class path definitions, the logical and physical layout of all software components, and all files, processes, and procedures necessary to build, deploy, and execute the applicable software.

1.4.108 Specifications

The term “Specifications” shall mean any or all of the following, as applicable:

CalSAWS
Amended, Restated and Revised LRS Agreement

- (A) All LEADER Replacement System or CalSAWS System performance specifications, requirements, and standards set forth in this Agreement.
- (B) All specifications, requirements, and standards of the LEADER Replacement System or the LRS Project as set forth in Exhibit A (Statement of Work) and Exhibit B (Statement of Requirements) and all specifications, requirements, and standards described and interpreted in CONSORTIUM-approved Deliverables. In the event of a contradiction, conflict or inconsistency between prior specifications, requirements, and standards and a later CONSORTIUM-approved Deliverable, the contradiction, conflict, or inconsistency shall be resolved in favor of the latest CONSORTIUM-approved Deliverable.
- (C) All specifications, requirements, and standards of the CalSAWS System or the CalSAWS Project as set forth in Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), Exhibit V (Scope of Work for CalSAWS Cloud Enablement Project – Bridge), Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations), and Schedule 1 (Scope of Work for CalSAWS Maintenance and Operations) to Exhibit X (CalSAWS Maintenance and Operations Extension) and all specifications, requirements, and standards described and interpreted in CONSORTIUM-approved Deliverables. In the event of a contradiction, conflict or inconsistency between prior specifications, requirements, and standards and a later CONSORTIUM-approved Deliverable, the contradiction, conflict, or inconsistency shall be resolved in favor of the latest CONSORTIUM-approved Deliverable.

CalSAWS
Amended, Restated and Revised LRS Agreement

- (D) All specifications, requirements, and standards set forth in Exhibit R (LA COUNTY's Request for Proposals for a LEADER Replacement System, dated November 30, 2007, including Addendum One, dated December 12, 2007, Addendum Two, dated February 25, 2008, Addendum Three, dated February 29, 2008, Addendum Four, dated March 5, 2008, Addendum Five, dated April 8, 2008, Addendum Six, dated May 1, 2008, Addendum Seven, dated June 30, 2008, Addendum Eight, dated August 15, 2008, and Addendum Nine, dated January 8, 2009).
- (E) All functional, technical and training specifications, requirements, and standards included in Exhibit S (CONTRACTOR's Proposal for a LEADER Replacement System, dated May 15, 2008, including response to Addendum Seven, dated July 15, 2008, response to Addendum Eight, dated September 2, 2008, and response to Addendum Nine, dated February 9, 2009).
- (F) The Documentation, to the extent not inconsistent with any of Subparts (A), (B), (C), (D), or (E) of this Subparagraph 1.4.92.
- (G) All specifications, requirements, and standards identified as such by CONTRACTOR under this Agreement, but only to the extent: (i) not inconsistent with any of Subparts (A), (B), (C), (D), (E) or (F) of this Subparagraph 1.4.92; and (ii) approved by CONSORTIUM in its sole discretion.
- (H) All written or electronic materials furnished by or through CONTRACTOR regarding any pre-existing software and Commercially Available Software, but only to the extent: (i) not inconsistent with any of Subparts (A), (B), (C), (D), (E), or (F) of this Subparagraph 1.4.92; and (ii) acceptable to CONSORTIUM in its sole discretion, which pertain to any

element of the LEADER Replacement System or CalSAWS System, and which outline, describe, or specify: (i) functionality; (ii) features; (iii) capacity; (iv) availability; (v) accuracy; or (vi) any other performance or other criteria for the LEADER Replacement System, CalSAWS System or any element of the LEADER Replacement System or CalSAWS System.

1.4.109 State

The term “State” shall mean the State of California.

1.4.110 Statewide Implementation

The term “Statewide Implementation” shall mean all Work necessary for the CalSAWS Software to be available for Production Use by all Users.

1.4.111 Subcontractor

The term “Subcontractor” shall mean any person or entity to which CONTRACTOR proposes to delegate or has delegated any of its obligations hereunder in accordance with Paragraph 16 (Subcontracting).

1.4.112 Subtask

The terms “Subtask” and "subtask" shall mean one of the areas of Work to be performed under this Agreement that is part of a Task, including those areas of Work identified as Subtasks in an Exhibit.

1.4.113 System Data

The term “System Data” shall mean and include the following components for each mainframe and server included in the LRS Hardware or CalSAWS Hardware: (i) current configuration data, (ii) aggregate system performance and usage instrumentation data, (iii) aggregate processor utilization data, (iv) aggregate disk utilization data, and (v) aggregate memory utilization data. Reference to System Data may include one or more components thereof or all System Data.

1.4.114 Task

The terms “Task” and "task" shall mean one of the areas of Work to be performed under this Agreement, including those areas of Work identified as Tasks in an Exhibit.

1.4.115 Third Party Software

The term “Third Party Software” shall have the meaning specified in Subparagraph 12.2.4 (Commercially Available Software).

1.4.116 Total Maximum Contract Sum

The term “Total Maximum Contract Sum” shall mean the total monetary amount payable by CONSORTIUM to CONTRACTOR hereunder, as set forth in Subparagraph 8.1 (Total Maximum Contract Sum).

1.4.117 Update

The term “Update” shall mean any update, enhancement, improvement, modification, revision, correction, bug fix, service pack, patch, new product, new module, new release, and new version of any software and all documentation thereof.

1.4.118 User

The term “User” shall mean any person or entity authorized by CONSORTIUM Executive Director to gain access to, or in any way use, the LEADER Replacement System or CalSAWS System. Users include persons and entities that gain access to the LEADER Replacement System via LANet/EN or via the Internet or who gain access to the CalSAWS System via the CONSORTIUM Members’ network models.

1.4.119 Work

The term “Work” shall mean any and all Tasks, Subtasks, Deliverables, goods, and services provided or to be provided by or on behalf of CONTRACTOR pursuant to this Agreement.

1.4.120 Work Acceptance Certificate

The term "Work Acceptance Certificate" shall mean, for each Deliverable set forth in Exhibit A (Statement of Work), Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), or Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations), M&O Service (e.g., warranty work, M&O Service Requests, M&E Proposals), or M&E Service, the Work Acceptance Certificate relating to such Deliverable set forth in Exhibit A (Statement of Work), Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), or Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations), M&O Service (e.g., warranty work, M&O Service Requests, M&E Proposals), or M&E Service, each substantially in the form of Exhibit H (Work Acceptance Certificate), together with all required supporting documentation.

1.4.121 Working Day

The terms "Working Day" and "working day" shall mean 7:00 a.m. to 7:00 p.m., Pacific Time, Monday through Friday, excluding CONSORTIUM observed holidays.

2. ADMINISTRATION OF AGREEMENT - CONSORTIUM:

2.1 CONSORTIUM EXECUTIVE DIRECTOR:

2.1.1 The CONSORTIUM Executive Director for this Agreement shall be the following person, or such other person as may be designated by the CONSORTIUM's Board of Directors:

John Boule, Consortium Executive Director
CalSAWS Consortium
Address: 11290 Pyrites Way, Suite 150
Rancho Cordova, CA 95670

Telephone Number: (916) 851-3201

Fax Number: (916) 638-4367

Email: Address: BouleJ@CalSAWS.org

- 2.1.2** The primary point of contact in matters of the LRS Project management and the CalSAWS Project will be the CONSORTIUM Executive Director. The CONSORTIUM Executive Director will be responsible for CONSORTIUM tasks for the daily administration of the Agreement, as delineated in this Agreement. The Parties acknowledge and agree that the CONSORTIUM Executive Director shall have no authority to modify the terms and conditions of this Agreement without approval of the CONSORTIUM's Board of Directors and is only given the authority to administer this Agreement as set forth in the preceding sentence except as authorized by the CONSORTIUM's Board of Directors.
- 2.1.3** CONSORTIUM will notify CONTRACTOR in writing of any change in the name, address, telephone number, fax number, or email address of its CONSORTIUM Executive Director.
- 2.1.4** CONSORTIUM Executive Director is not authorized to make any changes in any of the terms and conditions of this Agreement, or to further obligate CONSORTIUM in any respect whatsoever except as expressly set forth herein.
- 2.1.5** CONSORTIUM Executive Director will have the right at all times to inspect any and all Tasks, Subtasks, Deliverables, goods, or services provided by or on behalf of CONTRACTOR.

2.2 LRS PROJECT DIRECTOR:

- 2.2.1** The LRS Project Director for this Agreement shall be the following person or such other person as may be designated by CONSORTIUM Executive Director:

Laura Chavez, Acting Technical & Operations Director

CalSAWS Consortium

Address: 12440 Imperial Highway, 3rd Floor

Norwalk, CA 90650

Telephone Number: (562) 484-7801

Fax Number: (562) 864-7950

Email Address: ChavezL@CalSAWS.org

2.2.2 CONSORTIUM will notify CONTRACTOR in writing of any change in the name, address, telephone number, fax number, or email address of its LRS Project Director.

2.2.3 LRS Project Director is responsible for the administration of this Agreement on behalf of CONSORTIUM.

2.2.4 LRS Project Director is not authorized to make any changes in any of the terms and conditions of this Agreement, or to further obligate CONSORTIUM in any respect whatsoever except as expressly set forth herein.

2.2.5 LRS Project Director will interface with CONTRACTOR Project Director and other CONTRACTOR Key Staff on a regular basis, including with respect to the technical standards and requirements of this Agreement.

2.2.6 LRS Project Director will have the right at all times to inspect any and all Tasks, Subtasks, Deliverables, goods, or services provided by or on behalf of CONTRACTOR.

2.3 CONSORTIUM PERSONNEL AND OTHER RESOURCES:

All CONSORTIUM personnel assigned to this Agreement and all other CONSORTIUM resources shall be under the exclusive supervision of CONSORTIUM. CONTRACTOR hereby represents and warrants that its price, project schedule, and performance hereunder are based solely on the work of CONTRACTOR, including all Subcontractors, except as otherwise expressly stated in this Agreement.

3. ADMINISTRATION OF AGREEMENT - CONTRACTOR:

3.1 CONTRACTOR PROJECT EXECUTIVE:

3.1.1 CONTRACTOR Project Executive for this Agreement shall be the following person:

Daniel T. London, CONTRACTOR Project Executive

Address: 75 Fifth St. NW, Suite 1100

Atlanta, GA 30308

Telephone Number: (678) 657-7378

Fax Number: (678) 657-1834

Email Address: daniel.t.london@accenture.com

3.1.2 CONTRACTOR Project Executive shall be responsible for CONTRACTOR's performance of all its Tasks, Subtasks, Deliverables, goods, and services provided hereunder and assuring CONTRACTOR's compliance with this Agreement.

3.1.3 CONTRACTOR Project Executive shall be available to meet and confer with CONSORTIUM Executive Director and/or LRS Project Director on a regular basis and otherwise when and as reasonably requested by CONSORTIUM Executive Director and/or LRS Project Director. Such meetings shall be conducted at a time and place convenient to CONSORTIUM Executive Director and/or LRS Project Director.

3.2 CONTRACTOR PROJECT DIRECTOR:

3.2.1 CONTRACTOR Project Director for this Agreement shall be the following person:

Seth W. Richman, CONTRACTOR Project Director

LRS Project Address: 12440 Imperial Highway, 3rd Floor

Norwalk, CA 90650

Telephone Number: (530) 306-3558

Email Address: seth.w.richman@accenture.com

3.2.2 CONTRACTOR Project Director shall be responsible for CONTRACTOR's day-to-day activities as related to this Agreement and for reporting to CONSORTIUM in the manner set forth in Subparagraph 3.4 (Reports by CONTRACTOR).

3.2.3 CONTRACTOR Project Director shall be available to meet and confer with CONSORTIUM Executive Director on a regular basis and otherwise when and as reasonably requested by CONSORTIUM Executive Director. Such meetings shall be conducted at a time and place convenient to CONSORTIUM Executive Director.

3.3 APPROVAL OF CONTRACTOR'S STAFF:

3.3.1 CONSORTIUM has the absolute right to approve or disapprove each member or proposed member of CONTRACTOR Key Staff prior to, and during, his performing any Work hereunder, as well as approving or disapproving any proposed deletions from or other changes in CONTRACTOR Key Staff. CONSORTIUM Executive Director may require replacement of any member of CONTRACTOR's staff, including Subcontractor staff, performing, or offering to perform, Work hereunder. CONTRACTOR shall provide CONSORTIUM with a resume of each proposed CONTRACTOR Key Staff member and proposed substitute and an opportunity to interview such person prior to his performing any Work.

3.3.2 CONTRACTOR represents and warrants that it shall take, to the maximum extent possible, all steps reasonably necessary to help ensure continuity over time of the membership of the group constituting CONTRACTOR's staff, including CONTRACTOR Project Director, consistent with the staffing plans included in CONSORTIUM-approved Deliverables.

3.3.3 CONTRACTOR shall promptly fill any staff vacancy with personnel having qualifications at least equivalent to those of the staff member being replaced.

- 3.3.4** In fulfillment of its responsibilities under this Agreement, CONTRACTOR shall utilize, and permit utilization of, only staff, including Subcontractor staff, fully qualified, trained, and experienced, and, as appropriate, licensed or certified in the technology, trades, Tasks, and Subtasks required by this Agreement.
- 3.3.5** All of CONTRACTOR's staff, including Subcontractor staff, providing Design/Development/Implementation Services shall be located at the Project Office or the Central Sites. CONSORTIUM Executive Director may approve the location of specific staff at a location other than the Project Office or Central Sites, so long as all such staff are located within the fifty (50) United States and the District of Columbia, except as specified in Section 4.1.
- 3.3.6** All of CONTRACTOR's staff, including Subcontractor staff, providing Maintenance and Operations Services shall be located at the Project Office or the Central Sites. CONSORTIUM Executive Director may approve the location of specific such staff at a location other than the Project Office or Central Sites, so long as all such staff are located within the fifty (50) United States and the District of Columbia, except as specified in Section 4.1.
- 3.3.7** All of CONTRACTOR's staff, including Subcontractor staff, providing Application Software Modifications and/or Enhancements Services, shall be located at the Project Office. CONSORTIUM Executive Director may approve the location of specific such staff at a location other than the Project Office, so long as all such staff are located within the fifty (50) United States and the District of Columbia, except as specified in Section 4.1.
- 3.3.8** CONTRACTOR shall supply sufficient staff to fully discharge all of its responsibilities hereunder in a timely and efficient manner, including as required to comply with Paragraphs 4 (Work) and 11 (Warranties), and the Exhibits.
- 3.3.9** In the event CONTRACTOR should ever need to remove any Key Staff from performing Work under this Agreement, CONTRACTOR shall

provide CONSORTIUM with notice at least fifteen (15) days in advance, except in circumstances in which such notice is not possible, in which case such notice shall be provided to CONSORTIUM Executive Director at CONTRACTOR's earliest opportunity. In either event, CONTRACTOR shall work with CONSORTIUM on a mutually agreeable transition plan so as to provide an acceptable replacement and ensure project continuity.

3.3.10 All staff employed by and on behalf of CONTRACTOR, including Subcontractor staff, performing Work shall be adults who are fully fluent in both spoken and written English. Subject to the limitations in Subparagraphs 3.3.5, 3.3.6, and 3.3.7, all CONTRACTOR's staff, including Subcontractor staff, performing Work shall be located within the fifty (50) United States and the District of Columbia, except as specified in Section 4.1.

3.3.11 During the time that CONTRACTOR's staff, including Subcontractor staff, are at CONSORTIUM facilities, such staff shall be subject to the rules and regulations of CONSORTIUM facilities. It is the responsibility of CONTRACTOR to acquaint such staff with such rules and regulations. In the event that CONSORTIUM determines that any such staff has violated any applicable rule or regulation, CONSORTIUM shall notify CONTRACTOR, and CONTRACTOR shall undertake such remedial or disciplinary measures as CONTRACTOR determines appropriate. If the problem is not thereby corrected, then CONTRACTOR shall permanently withdraw such staff from the provision of Work upon receipt of notice from CONSORTIUM that: (i) such staff has violated such rules or regulations; or (ii) such staff's actions, while on CONSORTIUM premises, indicate that the staff may adversely affect the delivery of Work. Upon removal of any staff, CONTRACTOR shall immediately replace the staff and continue uninterrupted Work hereunder.

3.3.12 CONTRACTOR shall, at the time of hiring and annually provide a notice to all CONTRACTOR's staff, including Subcontractor's staff, performing

Work of such staff member's obligation to notify CONSORTIUM Executive Director: (i) if such staff member is or becomes a recipient of public assistance programs administered by the LRS or CalSAWS System; or (ii) if such staff member has actual knowledge that a friend, relative, business relation, co-worker, personal acquaintance, or tenant is or becomes a recipient of public assistance programs administered by the LRS or CalSAWS System. This notice shall include CONSORTIUM Executive Director's contact information, so that CONTRACTOR's staff, including Subcontractor's staff, may meet such reporting responsibility. In the event that CONSORTIUM Executive Director finds that a member of CONTRACTOR's staff, including Subcontractor's staff, has not complied with such reporting responsibility, CONSORTIUM Executive Director may require replacement of such staff member. Information provided by CONTRACTOR staff, including Subcontractor staff, to CONSORTIUM shall not cause a CONSORTIUM request for removal of such staff, provided that such staff accesses CONSORTIUM records solely for the purposes of performing Work. CONSORTIUM may, however, deny such staff access to certain CONSORTIUM records, including data in Production Use. Such information provided by CONTRACTOR staff, including Subcontractor staff, pursuant to this Subparagraph 3.3.12 shall be deemed to be confidential information, in accordance with applicable law.

3.3.13 CONTRACTOR shall provide notice to CONSORTIUM identifying the names of all CONTRACTOR's staff, including Subcontractor's staff, that has access to update data in Production Use.

3.3.14 CONTRACTOR's staff, including Subcontractor's staff, shall access CONSORTIUM records solely for the purposes of performing Work. CONSORTIUM reserves the right to monitor and audit all CONTRACTOR's staff, including Subcontractor's staff, access to CONSORTIUM records. In the event that CONSORTIUM finds that a member of CONTRACTOR's staff, including Subcontractor's staff, is

improperly accessing CONSORTIUM records, CONSORTIUM Executive Director may require replacement of such staff member.

3.4 REPORTS BY CONTRACTOR:

In order to control expenditures and to ensure the reporting of all Tasks, Subtasks, Deliverables, goods, and services provided by CONTRACTOR, CONTRACTOR shall provide CONSORTIUM Executive Director with periodic and other written reports as described in an Exhibit, and elsewhere in this Agreement, to include the following information:

- (A) Period covered by the report.
- (B) Overview of the reporting period.
- (C) Tasks, Subtasks, Deliverables, goods, and services scheduled for the reporting period that were not completed.
- (D) Tasks, Subtasks, Deliverables, goods, and services for the reporting period that were completed on time in accordance the Project Control Document.
- (E) Tasks, Subtasks, Deliverables, goods, and services for the reporting period that were completed after the date specified in the Project Control Document.
- (F) Tasks, Subtasks, Deliverables, goods, and services completed for the reporting period that were not scheduled in the Project Control Document.
- (G) Tasks, Subtasks, Deliverables, goods, and services to be completed in the next reporting period.
- (H) Issues to be resolved.
- (I) Issues resolved.
- (J) A brief narrative summary of the LRS Project status as of the reporting date.
- (K) Updated Project Control Document, if applicable.
- (L) Updated M&O Services Plan, M&E Services Plan, and other documents, if applicable.

- (M) Any other information that CONSORTIUM may reasonably request from time-to-time.

3.5 CONTRACTOR STAFF IDENTIFICATION:

CONTACTOR shall provide, at CONTRACTOR's expense, all staff performing Work under this Agreement with a photo identification badge, which shall be subject to approval by CONSORTIUM Executive Director.

3.6 BACKGROUND AND SECURITY INVESTIGATION:

3.6.1 All CONTRACTOR staff, including subcontractor staff, performing Work under this Agreement shall undergo and pass, to the reasonable satisfaction of CONSORTIUM, a background investigation as a condition of performing Work. CONTRACTOR may use its discretion in determining the method of background clearance to be used, which may include fingerprinting to the extent permitted by law. The background check shall, at a minimum, meet the requirements of Subparagraphs 3.6.2, 3.6.3 and 3.6.4. The fees associated with obtaining the background information shall be at the expense of CONTRACTOR, regardless if CONTRACTOR staff passes or fails the background clearance investigation.

3.6.2 CONTRACTOR shall be responsible for ensuring that every member of CONTRACTOR staff, including Subcontractor staff, performing Work has no convictions for any of the following crimes:

- (A) Blackmail;
- (B) Bribery;
- (C) Burglary;
- (D) Crimes Against Children and Elders;
- (E) Embezzlement, including theft of public funds;
- (F) Extortion;
- (G) Falsification of Financial Statements and/or Public Records;
- (H) Forgery;
- (I) Grand Theft;

- (J) Mass Murder;
- (K) Rape, including Sexual Battery;
- (L) Robbery;
- (M) Sale of Narcotics and/or Dangerous Drugs (includes intent to sell);
and
- (N) Welfare fraud.

3.6.3 CONTRACTOR shall verify the above by conducting background checks via fingerprinting, to the extent permitted by law, or another method which includes, at a minimum, the following searches:

- (A) U.S. Criminal Records Search;
- (B) County and/or Statewide Criminal Record Searches;
- (C) Federal Criminal Record Search;
- (D) Driving Record Search; and
- (E) Sex Offender Database Search.

If a method other than Live Scan fingerprinting is used, the background check shall be conducted prior to such staff member performing Work, upon promotion and no less frequently than every three (3) years.

3.6.4 Each member of CONTRACTOR staff, including Subcontractor staff, performing Work shall complete and sign Exhibit K (CONTRACTOR and Subcontractor Staff Criminal Conviction Information Notice and Certification) prior to beginning Work, upon promotion, and no less frequently than every three (3) years.

3.6.5 CONTRACTOR shall notify CONSORTIUM immediately of any conviction of any member of CONTRACTOR staff, including Subcontractor staff, for any of the crimes listed in Subparagraph 3.6.2., and CONTRACTOR shall immediately remove such CONTRACTOR staff, including Subcontractor staff, from performing Work.

3.6.6 CONSORTIUM may immediately, at the sole discretion of the CONSORTIUM Executive Director, deny or terminate facility access to

CONTRACTOR staff, including Subcontractor staff, that do not pass such investigation(s) to the reasonable satisfaction of CONSORTIUM, or whose background or conduct is incompatible with CONSORTIUM facility access.

3.6.7 Disqualification, if any, of CONTRACTOR staff, including Subcontractor staff, pursuant to this Subparagraph 3.6, shall not relieve CONTRACTOR of its obligation to complete all Work in accordance with this Agreement.

4. WORK:

4.1 GENERAL:

Pursuant to the provisions of this Agreement, CONTRACTOR shall fully provide, complete, and deliver on time all Tasks, Subtasks, Deliverables, goods, and services as set forth in this Agreement. All Work shall be performed within the fifty (50) United States and the District of Columbia except as set forth below.

Following the CalSAWS Effective Date, Work performed under Exhibit Y (Services To Be Performed in GDN – Security, Access and Technology Requirements) may be performed by staff in and from the Accenture Global Delivery Network (“GDN”) and using CONTRACTOR’s GDN Centers that are located in the United States, India, and elsewhere, and which are wholly-owned Affiliates of CONTRACTOR. Any use of GDN resources shall not exceed 20% of the available development and testing hours without the prior written approval of the CONSORTIUM Executive Director. GDN resources may only be used for Work not set forth in Exhibit Y (Services To Be Performed in GDN – Security, Access and Technology Requirements) upon the prior written approval of the CONSORTIUM Executive Director. In addition to description of Work that may be performed in the GDN, Exhibit Y (Services To Be Performed in GDN – Security, Access and Technology Requirements) also sets forth certain specific security terms to govern Work that involves personally identifiable information as further set forth therein.

4.2 CONSORTIUM APPROVAL OF WORK:

All Deliverables, M&O Services, M&E Services and work on the CalSAWS Project provided by CONTRACTOR must have the approval of CONSORTIUM Executive Director as described in this Subparagraph 4.2. Upon completion of each Deliverable, one or more components of M&O Services, one or more components of M&E Services, or one or more components of work on the CalSAWS Project, CONTRACTOR shall complete a Work Acceptance Certificate with respect thereto. CONTRACTOR shall submit such Work Acceptance Certificate and the Work described therein, to the extent capable of being delivered, to CONSORTIUM Executive Director for his review and approval in accordance with this Subparagraph 4.2. In the event that CONSORTIUM Executive Director approves such Work Acceptance Certificate and the Work described therein, he will sign the Work Acceptance Certificate. In no event shall CONSORTIUM be liable or responsible for any payment prior to such approval. The Work Acceptance Certificates process for M&O Services and M&E Services shall be set forth in the M&O Services Plan in accordance with Exhibit A (Statement of Work). The Work Acceptance Certificates process for CalSAWS Project work shall be set forth in the CalSAWS PCD in accordance with Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation).

CONSORTIUM Executive Director will complete his review and approval of a Work Acceptance Certificate and the Work described therein in accordance with the designated time specified in the PCD, the CalSAWS Migration Plan or the M&E Proposal, as applicable. In no event will CONSORTIUM Executive Director's review and approval period for any Work be less than ten (10) Working Days. If no review and approval period is specified in the PCD, the CalSAWS Migration Plan or the M&E Proposal, the review and approval period will be ten (10) Working Days. Working Days for CONSORTIUM Executive Director's review and approval will be counted from and include the first Working Day following the delivery to CONSORTIUM Executive Director of the Work Acceptance Certificate and the Work described therein, to the extent capable of being delivered. Approval will be granted if the Work complies with the

Specifications, including the Deliverable Expectation Document (DED), if applicable, as set forth in the applicable Exhibit.

In the event of CONSORTIUM Executive Director's disapproval of any Work, CONSORTIUM Executive Director will provide a written statement which identifies in reasonable detail all Deficiencies, both Cosmetic Deficiencies and Non-cosmetic Deficiencies, of the Work found by CONSORTIUM. CONTRACTOR shall correct all such Non-cosmetic Deficiencies regarding the Work and shall make reasonable efforts to correct all such Cosmetic Deficiencies of the Work, within the resolution period specified in the PCD, the CalSAWS Migration Plan or the M&E Proposal, as applicable. If no resolution period is specified in the PCD, the CalSAWS Migration Plan or the M&E Proposal, the resolution period shall be ten (10) Working Days, unless otherwise approved by CONSORTIUM Executive Director. Working Days for resolution shall be counted from and include the first Working Day following the delivery to CONTRACTOR of CONSORTIUM Executive Director's written statement of Deficiencies. Upon completion of the correction of all such Non-cosmetic Deficiencies, CONTRACTOR shall resubmit the Work along with a Work Acceptance Certificate to CONSORTIUM Executive Director for review and approval in accordance with this Subparagraph 4.2. CONSORTIUM will use reasonable efforts to provide to CONTRACTOR a complete and accurate written statement of Deficiencies in the event of CONSORTIUM Executive Director's disapproval of any such WORK, provided that CONSORTIUM will not be precluded from identifying Deficiencies in any resubmitted Work that CONSORTIUM, in good faith and after the exercise of reasonable efforts, did not identify in a prior review of such Work. This procedure shall continue until the Work complies with the Specifications and is approved by CONSORTIUM Executive Director in accordance with this Subparagraph 4.2. If CONTRACTOR, after exercising reasonable efforts, fails to correct a Cosmetic Deficiency within the applicable resolution period, CONTRACTOR shall correct such Cosmetic Deficiencies in accordance with the schedule determined by CONSORTIUM Executive Director for the LRS Software, or as mutually agreed by the Parties for the CalSAWS

Software. In the event a dispute over correction of a Cosmetic Deficiency is not resolved by mutual agreement, the parties will follow the dispute resolution process set forth in Section 48. The presence of any such Cosmetic Deficiencies shall not be a basis for CONSORTIUM's disapproval of a Work Acceptance Certificate.

In the event that CONSORTIUM Executive Director does not approve or disapprove any Work in accordance with this Subparagraph 4.2, CONTRACTOR shall notify CONSORTIUM of such failure to approve or disapprove such Work, and thereafter CONSORTIUM Executive Director will promptly approve a properly completed Work Acceptance Certificate submitted for such Work. CONSORTIUM will have ten (10) Working Days from the receipt of such notice from CONTRACTOR to provide a written statement which identifies in reasonable detail all Deficiencies, both Cosmetic Deficiencies and Non-cosmetic Deficiencies, of the Work found by CONSORTIUM. If the CONSORTIUM provides such a written statement of Deficiencies, CONTRACTOR shall correct all such Deficiencies in accordance with Subparagraph 11.5 (Warranty Work Response) at no additional cost to CONSORTIUM; however CONTRACTOR shall correct such Non-cosmetic Deficiencies within the resolution period specified in the PCD, the CalSAWS Migration Plan or the M&E Proposal, as applicable, and if no resolution period is specified in the PCD, the CalSAWS Migration Plan or the M&E Proposal, the resolution period shall be ten (10) Working Days. CONTRACTOR shall make reasonable efforts to correct such Cosmetic Deficiencies within the resolution period specified, which shall be specified in the PCD, the CalSAWS Migration Plan or the M&E Proposal, as applicable, and if no resolution period is specified in the PCD, the CalSAWS Migration Plan or the M&E Proposal, the resolution period shall be ten (10) Working Days. For avoidance of doubt, in accordance with Subparagraph 9.11 (CONSORTIUM's Right to Withhold Payment), CONSORTIUM will be able to withhold payment of fifty percent (50%) of each Management and Operations Services Fixed Monthly Rate Price until CONTRACTOR has corrected any Non-cosmetic Deficiency which has not been corrected within the time period or the schedule described herein.

Deficiencies which are set forth in Deliverables 9.3.3 (User Acceptance Test Weekly Status Report), 12.2.2 (Pilot Post Evaluation Report), 13.5.1 (Countywide Implementation Report), 14.3.1 (Performance Verification Report), and 15.2.1 (Final Acceptance Report) of Exhibit A (Statement of Work), and Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation) (collectively referred to herein as “Report Deliverables”) shall be prioritized in the Report Deliverables as high priority Non-Cosmetic, normal priority Non-Cosmetic, and Cosmetic, (as defined in Subparagraph 11.5 (Warranty Work Response).

For CONSORTIUM approval of the certifications required by Deliverables 9.3.4 (User Acceptance Test Certification of Successful Completion), 11.5 (Certification of Operational Readiness), 12.3 (Certification of Countywide Implementation readiness Report and Plans Update), 13.5.2 (Certification of Countywide Implementation), 14.3.2 (Certification of Performance Verification), and 15.2.2 (Final Acceptance Certification) of Exhibit A (Statement of Work), and Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation) (collectively referred to herein as “Certification Deliverables”), CONTRACTOR shall correct all high priority Non-Cosmetic Deficiencies and all normal priority Non-Cosmetic Deficiencies that CONSORTIUM determines should be corrected prior to CONSORTIUM certification approval. Remaining normal priority Non-Cosmetic Deficiencies and Cosmetic Deficiencies identified in the Report Deliverables shall be corrected in accordance with a schedule approved by CONSORTIUM Executive Director. However, Cosmetic Deficiencies which are set forth in Deliverable 15.2.1 (Final Acceptance Report) of Exhibit A (Statement of Work) or Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation) shall be reclassified as normal priority Non-Cosmetic Deficiencies upon CONSORTIUM approval of Deliverable 15.2.2 (Final Acceptance Certification) of Exhibit A (Statement of Work) or Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), and together with the other remaining normal priority Non-Cosmetic Deficiencies, shall be corrected in accordance with a schedule approved by CONSORTIUM Executive Director. All Deficiencies not corrected in accordance with such schedule, shall be

corrected in accordance with Subparagraph 11.5 (Warranty Work Response). Deficiencies, the root cause of which is due to M&Es during Phase 2 (Performance Verification Phase), shall be corrected in accordance with Subparagraphs 11.4 (Correction of Deficiencies) and 11.5 (Warranty Work Response) and do not have to be corrected to obtain CONSORTIUM approval of Deliverable 15.2.2 (Final Acceptance Certification) of Exhibit A (Statement of Work).

4.3 UNAPPROVED WORK:

If CONTRACTOR provides any Tasks, Subtasks, Deliverables, goods, or services to CONSORTIUM other than those specified in this Agreement, or if CONTRACTOR provides such items requiring CONSORTIUM's prior approval without first having obtained such approval, the same shall be deemed to be a gratuitous effort on the part of CONTRACTOR and CONTRACTOR shall have no claim whatsoever against CONSORTIUM therefor.

4.4 LEADER REPLACEMENT SYSTEM AND CALSAWS SYSTEM:

CONTRACTOR shall provide the LEADER Replacement System and CalSAWS System to CONSORTIUM in accordance with the terms and conditions set forth in this Agreement.

4.5 PHASES:

All Work shall be performed in four (4) phases (Phase 1 (Design/Development/Implementation Phase), Phase 2 (Performance Verification Phase), Phase 3 (Operational Phase) and Phase 4 (CalSAWS Project) as described in Paragraph 7 (Term) (each referred to herein as "Phase"). Except for Phase 4 (CalSAWS Project), which will be performed, in part, in parallel with Phase 3 (Operational Phase), each Phase shall be successfully completed before the next Phase commences.

4.6 LIMITATION ON USE OF PRE-EXISTING APPLICATION SOFTWARE:

CONSORTIUM will provide the LA COUNTY Pre-Existing Application Software to CONTRACTOR to use solely as a reference for the design of the LRS

Application Software. CONTRACTOR shall not use any of the Source Code or Object Code of LA COUNTY Pre-Existing Application Software in the LRS Application Software.

4.7 RIGHT TO REJECT:

CONSORTIUM reserves the right to reject any Tasks, Subtasks, Deliverables, goods, or services not approved by CONSORTIUM pursuant to Subparagraph 4.2 (CONSORTIUM Approval of Work) or other provisions of this Agreement.

4.8 ORDERS FOR SERVICES FOR CONSORTIUM MEMBERS:

CONSORTIUM shall also have the right to order and purchase Work that are in connection with the LRS and which will be used by CONSORTIUM Members, by executing and delivering and order form that is agreed to in writing by CONTRACTOR and CONSORTIUM and executed by the applicable CONSORTIUM Member. In the event of a conflict or inconsistency between the terms and conditions of an order and this Agreement, the terms and conditions of the Agreement shall control to the extent of the conflict or inconsistency.

5. CHANGE NOTICES AND AMENDMENTS:

5.1 GENERAL:

CONSORTIUM reserves the right to change any portion of the Work required under this Agreement and any other provisions of this Agreement. All such changes shall be accomplished only as provided in this Paragraph 5.

5.2 REQUIRED APPROVALS:

5.2.1 For any change that does not materially affect the Scopes of Work (Exhibits A, U, W or X), term, schedule, payments, or any term or condition included in this Agreement, a negotiated Change Notice shall be prepared and executed by CONSORTIUM Executive Director and CONTRACTOR Project Director.

5.2.2 Except as provided in Subparagraph 8.1.2.1 (Premise Funding During Initial Term), for any change that materially affects the Scopes of Work (Exhibits A, U,W or X), term, schedule, payments, or any term or condition included in this Agreement, unless expressly authorized under this Paragraph 5, a negotiated Amendment to this Agreement shall be prepared and executed by CONSORTIUM's Board of Directors and CONTRACTOR.

5.2.3 Notwithstanding any other provision of this Paragraph 5, changes to the project schedule, as set forth in the Project Control Document, shall be made only in accordance with Paragraph 6 (Project Control Document), provided that any alteration made to the project schedule shall not prejudice either party's right to claim that such alterations constitute an Amendment to this Agreement that shall be governed by the terms of Subparagraph 5.2.2.

5.3 TERMINATIONS AND REDUCTIONS:

CONSORTIUM Executive Director shall take all appropriate action to carry out any orders of CONSORTIUM Board of Directors relating to this Agreement, and, for this purpose, CONSORTIUM Executive Director is authorized to: (i) issue notices of partial or total termination of this Agreement pursuant to Paragraph 37 (Termination for Convenience) following approval from the CONSORTIUM Board of Directors; and/or (ii) prepare and sign negotiated Amendments to this Agreement that reduce the scope of Work and the Total Maximum Contract Sum following approval from the CONSORTIUM Board of Directors.

Such notices of partial or total termination shall be authorized under the following conditions:

- (A) Notices shall be in compliance with all applicable federal, State, and San Bernardino County laws, rules, regulations, ordinances, guidelines, directives, policies, and procedures.
- (B) CONSORTIUM Executive Director shall obtain the approval of CONSORTIUM Counsel for any notice.

- (C) CONSORTIUM's Executive Director shall file a copy of all notices with the CONSORTIUM's Board of Directors within fifteen (15) days after execution of each notice.

Such Amendments shall be authorized under the following conditions:

- (A) Amendments shall be in compliance with all applicable federal, State, and county laws, rules, regulations, ordinances, guidelines, directives, policies, and procedures.
- (B) CONSORTIUM's Board of Directors has appropriated sufficient funds for purposes of such Amendments and this Agreement.
- (C) CONSORTIUM Executive Director shall obtain the approval of CONSORTIUM Counsel for any Amendment.
- (D) CONSORTIUM Executive Director shall file a copy of all Amendments with the CONSORTIUM's Board of Directors within fifteen (15) days after execution of each Amendment.

5.4 ESTIMATES, QUANTITIES, AND ASSUMPTIONS:

CONTRACTOR shall perform the Work in reliance upon and consistent with the estimates, quantities, and assumptions set forth in Exhibit G (Estimates, Quantities, and Assumptions) and any other Exhibit, as applicable. Any material changes to the estimates, quantities, and assumptions shall be accomplished in accordance with Subparagraph 5.2 (Required Approvals).

5.5 CONSORTIUM EVALUATION OF CONTRACTOR'S SUGGESTIONS FOR CHANGES:

CONTRACTOR may make suggestions for changes to the scope of Work, term, schedule, payments, or any term or condition included in this Agreement, together with the potential implications of any such changes, and shall provide CONSORTIUM with any related information reasonably requested by CONSORTIUM. CONSORTIUM may determine to act upon CONTRACTOR's suggestion, including in accordance with Subparagraph 5.2 (Required Approvals).

6. PROJECT CONTROL DOCUMENT:

6.1 DELIVERY AND APPROVAL OF PROJECT CONTROL DOCUMENT:

The project control document as provided by CONTRACTOR in Deliverable 1.1.1 (Project Control Document (PCD)) of Exhibit A (Statement of Work) for the LRS System or in Deliverable 002 (CalSAWS Project Control Document (PCD)) of Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation) for the CalSAWS System, and approved by CONSORTIUM, or as subsequently modified pursuant to this Paragraph 6 or as subsequently updated pursuant to Exhibit A (Statement of Work) or Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), as applicable, is referred to herein as the “Project Control Document” or “PCD”. All modifications and updates to the Project Control Document shall require the approval of CONSORTIUM Executive Director. No payments shall be due by CONSORTIUM to CONTRACTOR under this Agreement until the Project Control Document provided in Deliverable 1.1.1 (Project Control Document (PCD)) of Exhibit A (Statement of Work) is approved by CONSORTIUM pursuant to Subparagraph 4.2 (CONSORTIUM Approval of Work). No payments shall be due by CONSORTIUM to CONTRACTOR for the CalSAWS Project under this Agreement until the Project Control Document provided in Deliverable 002 (CalSAWS Project Control Document (PCD)) of Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation) is approved by CONSORTIUM pursuant to Subparagraph 4.2 (CONSORTIUM Approval of Work).

6.2 MODIFICATION OF PROJECT CONTROL DOCUMENT:

Notwithstanding any other provision of this Agreement but subject to the rights of the Parties as set forth in Subparagraph 5.2.3, CONSORTIUM Executive Director has the right to require modification of the Project Control Document if the Project Control Document: (i) fails to satisfy any requirements in this Agreement; (ii) fails to describe a process which will result in the delivery of the LEADER Replacement

System, the CalSAWS System or any Deliverable, one or more components of M&O Services, one or more components of M&E Services or one or more CalSAWS Components at a time or pursuant to a process satisfactory to CONSORTIUM; (iii) provides for an unreasonably short period of time to permit CONSORTIUM to adequately review and approve any Deliverable, one or more components of M&O Services, one or more components of M&E Services or one or more CalSAWS Components as set forth in Subparagraph 4.2 (CONSORTIUM Approval of Work); or (iv) assumes CONSORTIUM staffing, locations, manner of performance, or other CONSORTIUM-provided items not consistent with this Agreement.

Following receipt of a proposed modified Project Control Document from CONTRACTOR, CONSORTIUM Executive Director shall provide CONTRACTOR with a notice of approval in the event such Project Control Document is approved. From and after approval of a modified Project Control Document, the modified Project Control Document shall be the Project Control Document hereunder and shall supersede and replace the prior CONSORTIUM-approved Project Control Document in all respects. In the event a proposed modified Project Control Document is not approved for one or more of the reasons specified in clauses (i) through (iv) above, CONSORTIUM Executive Director will provide a statement specifying the manner in which such Project Control Document fails to meet the requirements of CONSORTIUM. CONSORTIUM Executive Director will notify CONTRACTOR of CONSORTIUM's approval or disapproval of a proposed modified Project Control Document within ten (10) Working Days of receipt from CONTRACTOR. With respect to any proposed modified Project Control Document, if CONSORTIUM Executive Director provides CONTRACTOR with a description of all such failures, then CONTRACTOR shall correct all such failures and redeliver such Project Control Document within ten (10) Working Days of receipt of notice from CONSORTIUM Executive Director. If the redelivered Project Control Document still fails to meet the requirements of CONSORTIUM, then, at CONSORTIUM Executive Director's sole option: (i) CONTRACTOR shall again correct any such failures and redeliver such Project

Control Document within ten (10) Working Days of receipt of notice from CONSORTIUM Executive Director or (ii) CONTRACTOR Project Director and CONSORTIUM Executive Director shall meet and implement the resolution process described in Paragraph 48 (Dispute Resolution Procedure).

7. TERM:

7.1 INITIAL TERM:

The term of this Agreement shall commence on November 7, 2012 and shall expire one hundred thirty-two (132) months thereafter unless extended, sooner terminated in whole or in part, or both, as provided in this Agreement (such term referred to herein as “Initial Term”). The Initial Term consists of four (4) phases. Phase 1 (Design/Development/Implementation Phase) shall be a period of forty-eight (48) months for the design, development, and Countywide Implementation of the LEADER Replacement System, provided that the duration of Phase 1 and the Initial Term shall automatically be extended at no additional cost to CONSORTIUM until CONTRACTOR has provided, and CONSORTIUM has approved, Deliverable 13.5.2 (Certification of Countywide Implementation) of Exhibit A (Statement of Work). Phase 2 (Performance Verification Phase) shall be a period of six (6) months immediately following the successful completion of Phase 1 (Design/Development/Implementation Phase). Phase 3 (Operational Phase), shall immediately follow the completion of Phase 2 (Performance Verification Phase) and shall end upon Exhibit X Effective Date. Phase 4 (CalSAWS Project) will run from the CalSAWS DD&I Start Date through the end of the Initial Term. The Initial Term shall be coterminous with Exhibit X (CalSAWS Maintenance and Operations Extension) as same may be extended, modified from time to time or sooner terminated.

CONTRACTOR shall notify CONSORTIUM Executive Director in writing when this Agreement is within six (6) months from the expiration of the Initial Term as described in the first paragraph of this Paragraph 7.

7.2 EXTENDED TERM:

7.2.1 As there has not been a determination of pricing for an Extended Term for the CalSAWS Project, any extension will be subject to a mutual agreement on pricing either at such time as CONSORTIUM seeks to extend the Initial Term or as the Parties may agree in advance in an Amendment.

8. CONTRACT SUM:

8.1 TOTAL MAXIMUM CONTRACT SUM:

8.1.1 General.

All of the pricing and sums set forth in this Section 8 apply to Work under Phases 1, 2, 3 and 4.

The Total Maximum Contract Sum shall be the total monetary amount payable by CONSORTIUM to CONTRACTOR for furnishing all of the Tasks, Subtasks, Deliverables, goods, Services, and services specified under this Agreement, including all applicable taxes and transportation charges. All Work completed by CONTRACTOR must be approved by CONSORTIUM. If CONSORTIUM does not approve Work, no payment shall be due to CONTRACTOR for that Work.

8.1.2 Total Maximum Contract Sum During Initial Term.

The Total Maximum Contract Sum [CONTRACTOR's total consideration for all Work hereunder, excluding postage charges as defined in Subparagraph 8.3 (Postage Charges), and including all applicable taxes and transportation charges, as determined by aggregating the Maximum Contract Sums specified in Subparagraphs 8.2.1 (Deliverables), 8.2.2.1, 8.2.3.1 and 8.2.4 (Regulatory & Administrative Change Budget Services), and 8.2.5 (County Purchases) for this Agreement during the Initial Term, shall not exceed One Billion, Fifty-Four Million, One Hundred Forty-Five Thousand, Three Hundred Fifty Three Dollars (\$1,054,145,353). The Total

Maximum Contract Sum shall not be increased for any costs or expenses whatsoever of CONTRACTOR, except pursuant to an Amendment to this Agreement as set forth in Subparagraph 5.2.2.

8.2 MAXIMUM CONTRACT SUMS:

8.2.1 Deliverables.

The Maximum Contract Sum for Deliverables [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges, for all Deliverables to be provided under Tasks 1 (Project Administration) through Task 15 (Phase 3 (Operational Phase)) of Exhibit A (Statement of Work)] for this Agreement, shall not exceed One Hundred Million, Two Hundred Nineteen Thousand, Four Hundred Eighty-One Dollars (\$100,219,481).

The Maximum Contract Sum for the CalSAWS Deliverables [CONTRACTOR's total consideration for all Work in Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), including all applicable taxes and transportation charges, for all Deliverables and Facilities to be provided under Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation)] for this Agreement, shall not exceed One Hundred Seventeen Million Seven Hundred Seventy Five Thousand Three Hundred Thirty Three Dollars (\$117,775,333).

The Maximum Contract Sum for the CalSAWS Cloud Enablement Project Deliverables [CONTRACTOR's total consideration for all Work in Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations), including all applicable taxes and transportation charges, for all Deliverables to be provided under Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations)] for this Agreement, shall not exceed Twenty Six Million Nine Hundred Twenty Thousand Eight Hundred Nineteen Dollars (\$26,920,819).

8.2.2 Management and Operations Services.

8.2.2.1 The Maximum Contract Sum for Management and Operations Services (excluding CalSAWS M&O) [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges, for Management and Operations Services] for this Agreement during the Initial Term, shall not exceed Three Hundred Ninety-Six Million, Seven Hundred Sixty-Eight Thousand, Nine Hundred Eighty Dollars (\$396,768,980).

8.2.3 Application Software Modifications and/or Enhancements During Phase 2 (Performance Verification Phase) and Phase 3 (Operational Phase).

8.2.3.1 The Maximum Contract Sum for Application Software Modifications and/or Enhancements [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges, for Application Software Modifications and/or Enhancements as required hereunder for this Agreement during Phase 2 (Performance Verification Phase) and Phase 3 (Operational Phase)], shall not exceed Eighty Million, One Hundred Sixty Thousand Dollars (\$80,160,000).

8.2.3.2 Should CONSORTIUM determine to extend this Agreement pursuant to Subparagraph 7.2 (Extended Term), the Maximum Contract Sum for Application Software Modifications and/or Enhancements [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges, for Application Software Modifications and/or Enhancements as required hereunder] for this Agreement during any Extended Term, shall not exceed Forty Million, Eight Hundred Ninety-Six Thousand Dollars (\$40,896,000).

8.2.3.3 CONTRACTOR shall be reimbursed for only those Application Software Modifications and/or Enhancements which have had prior CONSORTIUM approval and for which CONSORTIUM has approved completed Deliverables, provided that CONTRACTOR shall not be reimbursed for, and shall not include in its invoices, any person hours regarding: (i) an M&E Request, including any person hours for preparing, providing, and presenting any response to such M&E Request, applicable to the period prior to CONSORTIUM approval of the related M&E Proposal, or (ii) any M&O Services provided to support Application Software Modifications and/or Enhancements Services. CONTRACTOR's invoices submitted for such Work shall include an accounting of such CONSORTIUM-approved Application Software Modifications and/or Enhancements, and such completed Deliverables, together with the number of person hours and the Fixed Hourly Rate Price for such Work; provided that the total amount invoiced by CONTRACTOR for such Work for each M&E Proposal approved by CONSORTIUM shall not be more than the maximum, not-to-exceed price in such M&E Proposal. The Fixed Hourly Rate Price is shown on Schedule C (Application Software Modifications and/or Enhancements Prices During Phase 2 (Performance Verification Phase) and Phase 3 (Operational Phase)) or Schedule C-EXT (Application Software Modifications and/or Enhancements Prices During Any Extended Term), as applicable, of Exhibit C (Schedule of Payments).

8.2.4 Regulatory & Administrative Change Budget Services

The Maximum Contract Sum for Regulatory & Administrative Change Budget Services [CONTRACTOR's total consideration for all Work

hereunder, including all applicable taxes and transportation charges for Regulatory & Administrative Change Budget Services] for this Agreement during the Initial Term, shall not exceed Sixty Six Million, Nine Hundred Forty Thousand, Six Hundred Thirty Nine Dollars (\$66,940,639) as applicable, in Schedule D (Regulatory & Administrative Change Budget Services) of Exhibit C (Schedule of Payments).

8.2.5 COUNTY Purchases

The Maximum Contract Sum for LA COUNTY Purchases [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges for LA COUNTY Purchases] for this Agreement during the Initial Term, shall not exceed Two Million, Ninety-Nine Thousand Eight Hundred Thirty-Two Dollars (\$2,099,832), as applicable, in Schedule E (County Purchases) of Exhibit C (Schedule of Payments).

8.2.6 Cloud Enablement Proof of Concept Project

The Maximum Contract Sum for Cloud Enablement Proof of Concept Project [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges for the Cloud Enablement Proof of Concept Project] for this Agreement during the Initial Term, shall not exceed Three Million, Ten Thousand, Five Hundred and Seventy Five Dollars (\$3,010,575), as applicable, in Schedule F (Cloud Enablement Proof of Concept Project) of Exhibit C (Schedule of Payments).

8.2.7 CalSAWS Design, Development and Implementation

The Maximum Contract Sum for CalSAWS DD&I Services [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges for the CalSAWS DD&I Services] for this Agreement during the Initial Term, shall not exceed One

Hundred Seventeen Million, Seven Hundred Seventy-Five Thousand, Three Hundred Thirty-Three Dollars (\$117,775,333), as applicable, in Schedule 2 of Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation).

8.2.8 CalSAWS Cloud Enablement Bridge Project

The Maximum Contract Sum for CalSAWS Cloud Enablement Bridge Project [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges for the CalSAWS Cloud Bridge Enablement Project] for this Agreement during the Initial Term, shall not exceed Two Million, Six Hundred Sixty Thousand, Seven Hundred Ninety-Two Dollars (\$2,660,792), as applicable, in Schedule 2 of Exhibit V (Scope of Work for CalSAWS Cloud Enablement Bridge Project).

8.2.9 CalSAWS Cloud Enablement Project

The Maximum Contract Sum for CalSAWS Cloud Enablement Project [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges for the CalSAWS Cloud Enablement Project] for this Agreement during the Initial Term, shall not exceed Twenty Six Million Nine Hundred Twenty Thousand Eight Hundred Nineteen Dollars (\$26,920,819), as applicable, in Schedule 2 of Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations).

8.2.10 CalSAWS Innovation Lab

The Maximum Contract Sum for the CalSAWS Innovation Lab [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges for the CalSAWS Innovation Lab] for this Agreement during the Initial Term, shall not exceed Seven Million Six Hundred Ninety-Six Thousand Two Hundred

Fifty-Four Dollars (\$7,696,254), as applicable, in Schedule 2 of Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations) and Attachment 2 to Schedule 1 of Exhibit X (CalSAWS Maintenance and Operations Extension).

8.2.11 CalSAWS Interim Maintenance and Operations

The Maximum Contract Sum for CalSAWS Interim Maintenance and Operations [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges for the CalSAWS Interim Maintenance and Operations] for this Agreement during the Initial Term, shall not exceed Two Million, Eight Hundred Fifty Thousand, One Hundred Seventy-Five Dollars (\$2,850,175), as applicable, in Schedule 2 of Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations).

8.2.12 CalSAWS Maintenance and Operations; CalSAWS M&O

The Maximum Contract Sum for CalSAWS Maintenance and Operations [CONTRACTOR's total consideration for all Work hereunder, including all applicable taxes and transportation charges for the CalSAWS Maintenance and Operations] for this Agreement during the Initial Term, shall not exceed Two Hundred Forty-Seven Million, Forty-Two Thousand Four Hundred Seventy-Two Dollars (\$247,042,472), as applicable, in Attachment 2 of Schedule 1 to Exhibit X (CalSAWS Maintenance and Operations Extension).

8.3 POSTAGE CHARGES:

CONTRACTOR shall invoice CONSORTIUM monthly in arrears and CONSORTIUM will pay CONTRACTOR for the actual United States Postal Service (USPS) postage charges for mailing LA COUNTY-specified client correspondence generated by the Print Facility Sites, as a direct pass-through charge.

8.4 TERMINATION FOR NON-APPROPRIATION OF FUNDS:

Notwithstanding any other provision of this Agreement, CONSORTIUM shall not be obligated for CONTRACTOR's performance hereunder or by any provision of this Agreement during any of CONSORTIUM's future fiscal years unless and until CONSORTIUM's Board of Directors appropriates funds for this Agreement in CONSORTIUM's Budget for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30th of the last fiscal year for which funds were appropriated. CONSORTIUM shall notify CONTRACTOR of any such non-appropriation of funds as soon as reasonably practicable.

To manage the risk of sufficient funds not being appropriated for CONTRACTOR's performance of this Agreement, CONSORTIUM agrees to take reasonable steps to seek such appropriations, and CONTRACTOR shall work with the CONSORTIUM to support such CONSORTIUM efforts. In addition, the Parties shall work together to assess whether (and the manner by which) Work should be suspended to avoid the expenditure of further effort on at-risk Work.

If CONSORTIUM terminates this Agreement for non-appropriation as provided in this Subparagraph 8.4, CONSORTIUM will compensate CONTRACTOR as provided in Subparagraph 37.3 to the maximum extent that funds for such payment are available from federal and State funds. To the extent that such funds are not available, CONTRACTOR may seek payment from CONSORTIUM through a claim to the CONSORTIUM, or other appropriate process.

8.5 BUDGET REDUCTIONS:

In the event that CONSORTIUM's Board of Directors adopts, for any fiscal year, a Budget which provides for reductions in the salaries and benefits paid to the majority of CONSORTIUM employees, and imposes similar reductions with respect to CONSORTIUM agreements, CONSORTIUM reserves the right to reduce its payment obligation correspondingly for such fiscal year and any subsequent fiscal years for services provided by CONTRACTOR under this

Agreement. Such reduction in CONSORTIUM's payment obligation and any other corresponding changes shall be made in accordance with Subparagraph 5.2 (Required Approvals). CONSORTIUM's notice to CONTRACTOR regarding the need for such reduction in CONSORTIUM's payment obligation shall be provided within thirty (30) days of CONSORTIUM's Board of Directors approval of such actions. CONTRACTOR shall continue to perform all of its obligations set forth in this Agreement. Upon such notice, the Parties shall promptly enter into negotiations to identify and effectuate such reduction in CONSORTIUM's payment obligation and any other corresponding changes in accordance with Subparagraph 5.2 (Required Approvals). Such reduction in CONSORTIUM's payment obligation and any other corresponding changes will become effective as of the date agreed by the Parties.

8.6 CHANGES PRIOR TO SYSTEM DESIGN APPROVAL:

During the period from November 7, 2012 to thirty (30) days prior to the scheduled date for the delivery of the Functional Design Document, as set forth in Deliverable 6.1 (Functional Design Document (FDD)) of Exhibit A (Statement of Work), CONTRACTOR shall expect that changes mandated by federal or State, laws, including, the California Healthcare Eligibility, Enrollment and Retention System (CalHEERS) functionality, rules, regulations, ordinances, guidelines, directives, policies, or procedures, or changes mandated by LA COUNTY ordinances or LA COUNTY's Board of Supervisors policies, directives, or other mandates adopted by LA COUNTY's Board of Supervisors in a public hearing, may occur. In addition, changes mandated by DPSS administrative directives, or DPSS program policy and procedure manuals, as required to implement: (i) federal and/or State laws, rules, regulations, ordinances, guidelines, directives, policies, or procedures, and/or (ii) LA COUNTY ordinances or LA COUNTY's Board of Supervisors policies, directives, or other mandates adopted by LA COUNTY's Board of Supervisors in a public hearing, may occur. CONTRACTOR shall accommodate all such changes at no additional cost to CONSORTIUM. CONSORTIUM and CONTRACTOR recognize that such changes may have a cumulative adverse

impact on the project schedule set forth in the Project Control Document. Therefore, CONSORTIUM and CONTRACTOR will periodically review the cumulative impact of such changes to determine whether the project schedule set forth in the Project Control Document needs to be modified, and any such modification shall be made in accordance with Paragraph 5 (Change Notices and Amendments). The Parties acknowledge that this Section 8.6 has been completed and is no longer applicable.

8.7 CONTRACTOR PERFORMANCE OBLIGATION:

CONTRACTOR shall fully perform and complete all Work required of CONTRACTOR by this Agreement in exchange for the amounts to be paid to CONTRACTOR as set forth in this Agreement.

9. INVOICES AND PAYMENTS:

9.1 INVOICES:

CONTRACTOR shall invoice CONSORTIUM only for Tasks, Subtasks, Deliverables, goods, and services, which are specified in the Agreement, including Exhibits, which have been provided by CONTRACTOR and approved by CONSORTIUM pursuant to the terms of this Agreement, and for which payment is required pursuant to the terms of this Agreement. All invoices shall be subject to CONSORTIUM approval pursuant to Subparagraph 9.4 (CONSORTIUM Approval of Invoices). CONTRACTOR shall prepare invoices in the detail and formats reasonably required by CONSORTIUM Executive Director, or as detailed in the applicable Exhibit, for charges owed to CONTRACTOR by CONSORTIUM under the terms of this Agreement. CONTRACTOR's payments shall be as provided in Exhibit C (Schedule of Payments), in Schedule 2 of Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), in Schedule 2 of Exhibit V (Scope of Work for CalSAWS Cloud Enablement Bridge Project), in Schedule 2 of Exhibit W (Scope of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations).

9.2 SUBMISSION OF INVOICES:

CONTRACTOR shall submit all invoices under this Agreement to CONSORTIUM Executive Director for approval at the address set forth in Subparagraph 2.1 (CONSORTIUM Executive Director), with the exception of invoices for DCFS postage charges, which shall be submitted to the following address:

County of Los Angeles
Department of Children and Family Services
425 Shatto Place, Room #204
Los Angeles, CA 90020
Attention: Contract Accounting

9.3 INVOICE DETAIL:

9.3.1 Each invoice submitted by CONTRACTOR shall indicate:

- (A) The Tasks (by Task number and title), Subtasks (by Subtask number and title), Deliverables (by Deliverable number and title), or other Work as described in the Exhibit under which payment is claimed.
- (B) The amount due for each such item.
- (C) The total amount due for the invoicing period.
- (D) The date(s) of approval of the Tasks, Subtasks, Deliverables, or other Work by CONSORTIUM Executive Director.
- (E) Any applicable withhold amount(s) for payments claimed or reversals thereof.
- (F) Any applicable Liquidated Damages due to CONSORTIUM under the terms of this Agreement.
- (G) Any other information related to such invoice as reasonably requested by CONSORTIUM Executive Director.

9.3.2 Invoices for Management and Operations Services shall be accompanied by reports using CONSORTIUM-approved formats to support invoices.

9.3.3 Invoices for Application Software Modifications and/or Enhancements shall be accompanied by reports using CONSORTIUM-approved formats to support invoices.

9.3.4 Invoices for charges for Regulatory & Administrative Change Budget Services shall be accompanied by reports using CONSORTIUM-approved formats to support invoices.

9.4 CONSORTIUM APPROVAL OF INVOICES:

All invoices submitted by CONTRACTOR must have the approval of CONSORTIUM Executive Director as described in this Subparagraph 9.4. All invoices submitted by CONTRACTOR for payment with respect to any Work hereunder must have a fully signed Work Acceptance Certificate for such Work, prior to any payment thereof. CONTRACTOR shall prepare and submit each invoice, together with the applicable fully signed Work Acceptance Certificate, to CONSORTIUM Executive Director for his review and approval. Invoices should be approved and paid within thirty (30) days of CONSORTIUM's receipt of an accurate and complete invoice in accordance with this Paragraph 9. In no event shall CONSORTIUM be liable or responsible for any payment prior to such approval.

9.5 INVOICING, PAYMENT, AND WITHHOLDS FOR DELIVERABLES:

CONTRACTOR shall invoice CONSORTIUM and CONSORTIUM will authorize payment to CONTRACTOR of the Maximum Price less the ten percent (10%) Withhold Amount (e.g., ninety percent (90%) of the Maximum Price) as provided in Schedule A (Deliverable Prices) of Exhibit C (Schedule of Payments) for each Deliverable to be furnished under Task 1 (Project Administration) through Task 15 (Phase 3 (Operational Phase)) of Exhibit A (Statement of Work) and for which Deliverable CONSORTIUM is obligated to make payment as shown on Schedule A of Exhibit C (Schedule of Payments), upon receipt and approval of such Deliverable and upon receipt and approval of the invoice therefor, as provided in Subparagraphs 4.2 (CONSORTIUM Approval of Work)

and 9.4 (CONSORTIUM Approval of Invoices). No payment shall be made by CONSORTIUM to CONTRACTOR for certain Deliverables as shown in Schedule A (Deliverable Prices) of Exhibit C (Schedule of Payments). For purposes of the CalSAWS DD&I Services Tasks, invoicing and payment shall be as set forth in Schedule 2 to Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation).

CONTRACTOR shall submit one (1) invoice for payment of all Withhold Amounts and CONSORTIUM will make one (1) aggregate payment of all Withhold Amounts after Final Acceptance, upon receipt and approval of the invoice therefor, as provided in Subparagraphs 4.2 (CONSORTIUM Approval of Work) and 9.4 (CONSORTIUM Approval of Invoices).

For purposes of the CalSAWS DD&I Services and in accordance with Schedule 2 to Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation), payment by CONSORTIUM to CONTRACTOR of the CalSAWS Withhold Amounts will be as follows:

(A) After CONSORTIUM Acceptance of the CalACES Migration Final Acceptance Certificate (Deliverable #71), CONTRACTOR will submit one (1) invoice for payment of all the Withhold Amounts identified for said milestone in Schedule 2 to Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation). Upon receipt and approval of the invoice therefor, as provided in 9.4 (CONSORTIUM Approval of Invoices), CONSORTIUM will make one (1) aggregate payment of all such Withhold Amounts.

(B) After CONSORTIUM Acceptance of the CalSAWS Migration Final Acceptance Certificate (Deliverable #96), CONTRACTOR will submit one (1) invoice for payment of all the Withhold Amounts identified for said milestone in Schedule 2 to Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation). Upon receipt and approval of the invoice therefor, as provided in 9.4 (CONSORTIUM Approval of Invoices), CONSORTIUM will make one (1) aggregate payment of all such Withhold Amounts.

9.6 INVOICING AND PAYMENT FOR MANAGEMENT AND OPERATIONS SERVICES:

During the Initial Term and any Extended Term, CONTRACTOR shall invoice CONSORTIUM monthly in arrears and CONSORTIUM will authorize payment to CONTRACTOR for Management and Operations Services in accordance with the Fixed Monthly Rate Price shown on Schedule B (Management and Operations Services Prices During Initial Term) or Schedule B-EXT (Management and Operations Services Prices During Any Extended Term), as applicable, of Exhibit C (Schedule of Payments), upon receipt and approval of such Work and upon receipt and approval of the invoices therefor, as provided in Subparagraphs 4.2 (CONSORTIUM Approval of Work) and 9.4 (CONSORTIUM Approval of Invoices).

9.7 INVOICING AND PAYMENT FOR APPLICATION SOFTWARE MODIFICATIONS AND/OR ENHANCEMENTS DURING PHASE 2 (PERFORMANCE VERIFICATION PHASE), PHASE 3 (OPERATIONAL PHASE), AND ANY EXTENDED TERM:

During Phase 2 (Performance Verification Phase), Phase 3 (Operational Phase), and any Extended Term, CONTRACTOR shall invoice CONSORTIUM monthly in arrears and CONSORTIUM will authorize payment to CONTRACTOR for only those Application Software Modifications and/or Enhancements described in Subparagraph 8.2.3.3, based on the number of person hours and the Fixed Hourly Rate Price for such Work, upon receipt and approval of such Work and upon receipt and approval of the invoices therefor, as provided in Subparagraphs 4.2 (CONSORTIUM Approval of Work) and 9.4 (CONSORTIUM Approval of Invoices). The Fixed Hourly Rate Price is shown on Schedule C (Application Software Modifications and/or Enhancements Prices During Phase 2 (Performance Verification Phase) and Phase 3 (Operational Phase)) or Schedule C-EXT (Application Software Modifications and/or Enhancements Prices During Any Extended Term), as applicable, of Exhibit C (Schedule of Payments).

9.8 TRANSPORTATION CHARGES:

The Total Maximum Contract Sum shown in Subparagraph 8.1 (Total Maximum Contract Sum) includes all amounts necessary for CONSORTIUM to reimburse CONTRACTOR for all transportation and related insurance charges for the LEADER Replacement System. All transportation and related insurance charges shall be paid directly by CONTRACTOR to the applicable carrier. CONTRACTOR shall be solely liable and responsible for, and shall indemnify, defend, and hold harmless CONSORTIUM from, any and all transportation and related insurance charges.

9.9 TAXES:

The Total Maximum Contract Sum shown in Subparagraph 8.1 (Total Maximum Contract Sum) includes all amounts necessary for CONSORTIUM to reimburse CONTRACTOR for all applicable California and other state and local taxes on the LEADER Replacement System and CalSAWS System. CONTRACTOR shall be solely liable and responsible for, and shall indemnify, defend, and hold harmless CONSORTIUM from, any and all California and other state and local sales/use tax (including installation, maintenance, etc.). All sales/use taxes shall be paid directly by CONTRACTOR to the State of California or other taxing authority.

9.10 PAYMENT IN EVENT OF DEFAULT:

If this Agreement is terminated by CONSORTIUM for default as provided in Paragraph 35 (Termination for Default), then, without excusing such default, and without prejudice to any other rights or remedies of CONSORTIUM in this Agreement or as provided by law, CONTRACTOR shall be entitled to none of the sums not paid theretofore. Notwithstanding the preceding sentence, CONTRACTOR shall be entitled to be paid for all Work that has been approved by CONSORTIUM pursuant to Subparagraph 4.2 (CONSORTIUM Approval of Work), and CONSORTIUM Executive Director may determine that such payment shall be made in the form of an offset against CONSORTIUM's damages pursuant to Paragraph 35 (Termination for Default).

9.11 CONSORTIUM'S RIGHT TO WITHHOLD PAYMENT:

Notwithstanding any other provision of this Agreement, and in addition to any rights of CONSORTIUM given by law or provided in this Agreement, CONSORTIUM may, upon notice to CONTRACTOR, withhold payment of fifty percent (50%) of each Management and Operations Services Fixed Monthly Rate Price until CONTRACTOR has corrected any Non-cosmetic Deficiency which has not been corrected within the time period or the schedule described in Subparagraph 11.5 (Warranty Work Response). The date upon which such withhold commences shall be forty-eight (48) hours after the notice is sent, provided that if within such period, CONTRACTOR submits a good faith dispute relating to any such notice pursuant to Paragraph 48 (Dispute Resolution Procedure), then such withhold shall not commence until the date of completion of the dispute resolution procedure.

9.12 INVOICES AND PAYMENT FOR REGULATORY & ADMINISTRATIVE CHANGE BUDGET SERVICES

During the Initial Term, CONSORTIUM will authorize payment to CONTRACTOR upon receipt of such Regulatory & Administrative Change Budget Services and upon receipt and approval of the invoices therefore, as provided in Subparagraph 9.4 (CONSORTIUM Approval of Invoices). The CONSORTIUM Executive Director shall approve each request for use of the R&A Change Budget and CONTRACTOR shall use an hourly rate of One Hundred Seventy-Four Dollars (\$174.00) or in accordance with a fixed price for Work as proposed by CONTRACTOR Project Director and approved by the CONSORTIUM Executive Director. Following the Effective Date of this Amendment No. 6, the CONSORTIUM Executive Director shall approve each request for use of the R&A Change Budget and CONTRACTOR shall use the hourly rate of One Hundred Seventy-Four Dollars (\$174.00), or in accordance with a fixed price for Work as proposed by CONTRACTOR Project Director and approved by the CONSORTIUM Executive Director in his/her sole discretion. The Parties acknowledge that the R&A Change Budget has been depleted as of the Restatement Effective Date. Future Work will be priced pursuant to the agreed

rates set forth in Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation) and memorialized in an Amendment.

10. LIQUIDATED DAMAGES:

10.1 DAMAGE TO CONSORTIUM:

CONSORTIUM and CONTRACTOR agree that failed, delayed, and/or other performance not in compliance with the terms of this Agreement by CONTRACTOR as described in this Paragraph 10 will cause damages to CONSORTIUM which are uncertain and would be impractical or difficult to ascertain in advance, and therefore, CONSORTIUM may assess and, if assessed, CONTRACTOR shall pay to CONSORTIUM in the event of such failed, delayed, and/or other performance not in accordance with the terms of this Agreement the amounts described in this Paragraph 10 as Liquidated Damages and not as penalties. CONTRACTOR and CONSORTIUM agree that the amounts of Liquidated Damages, as set forth in this Paragraph 10, represent fair and reasonable compensation for CONSORTIUM damages, in conformity with California Civil Code Section 1671, incurred in case of failed, delayed, or other CONTRACTOR performance not in accordance with the terms of this Agreement.

Notwithstanding the preceding paragraph, CONTRACTOR's total liability for Liquidated Damages under Subparagraphs 10.2 (Liquidated Damages for Failure to Meet Certain Key Deliverables Due Dates), 10.3 (Liquidated Damages for Failure to Meet Certain Performance Requirements), and 10.4 (Liquidated Damages for Failure to Replace CONTRACTOR Key Staff) shall not exceed ten percent (10%) of the Total Maximum Contract Sum during the term of this Agreement.

10.2 LIQUIDATED DAMAGES FOR FAILURE TO MEET CERTAIN KEY DELIVERABLE DUE DATES:

For each and every occasion upon which any of the Key Deliverables described in this Subparagraph 10.2 has not been completed by CONTRACTOR within five (5)

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Working Days after the date for completion thereof as set forth in the chart below applicable to such Key Deliverable (with respect to any such Key Deliverable, herein the “Key Deliverable Due Date”): (i) other than as a result of delays caused primarily by acts or omissions of CONSORTIUM, as determined by CONSORTIUM Executive Director; (ii) other than as a result of force majeure as defined in Subparagraph 35.3; or (iii) unless the delay is otherwise excused by CONSORTIUM Executive Director, then CONSORTIUM may assess and CONTRACTOR shall pay to CONSORTIUM Liquidated Damages for each Working Day after the Key Deliverable Due Date that such Key Deliverable is not completed. For purpose of this Section 10.2 as applied to the CalSAWS Project, the CONSORTIUM Executive Director will not have unilateral discretion to determine whether delays were caused primarily by acts or omissions of CONSORTIUM. This issue will be determined by the applicable facts. The applicable facts will be established by the mutual agreement of the Parties. In the event that the matter is unable to be resolved by mutual agreement, the dispute will be resolved by resort to the dispute resolution process set forth in Section 48. All of the foregoing Liquidated Damages shall apply separately, and cumulatively, to each such Key Deliverable. For purposes of this Subparagraph 10.2, the applicable Key Deliverables and corresponding Liquidated Damages per Working Day are as follows:

Name of Key Deliverable	Amount of Liquidated Damages Per Working Day After Key Deliverable Due Date	Date for Completion
Deliverable 1.1.1 (Project Control Document (PCD))	\$2,000	Effective Date + 30 Days
Deliverable 1.2.1 (M&O Services Plan)	\$2,000	In LRS PCD
Deliverable 3.2.1 (System Requirements Document (SRD))	\$2,000	In LRS PCD

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Deliverable 4 (General Design Document)	\$2,000	In LRS PCD
Deliverable 6.1 (Functional Design Document (FDD))	\$5,000	In LRS PCD
Deliverable 7.3B (Technical Infrastructure Review and Acceptance Document for Staging / Performance and Production Environments)	\$2,000	In LRS PCD
Deliverable 8.6 (Unit Test and Validation Report)	\$2,000	In LRS PCD
Deliverable 9.2.8 (System Test Summary Report)	\$5,000	In LRS PCD
Deliverable 10.1 (Implementation Master Plan)	\$2,000	In LRS PCD
Deliverable 10.3 (LRS Training Plans)	\$2,000	In LRS PCD
Deliverable 11.5 (Certification of Operational Readiness)	\$5,000	In LRS PCD
Deliverable 12.3 (Certification of Countywide Implementation Readiness Report and Plans Update)	\$10,000	In LRS PCD
Deliverable 13.5.2 (Certification of Countywide Implementation)	\$20,000	In LRS PCD
Deliverable 14.3.2 (Certification of Performance Verification)	\$2,000	In LRS PCD
CalSAWS Migration Work Plan Initial	\$2,000	In Approved CalSAWS Migration Work Plan
CalSAWS General Design (Page/Report/Correspondence Changes per Requirement)	\$2,000	In Approved CalSAWS Migration Work Plan

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CalSAWS Requirements Traceability Matrix	\$2,000	In Approved CalSAWS Migration Work Plan
CalSAWS Master Test Plan	\$2,000	In Approved CalSAWS Migration Work Plan
CalSAWS UAT Readiness Report/Milestone	\$5,000	In Approved CalSAWS Migration Work Plan
CalSAWS Deployment Complete Report	\$10,000	In Approved CalSAWS Migration Work Plan

A Key Deliverable shall be deemed completed for purposes of this Subparagraph 10.2 and Paragraph 35 (Termination for Default) on the earliest date that all of the Work required for the completion of such Key Deliverable is completed and delivered to CONSORTIUM, provided that all of such Work required for the completion of such Key Deliverable is thereafter approved by CONSORTIUM pursuant to Subparagraph 4.2 (CONSORTIUM Approval of Work).

In the event CONSORTIUM collects Liquidated Damages for Key Deliverables from CONTRACTOR and/or CONTRACTOR owes Liquidated Damages to CONSORTIUM for any of the Key Deliverables, and CONTRACTOR achieves Deliverable 13.5.2 (Certification of Countywide Implementation) of Exhibit A (Statement of Work) by the due date specified in the PCD or Deliverable 71 (CalACES Migration Final Acceptance Certificate) by the due date specified in the CalSAWS Migration Work Plan, CONSORTIUM will refund to CONTRACTOR all Liquidated Damages for Key Deliverables paid to CONSORTIUM and forgive any such Liquidated Damages for Key Deliverables due to CONSORTIUM but not yet paid.

10.3 LIQUIDATED DAMAGES FOR FAILURE TO MEET CERTAIN PERFORMANCE REQUIREMENTS:

The Performance Requirements set forth in this Section 10.3 are only applicable to the LRS System. The Performance Requirements set forth in this Section 10.3 will be modified as specified in Schedule 1 Contractor Assumptions to Exhibit W (Statement of Work for CalSAWS Cloud Enablement Project and Interim Maintenance and Operations) when the LRS is cutover to the AWS Cloud.

10.3.1 All of the Liquidated Damages set forth in this Subparagraph 10.3.1 shall apply separately, and cumulatively, to each of the following performance requirements:

- (A) Daily Peak Usage Hours Availability: CONSORTIUM damages due to failure by CONTRACTOR to meet the Daily Peak Usage Hours Availability requirement, as set forth in Subparagraph 1 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements), i.e., that the LRS shall be available for all online functions for all Users ninety-eight percent (98%) of the time during Peak Usage Hours each day.

Liquidated Damages: Liquidated Damages shall equal Ten Thousand Dollars (\$10,000) for each day that does not meet the availability requirement. The percentage of availability shall be determined in accordance with the following formula:

$$\text{Availability \%} = 100 \times ((A - B) / A)$$

Where:

A = The measurement period which is Peak Usage Hours for a day expressed in minutes; and

B = The number of the minutes in the measurement period that the LRS is not available.

- (B) Daily Prime Business Hours Availability: CONSORTIUM damages due to failure by CONTRACTOR to meet the Daily

Prime Business Hours Availability requirement, as set forth in Subparagraph 2 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements), i.e., that the LRS shall be available for all online functions for all Users ninety-seven percent (97%) of the time during Prime Business Hours each day.

Liquidated Damages: Liquidated Damages shall equal Five Thousand Dollars (\$5,000) for each day that does not meet the availability requirement. The percentage of availability shall be determined in accordance with the following formula:

$$\text{Availability \%} = 100 \times ((A - B) / A)$$

Where:

A = The measurement period which is Prime Business Hours for a day expressed in minutes; and

B = The total number of the minutes in the measurement period that the LRS is not available, excluding Scheduled Downtime.

- (C) Daily Peak Usage Hours ED/BC Response Time: CONSORTIUM damages due to failure by CONTRACTOR to meet the Daily Peak Usage Hours ED/BC Response Time requirement, as set forth in Subparagraph 3 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements), i.e., that the LRS shall have a response time for ninety-five percent (95%) of the eligibility determination and benefit calculation (ED/BC) transactions of three (3) seconds or less, during Peak Usage Hours each day.

Liquidated Damages: Liquidated Damages shall equal Two Thousand Dollars (\$2,000) for each day that does not meet the response time requirement. The response time percentage shall be determined in accordance with the following formula:

$$\text{Transaction Response Time \%} = 100 \times ((A - B) / A)$$

Where:

A = The number of transactions in the Transaction Sample determined in accordance with such Subparagraph 3 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements); and

B = The number of transactions in the Transaction Sample that exceeded three (3) seconds.

(D) Daily Prime Business Hours ED/BC Response Time:

CONSORTIUM damages due to failure by CONTRACTOR to meet the Daily Prime Business Hours ED/BC Response Time requirement, as set forth in Subparagraph 4 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements), i.e., that the LRS shall have a response time for ninety-nine and nine tenths percent (99.9%) of the ED/BC transactions of twenty (20) seconds or less, during Prime Business Hours each day.

Liquidated Damages: Liquidated Damages shall equal Two Thousand Dollars (\$2,000) for each day that does not meet the response time requirement. The response time percentage shall be determined in accordance with the following formula:

$$\text{Transaction Response Time \%} = 100 \times ((A - B) / A)$$

Where:

A = The number of transactions in the Transaction Sample determined in accordance with such Subparagraph 4 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements); and

B = The number of transactions in the Transaction Sample that exceeded twenty (20) seconds.

- (E) Daily Peak Usage Hours Screen to Screen Navigation Response Time: CONSORTIUM damages due to failure by CONTRACTOR to meet the Daily Peak Usage Hours Screen to Screen Navigation Response Time requirement, as set forth in Subparagraph 5 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements), i.e., that the LRS shall have a response time for ninety-eight percent (98%) of the screen to screen navigation transactions of two (2) seconds or less, during Peak Usage Hours each day.

Liquidated Damages: Liquidated Damages shall equal Two Thousand Dollars (\$2,000) for each day that does not meet the response time requirement. The response time percentage shall be determined in accordance with the following formula:

$$\text{Transaction Response Time \%} = 100 \times ((A - B) / A)$$

Where:

A = The number of transactions in the Transaction Sample determined in accordance with such Subparagraph 5 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements); and

B = The number of transactions in the Transaction Sample that exceeded two (2) seconds.

- (F) Daily Prime Business Hours Screen to Screen Navigation Response Time: CONSORTIUM damages due to failure by CONTRACTOR to meet the Daily Prime Business Hours Screen to Screen Navigation Response Time requirement, as set forth in Subparagraph 6 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements), i.e., that the LRS shall have a response time for ninety-nine and nine tenths percent (99.9%) of the screen to screen

navigation transactions of ten (10) seconds or less, during Prime Business Hours each day.

Liquidated Damages: Liquidated Damages shall equal Two Thousand Dollars (\$2,000) for each day that does not meet the response time requirement. The response time percentage shall be determined in accordance with the following formula:

$$\text{Transaction Response Time \%} = 100 \times ((A - B) / A)$$

Where:

A = The number of transactions in the Transaction Sample determined in accordance with such Subparagraph 6 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements); and

B = The number of transactions in the Transaction Sample that exceeded ten (10) seconds.

- (G) Daily Batch Production Jobs Completion: CONSORTIUM damages due to failure by CONTRACTOR to meet the Daily Batch Production Jobs Completion requirement, as set forth in Subparagraph 7 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements), i.e., that the LRS shall have ninety-nine percent (99%) of the daily batch production jobs completed by 6:00 a.m., Pacific Time, the next day.

Liquidated Damages: Liquidated Damages shall equal Five Thousand Dollars (\$5,000) for each day that does not meet the daily batch production jobs completion requirement. The daily batch production jobs completion percentage shall be determined in accordance with the following formula:

$$\text{Daily Batch Production Jobs Completion \%} = 100 \times ((A - B) / A)$$

Where:

A = The number of normal daily batch production jobs scheduled in accordance with Subparagraph 7 of Subsection 3.6.2 (Certain Performance Requirement Measurements) of Exhibit B (Statement of Requirements); and

B = The number of normal daily batch production jobs that failed to successfully complete on time.

10.3.2 Failure to Meet Certain Security Management Requirements.

CONTRACTOR further agrees that throughout the term of this Agreement:

- (A) CONTRACTOR shall notify CONSORTIUM Executive Director and other CONSORTIUM-specified persons within one (1) hour following the identification of any potential or actual security incident, including any breach, any attack, or the introduction of any Disabling Device, related to the LEADER Replacement System or CalSAWS System. CONTRACTOR shall take corrective action within two (2) hours following the identification of each potential or actual security incident. For each and every occasion that CONTRACTOR fails to meet the Security Management requirements set forth in this Subparagraph 10.3.2(A), as determined by CONSORTIUM Executive Director, CONTRACTOR shall pay CONSORTIUM Liquidated Damages equal to Five Thousand Dollars (\$5,000).
- (B) CONTRACTOR shall provide a written report and assessment regarding all actions taken concerning each identified security incident, including any breach, any attack, or the introduction of any Disabling Device, the current status, and any potential impact(s) to CONSORTIUM of the security incident. Each security incident shall be categorized according to criticality as either minor or major. For a minor security incident, which causes limited loss of confidentiality, integrity, protection, and/or availability of the

LEADER Replacement System or CalSAWS System to organizational operations, organizational assets, or individuals and which does not result in a failure of CONTRACTOR to comply with the provisions of Subparagraph 21.5 (Program Data Security), this report and assessment shall be provided within twelve (12) hours following the identification of the minor security incident. For a major security incident, which causes serious or catastrophic loss of confidentiality, integrity, protection, and/or availability of the LEADER Replacement System or CalSAWS System to organizational operations, organizational assets, or individuals and which may result in a failure of CONTRACTOR to comply with the provisions of Subparagraph 21.5 (Program Data Security), this report and assessment shall be provided within two (2) hours following the identification of the major security incident. CONSORTIUM Executive Director, in his sole discretion, may require CONTRACTOR to update this report and assessment on an hourly or daily basis depending on criticality, status, and possible impact to CONSORTIUM. For each and every occasion that CONTRACTOR fails to meet the Security Management requirements set forth in this Subparagraph 10.3.2(B), as determined by the CONSORTIUM Executive Director, CONTRACTOR shall pay CONSORTIUM Liquidated Damages equal to Five Hundred Dollars (\$500) for each hour and each fraction of an hour that this report and assessment is late.

- (C) If due to a security incident, including any breach, any attack, or the introduction of any Disabling Device, the LEADER Replacement System or CalSAWS System is unable to operate and CONSORTIUM Executive Director determines that such inoperability was caused by any active or passive negligence, recklessness, or intentional wrongful acts of CONTRACTOR, CONTRACTOR shall pay to CONSORTIUM Liquidated Damages

equal to Five Thousand Dollars (\$5,000) for each hour and each fraction of an hour that the LEADER Replacement System or CalSAWS System is unable to operate, as determined by CONSORTIUM Executive Director.

**10.4 LIQUIDATED DAMAGES FOR FAILURE TO REPLACE
CONTRACTOR KEY STAFF:**

If CONTRACTOR fails to provide any CONTRACTOR Key Staff, CONTRACTOR shall pay CONSORTIUM Liquidated Damages equal to Five Hundred Dollars (\$500) for each Working Day after the fourteenth (14th) consecutive Working Day that each such CONTRACTOR Key Staff is not provided, as determined by CONSORTIUM Executive Director.

10.5 AVAILABLE REMEDIES:

The assessment of Liquidated Damages as set forth in this Paragraph 10 shall not constitute a waiver or release of any other remedy CONSORTIUM may have under this Agreement or otherwise for CONTRACTOR's breach of this Agreement, including CONSORTIUM's right to terminate or suspend this Agreement, and CONSORTIUM shall be entitled to recover its damages caused by CONTRACTOR's failure to perform its obligations under this Agreement.

Notwithstanding CONSORTIUM's right to assess Liquidated Damages, if, pursuant to Paragraph 35 (Termination for Default), CONSORTIUM determines that CONTRACTOR's failure to perform as set forth in this Paragraph 10 constitutes a breach of this Agreement and, therefore, CONSORTIUM elects to terminate this Agreement pursuant to such Paragraph 35 (Termination for Default), then CONSORTIUM shall be entitled to recover its damages caused by CONTRACTOR's failure to perform its obligations under this Agreement.

If CONSORTIUM recovers any actual damages from CONTRACTOR caused by CONTRACTOR's failure to meet a requirement under this Paragraph 10, then CONTRACTOR shall be entitled to an offset against such damages in the amount

of any Liquidated Damages paid to CONSORTIUM for such CONTRACTOR failure to meet such requirement.

10.6 UNPAID INVOICES AS SECURITY:

Unpaid invoices for accepted Work shall comprise performance security for the payment of Liquidated Damages due to CONSORTIUM pursuant to this Paragraph 10. CONTRACTOR agrees that Liquidated Damages due to CONSORTIUM from CONTRACTOR hereunder may be deducted by CONSORTIUM from any amounts due or to become due to CONTRACTOR under this Agreement or otherwise.

11. WARRANTIES:

11.1 LEADER REPLACEMENT SYSTEM WARRANTY:

Consistent with Subparagraphs 11.4 (Correction of Deficiencies) and 11.10 (Warranty Pass-Through), CONTRACTOR represents, warrants, covenants, and agrees that the LEADER Replacement System shall perform in accordance with this Agreement, including the Specifications (including that the LEADER Replacement System shall meet the functional and performance requirements set forth in this Agreement). CONTRACTOR shall provide the LEADER Replacement System, in accordance with the LRS PCD. All Tasks, Subtasks, Deliverables, and services provided shall be complete, timely, uniform in appearance, and prepared by qualified personnel pursuant to professional standards. In the event of any interruption of any LRS Services, CONTRACTOR shall restore the LRS Services for CONSORTIUM in accordance with this Agreement, including the Specifications. The warranty periods shall be as follows: (i) for LRS Services, during the term of this Agreement; (ii) for Deliverables, upon LA COUNTY's acceptance in accordance with Subparagraph 4.2 (LA COUNTY Approval of Work); (iii) for M&E, upon CONTRACTOR's implementation of such M&E for Production Use; and (iv) for the fully deployed LEADER Replacement System (excluding LRS Services), upon commencement of Phase 3 (Operational Phase) and through the remainder of the term of the Agreement.

Deficiencies identified after commencement of Phase 3, and Deficiencies, the root cause of which is due to M&Es during Phase 2 (Performance Verification Phase), shall be corrected in accordance with Subparagraphs 11.4 (Correction of Deficiencies) and 11.5 (Warranty Work Response) and do not have to be corrected to obtain CONSORTIUM approval of Deliverable 15.2.2 (Final Acceptance Certification) of Exhibit A (Statement of Work).

11.2 CalSAWS SYSTEM WARRANTY:

CONTRACTOR represents, warrants, covenants, and agrees that the CalSAWS System resulting from the modification of the LEADER Replacement System shall perform in accordance with this Agreement, including the Specifications (including that CalSAWS System shall meet the functional and performance requirements set forth in this Agreement). CONTRACTOR shall provide the CalSAWS System, in accordance with the CalSAWS PCD. All Tasks, Subtasks, Deliverables, and services provided shall be complete, timely, uniform in appearance, and prepared by qualified personnel pursuant to professional standards. In the event of any interruption of any CalSAWS DD&I Services, CONTRACTOR shall restore the CalSAWS DD&I Services for CONSORTIUM in accordance with this Agreement, including the Specifications. The warranty periods shall be as follows: (i) for CalSAWS DD&I Services, during the term of this Agreement; (ii) for Deliverables, upon CONSORTIUM's acceptance in accordance with Subparagraph 4.2 (CONSORTIUM Approval of Work); and (iii) for the CalSAWS System, upon commencement of Final Acceptance of the CalSAWS System and through the remainder of the term of the Agreement.

11.3 WARRANTY WORK:

CONTRACTOR's warranty work is set forth in this Subparagraph 11.3 and in Subparagraphs 11.4 (Correction of Deficiencies) and 11.5 (Warranty Work Response) and shall commence as set forth in Subparagraphs 11.1 (LEADER Replacement System Warranty) and 11.2 (CalSAWS System Warranty) and shall

continue through the term of this Agreement. All warranty work shall be at no additional cost to CONSORTIUM during the term of this Agreement.

11.4 CORRECTION OF DEFICIENCIES:

CONTRACTOR represents, warrants, covenants, and agrees that throughout the warranty period set forth in Subparagraphs 11.1 (LEADER Replacement System Warranty) and 11.2 (CalSAWS System Warranty), at no additional cost to CONSORTIUM, CONTRACTOR shall correct any and all Deficiencies in the LEADER Replacement System or CalSAWS System, as determined by CONSORTIUM Executive Director or CONTRACTOR.

With regard to Third Party Software, and without limiting any of CONSORTIUM's rights and remedies under this Agreement, CONTRACTOR does not provide any incremental, additional, or supplemental warranties; however, CONTRACTOR shall correct any and all Deficiencies in the LRS or CalSAWS System caused by Third Party Software in accordance with Subparagraphs 11.4 (Correction of Deficiencies) and 11.5 (Warranty Work Response). CONTRACTOR shall use reasonable efforts to work with the manufacturer of Third-Party Software to correct Deficiencies in the LRS or CalSAWS System caused by such software or CONTRACTOR shall replace such software with other software that meets or exceeds the specifications of the software being replaced. In the event that Deficiencies in the LRS or CalSAWS System are caused by an intellectual property infringement claim, the root cause of which is due to Third Party Software, CONTRACTOR shall use reasonable efforts to work with the manufacturer of the Third-Party Software to correct the Deficiencies. To the extent that CONTRACTOR's efforts do not result in a correction of the Deficiencies, CONTRACTOR shall, subject to the limit set forth in Subparagraph 24.3, either: (i) procure the right, by license or otherwise, for CONSORTIUM to continue to use the LEADER Replacement System, CalSAWS System, affected LRS or CalSAWS Component, or parts thereof, to the same extent of CONSORTIUM's rights under this Agreement; or (ii) to the extent CONTRACTOR is unable to procure such right, replace or modify the LEADER Replacement System, CalSAWS System or

LRS or CalSAWS Component with another system or components of equivalent quality and performance capabilities, in accordance with the Specifications, to become non-infringing, non-misappropriating and/or non-disclosing.

All corrective actions shall be performed with CONTRACTOR's reasonable efforts, diligence, and speed toward correction as soon as possible and in any event in accordance within the applicable time period specified in Subparagraph 11.5 (Warranty Work Response).

11.5 WARRANTY WORK RESPONSE:

CONTRACTOR shall correct any Deficiency in the LRS or CalSAWS System in accordance with this Subparagraph 11.5.

11.5.1 Hardware and Software.

CONTRACTOR shall correct any Deficiency in the LRS Hardware. LRS Software, CalSAWS Hardware or CalSAWS Software as follows:

- (A) For any Non-cosmetic Deficiency, determined to be high priority in accordance with this Subparagraph 11.5, CONTRACTOR shall immediately commence corrective action and either correct or implement an appropriate workaround for such Non-cosmetic Deficiency within twelve (12) Prime Business Hours of providing notice to or receipt of notice from CONSORTIUM. If a workaround is implemented, then CONTRACTOR shall permanently correct such Deficiency within the time period determined by CONSORTIUM Executive Director.
- (B) For any Non-cosmetic Deficiency, determined to be normal priority in accordance with this Subparagraph 11.5, CONTRACTOR shall either correct or implement an appropriate workaround for such Non-cosmetic Deficiency within a time period determined by CONSORTIUM Executive Director, but in no event shall such time period be less than twenty-four (24) Prime Business Hours of providing notice to or receipt of notice from CONSORTIUM and no

more than the date of the next version release of the LRS or CalSAWS System for Production Use consistent with the change management procedures set forth in CONSORTIUM-approved Deliverable 1.2.1 (M&O Services Plan) in accordance with Exhibit A (Statement of Work) for the LRS System, or the change management procedures to be set forth in the CalSAWS operations agreement to be agreed by the Parties for the CalSAWS System. If a workaround is implemented, then CONTRACTOR shall permanently correct such Deficiency within the time period determined by CONSORTIUM Executive Director.

- (C) For any Cosmetic Deficiency, CONTRACTOR shall correct such Cosmetic Deficiency within a time period determined by CONSORTIUM Executive Director, but in no event shall such time period be less than five (5) Working Days of providing notice to or receipt of notice from CONSORTIUM.

11.5.2 LRS and CalSAWS Services.

CONTRACTOR shall correct any Deficiency in LRS Services or CalSAWS Services in accordance with the applicable Services plan(s) or as otherwise approved by CONSORTIUM Executive Director.

11.5.3 CONTRACTOR-Identified Deficiencies.

For any Deficiency identified by CONTRACTOR, CONTRACTOR shall notify CONSORTIUM by electronic mail within two (2) hours of such identification or such longer time as set forth in Deliverable 1.2.1 (M&O Services Plan) of Exhibit A (Statement of Work) or the CalSAWS operations agreement to be agreed by the Parties for the CalSAWS System, as applicable, and CONTRACTOR shall correct such Deficiency in accordance within the time periods specified in Subparagraphs 11.5.1 (Hardware and Software) or 11.5.2 (LRS and CalSAWS Services). In the event that CONTRACTOR fails to correct a Deficiency within the required

time period, CONTRACTOR shall provide CONSORTIUM with a written report, including a detailed explanation of the status of such Deficiency and corrective actions taken as well as detailed plans for correction of such Deficiency to include a schedule for correction of such Deficiency; provided that notwithstanding any such schedule, CONSORTIUM Executive Director may determine that a modified schedule or modified priorities are necessary for correction of such Deficiency, and CONTRACTOR shall comply with such modified schedule and priorities for correction.

11.5.4 Deficiency Classification and Prioritization.

Upon notice to CONTRACTOR, CONSORTIUM Executive Director may reclassify any normal priority Non-Cosmetic Deficiency as a high priority Non-Cosmetic Deficiency, and any Cosmetic Deficiency as a normal priority Non-Cosmetic Deficiency, consistent with CONSORTIUM-approved Deliverable 1.2.1 (M&O Services Plan) of Exhibit A (Statement of Work), as applicable, or the CalSAWS operations agreement to be agreed by the Parties for the CalSAWS System, as applicable. For purposes of this Subparagraph 11.5, a “high priority” Deficiency shall generally mean a Non-Cosmetic Deficiency that prevents core business processes from functioning properly or causes errors in the processing of cases, including eligibility determinations and benefits, and a “normal priority” Deficiency shall generally mean any other Non-Cosmetic Deficiency, each as determined by CONSORTIUM Executive Director. These terms may be further defined by CONSORTIUM and CONTRACTOR in CONSORTIUM-approved Deliverable 1.2.1 (M&O Services Plan) of Exhibit A (Statement of Work), as applicable, or the CalSAWS operations agreement to be agreed by the Parties for the CalSAWS System, as applicable. For any high priority Deficiency, CONTRACTOR shall provide, in order to plan and implement corrective action, the following, at its option: (i) appropriate CONTRACTOR staff onsite at the Project Office;

and/or (ii) real-time Web-enabled videoconferencing for CONTRACTOR staff not resident at the Project Office and CONSORTIUM-specified staff not resident at the Project Office, including CONSORTIUM-specified staff via LANet/EN or the CONSORTIUM Members' network models. For purpose of this Section 11.5.4 as applied to the CalSAWS Project, the CONSORTIUM Executive Director shall not have unilateral discretion to classify and reclassify Deficiencies. Any dispute regarding the classification or reclassification of Deficiencies will be determined by the applicable facts. The applicable facts will be established by the mutual agreement of the Parties. In the event that the applicable facts cannot be established by mutual agreement, the Parties will follow the dispute resolution process set forth in Section 48.

11.5.5 Non-Limitation of CONSORTIUM Remedies.

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

11.6 BREACH OF WARRANTY OBLIGATIONS:

In the event that CONTRACTOR fails to timely perform its obligations set forth in Subparagraphs 11.3 (Warranty Work), 11.4 (Correction of Deficiencies), or 11.5 (Warranty Work Response), CONSORTIUM shall have the right to withhold payment to CONTRACTOR pursuant to Subparagraph 9.11 (CONSORTIUM's Right to Withhold Payment). In addition, and if CONTRACTOR fails to perform such obligations within forty-five (45) days of CONTRACTOR's receipt of notice from CONSORTIUM, CONSORTIUM shall have the right to perform or procure the performance of such obligations, including any required correction, repair, replacement, or other Work which CONTRACTOR has failed to perform. In such event, CONTRACTOR shall pay to CONSORTIUM CONSORTIUM's direct actual and reasonable cost of outside labor and materials and CONSORTIUM's burdened (including salary, employee benefits, and reimbursement policies) rates

for CONSORTIUM-provided labor. Such payment shall be made by CONTRACTOR to CONSORTIUM by cash payment upon demand or, at CONSORTIUM's option, such payment shall be deducted from any amounts due or to become due by CONSORTIUM to CONTRACTOR under this Agreement or otherwise.

11.7 ADDITIONAL WARRANTIES:

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

- (A) CONTRACTOR shall strictly comply with the descriptions and representations (including, Deliverable documentation, performance capabilities, accuracy, completeness, characteristics, Specifications, configurations, standards, functions, and requirements applicable to professional software design and industry standards) set forth in Exhibit A (Statement of Work) and Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation).
- (B) All Tasks, Subtasks, Deliverables, goods, and services shall be completed in accordance with this Agreement.
- (C) All Documentation developed under this Agreement shall be complete, accurate, and uniform in appearance in terms of font, print size, paper color, binding style, and the like, in accordance with any applicable Deliverable Expectations Document.
- (D) CONTRACTOR shall not cause any unplanned interruption of the operations of, or accessibility to, the LEADER Replacement System or the CalSAWS System through any software, device, method, or means, including the use of any "virus," "lockup," "time bomb," "key lock," "worm," "spyware", program, or disabling code, which has the potential or capability of compromising the security of LEADER Replacement System or CalSAWS System information, including Program Data and CONSORTIUM Repository, or of causing any unplanned interruption of

the operations of, or accessibility of, the LEADER Replacement System or the CalSAWS System to CONSORTIUM or any User, or which could alter, destroy, or inhibit the use of the LEADER Replacement System or the CalSAWS System, or any LRS or CalSAWS Component, or the data contained therein, or which could block access to or prevent the use of the LEADER Replacement System or the CalSAWS System or any LRS or CalSAWS Component by CONSORTIUM or any User (collectively and individually referred to herein as “Disabling Device”). CONTRACTOR has not placed and shall not purposely place, nor is it aware of, any Disabling Device on any LRS or CalSAWS Component provided to CONSORTIUM under this Agreement, nor shall CONTRACTOR knowingly permit any subsequently delivered LRS or CalSAWS Component to contain any Disabling Device.

- (E) CONTRACTOR shall prevent Disabling Devices from being incorporated or introduced into the LEADER Replacement System and Updates thereto from any source other than the LA COUNTY Enterprise Network, or the CONSORTIUM Enterprise Network, prior to delivery thereof to CONSORTIUM, and shall prevent any Disabling Devices being incorporated or introduced in the process of CONTRACTOR’s loading of LRS Software or CalSAWS Software, loading of Updates thereto, or being introduced in the process of CONTRACTOR’s performance of online support.
- (F) CONTRACTOR shall only utilize LRS Hardware and LRS Software, and CalSAWS Hardware and CalSAWS Software, components in the versions currently supported by the supplying vendors.
- (G) The LRS and CalSAWS Components shall be capable of interconnecting and/or interfacing with each other and with the LANet/EN or the CONSORTIUM Members’ network models and CONSORTIUM-supplied hardware (e.g., servers, printers, workstations, and laptops), in accordance with the Specifications.

- (H) CONSORTIUM shall be able to use the LEADER Replacement System and the CalSAWS System without interruption, in accordance with the provisions of this Agreement. This Agreement is neither subject nor subordinate to any right or claim of any third party, including CONTRACTOR's creditors. CONTRACTOR shall not subordinate this Agreement or any of its rights hereunder to any third party without the prior consent of CONSORTIUM, and without providing in such subordination instrument for non-disturbance of CONSORTIUM use of the LEADER Replacement System and the CalSAWS System in accordance with this Agreement.
- (I) CONTRACTOR shall supply CONSORTIUM, subject to the provisions of Subparagraph 12.2.3 (Copies of LRS and CalSAWS Application Software and Documentation), with complete and accurate copies of all Source Code, Object Code, Updates, and Documentation for the LRS Application Software and CalSAWS Software and all other proprietary information related to such Source Code, Object Code, Updates, and Documentation during the term of this Agreement. CONTRACTOR shall ensure that CONSORTIUM has been delivered the most current version of the Source Code, Object Code, Updates, and Documentation for the LRS Application Software and CalSAWS Software.
- (J) CONTRACTOR is duly authorized, and has the full power, to transfer to and grant CONSORTIUM all rights, including title and license rights as applicable, in and to each component of the LRS Application Software and CalSAWS Software as set forth in Subparagraphs 12.2.2 (LRS Application Software) and 12.2.3 (Copies of LRS Application Software and Documentation). Except to the extent licensed to CONSORTIUM by CONTRACTOR or third parties: (i) each component of the LRS Application Software and CalSAWS Software shall be initially and exclusively owned by CONTRACTOR and, upon the date of title transfer to CONSORTIUM, CONSORTIUM shall own all rights, including title, in and to such component as described in Subparagraphs 12.2.2 (LRS and

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CalSAWS Application Software) and 12.2.3 (Copies of LRS and CalSAWS Application Software and Documentation), and such component shall be free and clear of all liens, encumbrances, claims, or charges of any kind; and (ii) title to such component of the LRS Application Software and CalSAWS Software shall automatically transfer from CONTRACTOR to CONSORTIUM effective as of the date of creation thereof.

- (K) Any Third-Party Software shall be Commercially Available Software. Subject to Subparagraph 12.2.4 (Commercially Available Software), CONTRACTOR has obtained or shall obtain all licenses to Commercially Available Software necessary for its performance of this Agreement, including its provision of LRS Services and CalSAWS Services.
- (L) CONTRACTOR is duly authorized, and has the full power, to grant to CONSORTIUM all rights, including all license rights, granted by this Agreement. The terms and conditions of all such rights shall be subject to the provisions set forth in Subparagraphs 12.2.2 (LRS and CalSAWS Application Software), 12.2.3 (Copies of LRS and CalSAWS Application Software and Documentation), 12.2.4 (Commercially Available Software), as applicable. With respect to all technology used by CONTRACTOR under this Agreement, whether proprietary to CONTRACTOR or any other person or entity, and subject to Subparagraphs 12.2.2, 12.2.3, 12.2.4, and 12.4 (Program Data), CONTRACTOR hereby grants to CONSORTIUM, or shall cause to be granted by the licensor thereof, as the case may be, without additional charge to CONSORTIUM, such licenses as may be necessary in order for CONSORTIUM and its authorized representatives (including third party service providers) to use, or receive the benefit of the use by CONTRACTOR of, such technology in connection with the performance of this Agreement.
- (M) No consent or approval of any other person or entity is required by CONTRACTOR to enter into this Agreement or grant any of the rights, including all license rights, hereunder.

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- (N) Consistent with Subparagraphs 11.4 (Correction of Deficiencies) and 11.10 (Warranty Pass-Through), no component of the LEADER Replacement System or CalSAWS System infringes or shall infringe any U.S. patents issued and existing prior to or during the term of this Agreement or any other intellectual property rights, including copyrights or trademarks, or discloses or misappropriates any trade secret of any third party. CONTRACTOR shall not be in breach of this warranty to the extent that any infringement arises (i) from CONSORTIUM's introduction of intellectual property into the LRS or CalSAWS System without CONTRACTOR's consent, or (ii) from CONSORTIUM's misuse of intellectual property properly incorporated into the LRS or CalSAWS System by CONTRACTOR. CONTRACTOR shall not be breaching any other agreement by entering into this Agreement. There is no current, pending litigation with respect to the LEADER Replacement System, CalSAWS System or any Work hereunder which could in any way affect CONTRACTOR's ability to perform under this Agreement or CONSORTIUM's ability to utilize the LEADER Replacement System or CalSAWS System. CONTRACTOR is not aware of any threatened litigation with respect to any LRS Hardware, LRS Software, LRS Services, CalSAWS Hardware, CalSAWS Software or Work hereunder which could in any way affect CONTRACTOR's ability to perform under this Agreement or CONSORTIUM's ability to utilize the LEADER Replacement System or CalSAWS System.
- (O) CONTRACTOR is either the original manufacturer or is authorized to provide all LRS Software or CalSAWS Software provided to CONSORTIUM hereunder. CONTRACTOR has not taken, nor shall take, any action which would void or in any way limit the scope of any warranty offered by any third party with respect to any LRS Hardware, LRS Software, CalSAWS Hardware or CalSAWS Software. CONTRACTOR has complied with all terms and conditions of any agreement that it has entered into with any third-party purporting to govern sales or licenses by

CONTRACTOR of any items of LRS Hardware, LRS Software, CalSAWS Hardware or CalSAWS Software.

11.8 PRICE WARRANTY:

11.8.1 The representations, warranties, and covenants set forth in Subparagraphs 11.8.2 and 11.8.3 exclude and do not apply to any requests by CONTRACTOR for any increase in compensation or reimbursement under this Agreement for: (i) the State's implementation of a sales or use tax on services or any other new form of tax not in effect on the Effective Date; and (ii) material changes to the LEADER Replacement System or CalSAWS System necessitated by: (a) a change in federal, State, CONSORTIUM or county rules, regulations, or policies; (b) a change initiated by CONSORTIUM or agreed upon by the Parties pursuant to Subparagraph 5.2.2; or (c) a material change to the estimates, quantities, and assumptions as described in Subparagraph 5.4 (Estimates, Quantities, and Assumptions) (collectively referred to herein as "Exclusion"). CONSORTIUM Executive Director will determine whether or not any such changes necessitate a material change to the LEADER Replacement System. For the CalSAWS System issue will be determined by the applicable facts. The applicable facts will be established by the mutual agreement of the Parties. In the event that the matter is unable to be resolved by mutual agreement, the Parties will follow the dispute resolution process set forth in Section 48. Such changes shall be made in accordance with Paragraph 5 (Change Notices and Amendments).

11.8.2 Subject to the Exclusion, this Agreement includes the full amount of compensation and reimbursement that CONSORTIUM will be asked to provide CONTRACTOR in order for CONTRACTOR to fully perform all of its obligations under this Agreement, and CONTRACTOR shall be able to fully perform all of its obligations under this Agreement with such amount of compensation and reimbursement.

11.8.3 CONTRACTOR understands that CONSORTIUM is entering into this Agreement in reliance upon the premise that, subject to the Exclusion, CONTRACTOR shall fully perform all of its obligations under this Agreement without seeking any additional compensation or reimbursement beyond that already provided for in this Agreement.

11.9 REPRESENTATIONS AND WARRANTIES:

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

- (A) CONTRACTOR is a limited liability partnership duly organized and validly existing under the laws of the State of Illinois. CONTRACTOR is qualified to conduct business in California as a foreign limited liability partnership and is in good standing with the State of California. CONTRACTOR has full power and authority to own, or hold under lease, its assets and to conduct its business as is required by this Agreement.
- (B) This Agreement has been duly executed and delivered by CONTRACTOR and constitutes a valid obligation legally binding on CONTRACTOR and is enforceable against CONTRACTOR in accordance with its terms; provided, however, that enforceability of this Agreement may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium, or other laws at the time in effect affecting the rights of creditors generally and that a court of competent jurisdiction may decline to grant specific performance and any other equitable remedy with respect to the enforcement of any provision of this Agreement. The execution, delivery, and performance of this Agreement by CONTRACTOR and the consummation of the transactions contemplated hereby by CONTRACTOR: (i) are permissible under CONTRACTOR's Statement of Partnership Authority and partnership agreement; (ii) have been duly and validly authorized by all necessary and appropriate action by its partners; (iii) do not and shall not conflict with, or result in a breach, default, violation, or loss of a material benefit under any agreement, mortgage, lease,

license, or other instrument or obligation of CONTRACTOR or in connection with the operation of CONTRACTOR's business or any of its assets; (iv) do not require the consent or permission of any person or governmental agency; and (v) shall not violate any law, rule, or regulation of any agency or governmental body to which CONTRACTOR is subject and that is individually or in the aggregate material to the transactions contemplated hereby.

- (C) CONTRACTOR has obtained and shall maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations, and certificates required by all federal, state, and local laws, rules, regulations, ordinances, guidelines, directives, policies, and procedures which are applicable to CONTRACTOR's performance of this Agreement. CONTRACTOR shall further ensure that all of its officers, employees, agents, and Subcontractors who perform Work hereunder, shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations, and certificates that are applicable to their performance hereunder. A copy of each such license, permit, registration, accreditation, and certificate required by all applicable federal, State, and local laws, rules, regulations, ordinances, guidelines, directives, policies and procedures shall be provided, in duplicate, to CONSORTIUM Executive Director upon request. No violations are or have been recorded and CONTRACTOR is not aware of any unrecorded violations in respect of any such licenses, permits, registrations, accreditations, and certificates and no proceedings are pending or, to CONTRACTOR's knowledge, threatened concerning the revocation or limitation of any such licenses, permits, registrations, accreditations, and certificates which would have a material adverse effect on CONTRACTOR's ability to perform its obligations hereunder.
- (D) CONTRACTOR has complied, and during the term of this Agreement shall comply, with all material laws, rules, regulations, and orders applicable to the operation of the business conducted by CONTRACTOR.

CONTRACTOR has not received notice nor taken any action or failed to take any action which action or failure will or would, in any way, preclude or prevent CONTRACTOR from performing its obligations under this Agreement. None of the real property owned or leased by CONTRACTOR (or the occupation thereof), to be used by CONTRACTOR in the performance of its obligations under this Agreement, is in violation of any material law, building code, zoning, or other authority, code, or regulation applicable thereto and no notice from any governmental body has been served upon CONTRACTOR claiming any violation of any such law, ordinance, code, or regulation or requiring or calling attention to the need for any work, repair, construction, alteration or installation, or in connection with said properties which has not been complied with or settled. None of such real property is subject to any pending zoning hearing or proceedings.

- (E) CONTRACTOR is not engaged in or, to CONTRACTOR's knowledge, threatened with any legal proceeding, and there are no proceedings, claims, or investigations of any kind pending or, to CONTRACTOR's knowledge, threatened against CONTRACTOR relating to CONTRACTOR's business that would have a material adverse effect on CONTRACTOR's ability to perform its obligations under this Agreement. There are no outstanding adjudications or orders of any agency or tribunal against CONTRACTOR relating to its business or prospects that would have a material adverse effect on CONTRACTOR's ability to perform its obligations under this Agreement.
- (F) No representation or warranty by CONTRACTOR contained in this Agreement, or in any Exhibit referenced herein, contains any untrue statement of a material fact or omits a material fact necessary to make the statements contained herein or therein not misleading.

11.10 WARRANTY PASS-THROUGH:

CONTRACTOR shall pass-through to CONSORTIUM to the fullest extent permitted by law or by agreement any applicable warranty or indemnity offered by

any manufacturer of any of the Third-Party Software or any other third-party product or service sold or licensed to CONSORTIUM hereunder.

11.11 DISCLAIMER OF WARRANTIES:

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, ALL WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE ARE HEREBY EXCLUDED. CONTRACTOR DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

12. OWNERSHIP:

12.1 LRS HARDWARE AND CALSAWS HARDWARE:

CONSORTIUM shall own any CONSORTIUM-supplied hardware. CONTRACTOR shall not acquire any right, title, or interest in or to any CONSORTIUM-supplied hardware.

12.2 LRS SOFTWARE and CALSAWS SOFTWARE:

12.2.1 Pre-existing Application Software.

CONSORTIUM shall obtain and provide to CONTRACTOR the Pre-existing Application Software and the right to use and modify the Pre-existing Application Software solely to develop the LRS Application Software and CalSAWS Software.

12.2.2 LRS Application Software and CalSAWS Software.

All right, title, and interest, including all copyrights, patents, and trade secret rights, in and to each component of the LRS Application Software and CalSAWS Software (other than: (i) Pre-existing Application Software; (ii) modifications and enhancements of Pre-existing Application Software to the extent that the license for Pre-existing Application Software does not provide CONSORTIUM such rights; (iii) Pre-existing Accenture Framework Software; and (iv) configurations and other uses of

Commercially Available Software to the extent that the license for Commercially Available Software does not allow CONTRACTOR to provide CONSORTIUM such rights) shall be owned by CONSORTIUM. Title to each such component, shall automatically transfer from CONTRACTOR to CONSORTIUM upon creation.

Each component of the LRS Application Software and CalSAWS Software (other than: (i) Pre-existing Application Software; (ii) modifications and enhancements of Pre-existing Application Software to the extent that the license for Pre-existing Application Software does not give CONTRACTOR ownership rights; (iii) Pre-existing Accenture Framework Software; (iv) configurations and other uses of Commercially Available Software to the extent that the license for Commercially Available Software does not allow CONTRACTOR to provide CONSORTIUM such rights; and (v) CONSORTIUM-supplied software) shall be initially and exclusively owned by CONTRACTOR and, upon the date of title transfer to CONSORTIUM (i) CONSORTIUM shall own all right, title and interest, including all copyrights, patents, and trade secret rights, in and to such component, and (ii) CONTRACTOR shall ensure that such component is free and clear of all liens, encumbrances, claims, or charges of any kind.

Upon request of CONSORTIUM, CONTRACTOR shall execute all documents reasonably requested by CONSORTIUM and shall perform all other acts reasonably requested by CONSORTIUM to assign and transfer to, and vest in, CONSORTIUM all CONTRACTOR's right, title, and interest, including all copyrights, patents, and trade secret rights, in and to the LRS Application Software and CalSAWS Software (other than: (i) Pre-existing Application Software; (ii) modifications and enhancements of Pre-existing Application Software to the extent that the license for Pre-existing Application Software does not provide CONSORTIUM such rights; (iii) Pre-existing Accenture Framework Software; and (iv) configurations and other uses of Commercially Available Software to the extent that the license for Commercially Available Software does not allow CONTRACTOR to

provide CONSORTIUM such rights). CONSORTIUM shall have the right to register all copyrights and patents in the name of the CONSORTIUM. Further, CONSORTIUM shall have the right to assign, license, or otherwise transfer any and all of CONSORTIUM's right, title, and interest, including copyrights, patents, and trade secret rights, in and to the LRS Application Software and CalSAWS Software, except that: (i) any such right to the Pre-existing Accenture Framework Software shall be limited to government purposes, and (ii) any such right to the Pre-existing Application Software and modifications and enhancements of Pre-existing Application Software shall be limited to the extent allowed under the license for Pre-existing Application Software. As used in this Subparagraph 12.2.2, "government purposes" means for any federal, state, and local government purposes (including in connection with the LRS and CalSAWS Software).

Upon CONSORTIUM's payment of Deliverable 1.1.1 (Project Control Document (PCD)) of Exhibit A (Statement of Work), and CONSORTIUM's payment of Deliverable 002 (Project Control Document (PCD)) of Exhibit U (Scope of Work for CalSAWS Design, Development and Implementation) CONTRACTOR shall grant to CONSORTIUM a perpetual, no-cost, royalty-free, nonexclusive, unrestricted, transferrable, and irrevocable license to reproduce, publish, modify, sublicense, distribute, or otherwise use for government purposes, the Pre-existing Accenture Framework Software. Upon request of CONSORTIUM, CONTRACTOR shall execute all documents reasonably requested by CONSORTIUM and shall perform all other acts reasonably requested by CONSORTIUM to assign and transfer to, and vest in, CONSORTIUM all such rights granted by CONTRACTOR.

CONSORTIUM acknowledges and agrees that its rights to the Pre-existing Application Software and the modifications and enhancements of the Pre-existing Application Software shall be determined and governed by the license(s) between CONSORTIUM and the licensor(s) of the Pre-existing Application Software.

CONSORTIUM and CONTRACTOR acknowledge that pursuant to federal law, the federal and State governments shall have a perpetual, no-cost, royalty-free, nonexclusive, unrestricted, transferrable, and irrevocable license to reproduce, publish, modify, sublicense, distribute, or otherwise use for federal/State government purposes, the LRS Application Software and CalSAWS Software.

12.2.3 Copies of LRS Application Software, CalSAWS Software and Documentation.

CONTRACTOR shall provide to CONSORTIUM a complete and current copy of all Source Code, Object Code and Documentation of the LRS Application Software, the CalSAWS Software, and all Updates thereto: (i) at the end of Phase 1 (Design/Development/Implementation Phase); (ii) at the end of Phase 2 (Performance Verification Phase); (iii) within thirty (30) days after Final Acceptance; (iv) within ten (10) days after release of each Update of the LRS Application Software; (v) upon expiration or termination of this Agreement; and (vi) within fifteen (15) days after any CONSORTIUM request from time-to-time. Further, CONTRACTOR shall ensure that CONSORTIUM has a complete and current copy of all Source Code, Object Code, and Documentation of the LRS Application Software, the CalSAWS Software and all Updates thereto at all times after Phase 1 (Design/Development/Implementation Phase). CONTRACTOR's duty to provide to CONSORTIUM all Source Code, Object Code, and Documentation of the LRS Application Software, the CalSAWS Software, and all Updates thereto shall continue throughout the term of this Agreement and for a period of one hundred and eighty (180) days thereafter. CONTRACTOR shall provide to CONSORTIUM all Source Code, Object Code, and Documentation of the LRS Application Software, the CalSAWS Software, and all Updates thereto, in a hard copy format, electronically, and on read-only medium, as specified by CONSORTIUM.

In addition, for all Documentation which is not owned by CONSORTIUM, CONTRACTOR shall provide to CONSORTIUM a perpetual, no-cost, royalty-free, nonexclusive, unrestricted, and irrevocable right to reproduce, in a hard copy format, electronically, and on read-only medium as specified by CONSORTIUM, such Documentation related to the LRS Application Software and CalSAWS Software for CONSORTIUM purposes.

12.2.4 Commercially Available Software.

Commercially available software, including commercially available operating system software, utilities software, telecommunications software, middleware software, development tools, monitoring tools, performance tools, network management tools, relational database management software, knowledge base software, e-Learning software, and other commercial off-the-shelf software, and all related Updates and documentation, (such software and documentation collectively referred to herein as "Commercially Available Software") and all right, title, and interest therein and thereto, is not subject to the ownership provisions in Subparagraph 12.2.2 (LRS Application Software and CalSAWS Software). In the event any configuration or other use (e.g., a training module developed from e-Learning software, or a search reference developed for inclusion in knowledgebase software) of Commercially Available Software is developed by CONTRACTOR or CONSORTIUM and implemented by CONTRACTOR or CONSORTIUM, such configuration or other use shall be a component of Baseline Application Software for all purposes under this Agreement, including the ownership provisions applicable to the LRS Application Software and CalSAWS Software as set forth in Subparagraph 12.2.2 (LRS Application Software and CalSAWS Software).

Certain Commercially Available Software provided or used under this Agreement is or may be owned by third parties (herein referred to as "Third Party Software").

For purposes of this Agreement, Commercially Available Software shall not include any Pre-Existing Accenture Framework Software.

CONTRACTOR hereby represents and warrants: (i) that all of the Commercially Available Software provided or used under this Agreement other than Third Party Software is and shall remain the property of CONTRACTOR; (ii) that CONTRACTOR is and shall remain the owner of all right, title, and interest, including all copyrights, patents, and trade secret rights, in and to all Commercially Available Software provided or used under this Agreement other than Third Party Software; (iii) until transfer of the license to CONSORTIUM, CONTRACTOR is and shall remain a licensee of all of the Third Party Software and shall be fully authorized to provide to CONSORTIUM the Third Party Software and all licenses and other rights therein and thereto for purposes of this Agreement, including the right of CONTRACTOR and CONSORTIUM to use and configure the Third Party Software for the LRS and CalSAWS Software; and (iv) that, for purposes of this Agreement, none of the Commercially Available Software provided or used under this Agreement includes any Pre-existing Accenture Framework Software.

During the term of this Agreement and upon the expiration or termination of this Agreement or CONSORTIUM-requested transfer of the LRS Application Software and CalSAWS Software to CONSORTIUM or a CONSORTIUM-selected third party for CONSORTIUM's development, management, operations, and support, for each Commercially Available Software component provided or used under this Agreement, CONTRACTOR shall either: (i) transfer to CONSORTIUM all right, title, and interest, including all copyrights, patents, and trade secret rights, in and to such Commercially Available Software component at no additional cost to CONSORTIUM; or (ii) provide to CONSORTIUM a perpetual, no-cost, royalty-free, nonexclusive, unrestricted, and irrevocable license to use, copy, modify, and sublicense such Commercially Available Software component for CONSORTIUM purposes, and in all cases, such license

shall be subject to approval by CONSORTIUM Executive Director and shall permit CONSORTIUM's utilization of such Commercially Available Software component for the development, management, operations, and support of the LRS or CalSAWS Software. CONSORTIUM acknowledges and agrees that its rights to Third Party Software, and the modifications and enhancements of the Third-Party Software, shall be determined and governed by the third-party licenses for such Third-Party Software. If CONTRACTOR is not able to negotiate a license for a Third Party Software product that is consistent with the provisions of the first sentence of this paragraph, then prior to CONTRACTOR's use of such Third Party Software product for LRS or CalSAWS Software, CONTRACTOR Project Director shall notify and confer with CONSORTIUM Executive Director to determine whether the license is acceptable to CONSORTIUM, whether CONTRACTOR shall take action to obtain a substitute product that is licensed on terms that are consistent with the foregoing provisions, or other solution to the issue as approved by CONSORTIUM Executive Director.

12.3 CONTRACTOR TOOLS:

CONTRACTOR tools, including utilities software, telecommunications software, middleware software, development tools, monitoring tools, performance tools, network management tools, knowledge base software, and e-Learning software, and all related Updates and documentation, which, are developed or were originally acquired by CONTRACTOR outside the scope of this Agreement, are not commercially available, and are provided or used for performing Work (such tools and documentation collectively referred to herein as "CONTRACTOR Tools") are owned by CONTRACTOR and are not subject to the ownership provisions of Subparagraph 12.2 (LRS Software and CalSAWS Software).

For purposes of this Agreement, CONTRACTOR Tools shall not include any Pre-Existing Accenture Framework Software.

CONTRACTOR hereby represents and warrants: (i) that all CONTRACTOR Tools provided or used under this Agreement are and shall remain the property of

CONTRACTOR and (ii) that CONTRACTOR is and shall remain the owner of all right, title, and interest, including all copyrights, patents, and trade secret rights, in and to all CONTRACTOR Tools provided or used under this Agreement.

During the term of this Agreement and upon the expiration or termination of this Agreement or CONSORTIUM-requested transfer of the LRS Application Software and CalSAWS Software to CONSORTIUM or a CONSORTIUM-selected third party for CONSORTIUM's development, management, operations, and support, for each component of CONTRACTOR Tools provided or used under this Agreement, CONTRACTOR shall provide to CONSORTIUM a perpetual, no-cost, royalty-free, nonexclusive, unrestricted, transferrable, and irrevocable license to use, copy, modify, distribute, and sublicense such component of CONTRACTOR Tools for CONSORTIUM purposes to the extent reasonably necessary to permit CONSORTIUM's utilization of such CONTRACTOR Tools component for the development, management, operations, and support of the LRS and CalSAWS Software.

12.4 PROGRAM DATA:

The Program Data and all right, title, and interest therein and thereto are and shall remain the property of CONSORTIUM or the applicable CONSORTIUM Member. CONTRACTOR shall, within fifteen (15) days after any CONSORTIUM request from time-to-time, deliver to CONSORTIUM, in a medium as reasonably specified by CONSORTIUM, all current Program Data then residing in the Central Sites' databases. Upon termination or expiration of this Agreement, CONTRACTOR shall deliver to CONSORTIUM, in a medium as reasonably specified by CONSORTIUM, all current Program Data then residing in the Central Sites' databases, and all archival copies of Program Data then in CONTRACTOR's possession or control.

Except as otherwise required by the provisions of Paragraph 18 (Records and Audits), CONTRACTOR shall, upon expiration or termination of this Agreement, provide CONSORTIUM with written certification that all Program Data has been removed from the Primary Central Site, Backup Central Site, Central Print Facility,

Backup Print Facility, Project Office, and all CONTRACTOR's systems, and that no copies, compilations, or summaries of Program Data have been retained by CONTRACTOR.

12.5 SYSTEM DATA:

CONTRACTOR shall, on a quarterly basis: (i) store and permanently retain in the CONSORTIUM Repository, the System Data generated during the prior quarter, and (ii) electronically deliver to CONSORTIUM, in a medium as reasonably specified by CONSORTIUM, a copy of all such System Data. Upon termination or expiration of this Agreement, CONTRACTOR shall: (i) store in the CONSORTIUM Repository, the System Data generated since the last previous quarterly deposit of System Data in the CONSORTIUM Repository, and (ii) electronically deliver to CONSORTIUM, in a medium as reasonably specified by CONSORTIUM, a copy of all such System Data. Each component of System Data shall be capable of being individually retrieved by CONSORTIUM.

In addition, for all System Data which is not owned by CONSORTIUM, CONTRACTOR shall provide to CONSORTIUM a perpetual, no-cost, royalty-free, nonexclusive, unrestricted, and irrevocable right to reproduce, in a hard copy format, electronically, and on read-only medium as specified by CONSORTIUM, such System Data for CONSORTIUM purposes.

12.6 MANAGEMENT OF HARDWARE AND SOFTWARE

CONTRACTOR shall provide asset management services to manage and inventory the LRS Software, CalSAWS Software, LRS Hardware, and CalSAWS Hardware assets utilized under the Agreement.

12.7 INSTALLATION OF HARDWARE AND SOFTWARE

Installation for all the LRS Software, CalSAWS Software, LRS Hardware, and CalSAWS Hardware will occur as described in the DEL 1.2.1 LRS M&O Services Plan. All LRS Software, CalSAWS Software, LRS Hardware, and CalSAWS Hardware installations done by CONTRACTOR shall be conducted by experienced and trained staff. CONTRACTOR shall conduct its installation services to

minimize interference with normal activities of CONSORTIUM. After installation completion, the risk of loss or damage for the LRS Hardware and CalSAWS Hardware shall be borne by CONSORTIUM, except loss or damage attributable to the CONTRACTOR'S fault or negligence.

13. PROHIBITION AGAINST DELEGATION AND ASSIGNMENT:

13.1 GENERAL:

CONTRACTOR shall not assign (whether by contract, by operation of law, or otherwise) its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior consent of CONSORTIUM. Any attempted assignment or delegation that does not have such prior CONSORTIUM consent shall be null and void. For purposes of this Paragraph 13, CONSORTIUM consent shall require a written Amendment to this Agreement that is formally approved and executed by the Parties.

Any billings to CONSORTIUM by any unapproved delegatee or assignee on any claim under this Agreement shall not be paid by CONSORTIUM nor constitute any obligation of CONSORTIUM. Any payments by CONSORTIUM to any approved delegatee or assignee on any claim under this Agreement shall be deducted, at CONSORTIUM's sole discretion, against any claims which CONTRACTOR may have against CONSORTIUM, whether under this Agreement or otherwise.

Any assumption, assignment, delegation, or takeover of any of CONTRACTOR's duties, responsibilities, obligations, or performance of same by any entity other than CONTRACTOR, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without CONSORTIUM's express prior approval, shall be a material breach of this Agreement which may result in the termination of this Agreement. In the event of such termination, CONSORTIUM shall be entitled to pursue the same remedies against CONTRACTOR as it could pursue in the event of default by CONTRACTOR.

13.2 CHANGES OF CONTROL:

Partners or other equity holders of CONTRACTOR may sell, exchange, assign, divest, or otherwise transfer any interest they may have therein. However, within five (5) Working Days after a public announcement of any change in control of CONTRACTOR that will or does give majority control of CONTRACTOR to any person(s), corporation, partnership, or other legal entity other than the majority controlling interest therein at the time of execution of this Agreement, CONTRACTOR shall give CONSORTIUM notice thereof. If there is no public announcement of such change of control, CONTRACTOR shall notify CONSORTIUM of the change within five (5) Working Days following the effective date of the change of control. If CONSORTIUM, in good faith, reasonably determines that the change of majority control of CONTRACTOR would prevent CONTRACTOR from being qualified and eligible to receive a contract award under applicable federal, State, and/or local laws, rules, regulations, ordinances, guidelines, directives, policies, or procedures (e.g., the majority control of CONTRACTOR is held by a debarred entity), then CONSORTIUM may terminate this Agreement, and while neither a termination for convenience nor a termination for default, CONSORTIUM shall have the same rights and may pursue the same remedies against CONTRACTOR as it would have and could pursue in the event of default by CONTRACTOR.

14. WARRANTY AGAINST CONTINGENT FEES:

- 14.1** CONTRACTOR warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CONTRACTOR for the purpose of securing business.
- 14.2** For breach of this warranty, CONSORTIUM shall have the right to terminate this Agreement and, in its sole discretion, deduct from this Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

15. INDEPENDENT CONTRACTOR STATUS:

- 15.1** This Agreement is by and between CONSORTIUM and CONTRACTOR and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between CONSORTIUM and CONTRACTOR. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.
- 15.2** CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, all persons performing Work pursuant to this Agreement, all compensation and benefits. CONSORTIUM shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of CONTRACTOR.
- 15.3** CONTRACTOR understands and agrees that all persons performing Work pursuant to this Agreement are, for purposes of workers' compensation benefits, solely employees of CONTRACTOR and not employees of CONSORTIUM. CONTRACTOR shall be solely liable and responsible for furnishing any and all workers' compensation benefits to any person as a result of any injuries arising from or connected with any Work performed by or on behalf of CONTRACTOR pursuant to this Agreement.
- 15.4** CONTRACTOR shall provide to CONSORTIUM an executed CONTRACTOR Employee Acknowledgment, Confidentiality, and Copyright Assignment Agreement (Exhibit J) for each of its employees performing Work under this Agreement. Such agreements shall be delivered to CONSORTIUM Executive Director, on or immediately after the execution of this Agreement by CONSORTIUM's Board of Directors, but in no event later than the date any such employee first performs Work under this Agreement.

16. SUBCONTRACTING:

16.1 CONSORTIUM has relied, in entering into this Agreement, on the reputation of and on obtaining the personal performance of CONTRACTOR itself. Consequently, no performance of this Agreement, or any portion thereof, shall be subcontracted by CONTRACTOR without the prior consent of CONSORTIUM as provided in this Paragraph 16. Any attempt by CONTRACTOR to subcontract any performance, obligation, or responsibility under this Agreement, without the prior consent of CONSORTIUM, shall be null and void and shall constitute a material breach of this Agreement, upon which CONSORTIUM may immediately terminate this Agreement. CONSORTIUM hereby consents to the use of Northrop Grumman, Xerox and DXC as Subcontractors.

16.2 If CONTRACTOR desires to subcontract any portion of its performance, obligations, or responsibilities under this Agreement, CONTRACTOR shall make a written request to CONSORTIUM for approval to enter into the particular subcontract. CONTRACTOR's request to CONSORTIUM shall include:

- (A) The reason for the particular subcontract.
- (B) A detailed description of the Work to be performed by the proposed Subcontractor.
- (C) Identification of the proposed Subcontractor and an explanation of why and how the proposed Subcontractor was selected.
- (D) A draft copy of the proposed subcontract which shall contain, at a minimum, the provisions set forth in Exhibit L (Required Subcontract Provisions), including Exhibits 1, 2, 3, 3A, 4, and the responsibilities of the proposed Subcontractor. The provisions of Exhibit L (Required Subcontract Provisions) may be changed only with the prior approval of CONSORTIUM Executive Director.
- (E) A Certificate of Insurance from the proposed Subcontractor that establishes that the Subcontractor maintains all the programs of insurance required by Exhibit L (Required Subcontract Provisions).

(F) Any other information and/or certifications reasonably requested by CONSORTIUM.

16.3 CONSORTIUM will review CONTRACTOR's request to subcontract and determine whether or not to consent to such request on a case-by-case basis. CONSORTIUM's approval or written disapproval for CONTRACTOR to enter into a particular subcontract shall be given or withheld within thirty (30) days after receipt of all the information and documentation set forth above in Subparagraph 16.2. CONSORTIUM's failure to either approve or disapprove the proposed subcontract within thirty (30) days shall be deemed a disapproval by CONSORTIUM. In the event that CONSORTIUM approves any subcontract, such approval shall apply only to the particular subcontract approved and shall not be deemed approval of any additional subcontract.

16.4 CONTRACTOR shall indemnify, defend, and hold harmless CONSORTIUM and the State, and their respective officers, employees, and agents, from and against any and all third party and Subcontractor claims, demands, liabilities, damages, costs, and expenses, including defense costs and legal, accounting or other expert, and consulting or professional fees, in any way arising from, connected with, or related to CONTRACTOR's use of any Subcontractor, including any officers, employees, or agents of any Subcontractor, in the same manner as required for CONTRACTOR, its officers, employees, and agents, under this Agreement. Any legal defense pursuant to CONTRACTOR's indemnification obligations under this Subparagraph 16.4 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by CONSORTIUM. Notwithstanding the preceding sentence, CONSORTIUM shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide CONSORTIUM with a full and adequate defense, CONSORTIUM shall be entitled to retain its own counsel, including County Counsel, and receive reimbursement from CONTRACTOR for all such costs and expenses incurred by CONSORTIUM in doing so. CONTRACTOR shall not have the right to enter into any settlement, agree to any injunction or make any

admission, in each case, on behalf of CONSORTIUM without CONSORTIUM's prior approval.

- 16.5** Notwithstanding any CONSORTIUM consent to any subcontracting, CONTRACTOR shall remain responsible for any and all performance required of it under this Agreement, including the obligation to properly supervise, coordinate, and perform all Work required hereunder, and no subcontract shall bind or purport to bind CONSORTIUM. Further, CONSORTIUM approval of any subcontract shall not be construed to limit in any way CONTRACTOR's performance, obligations, or responsibilities to CONSORTIUM, nor shall such approval limit in any way any of CONSORTIUM's rights or remedies contained in this Agreement. Additionally, CONSORTIUM approval of any subcontract shall not be construed in any way to constitute the determination of the allowableness or appropriateness of any cost or payment under this Agreement.
- 16.6** Further, in the event that CONSORTIUM consents to any subcontracting, such consent shall be subject to CONSORTIUM's right to direct the CONTRACTOR to terminate, in whole or in part, any subcontract at any time upon notice to CONTRACTOR consistent with the terms of such subcontract when such Subcontractor is in material breach of its subcontract. CONSORTIUM shall not be liable or responsible in any way to CONTRACTOR, to any Subcontractor, or to any officers, employees, or agents of CONTRACTOR or any Subcontractor, for any claims, demands, damages, liabilities, losses, costs, or expenses, including defense costs and legal, accounting and other expert, consulting or professional fees, in any way arising from, connected with, or related to CONSORTIUM's exercise of such rights.
- 16.7** In the event that CONSORTIUM consents to any subcontracting, CONSORTIUM's ongoing approval rights with regard to CONTRACTOR's staff as set forth in Subparagraphs 3.3 (Approval of CONTRACTOR's Staff) and 3.6 (Background and Security Investigation) shall be extended to all Subcontractor staff performing Work. CONSORTIUM shall not be liable or responsible in any way to CONTRACTOR or to any Subcontractor, for any liability, damages, costs,

or expenses arising from, connected with, or related to CONSORTIUM's exercise of such rights.

- 16.8** In the event that CONSORTIUM consents to any subcontracting, the Subcontractor, on behalf of itself, its successors and administrators, shall assume and be bound by and shall be deemed to have assumed and agreed to be bound by each and all of the provisions of this Agreement and any Amendment thereto applicable to such Subcontractor given its responsibilities in performing the Work. CONTRACTOR shall be liable for any breach of this Agreement by a Subcontractor.
- 16.9** In the event that CONSORTIUM consents to any subcontracting, such consent shall apply to each particular subcontract only and shall not be, or be construed to be, a waiver of this Paragraph 16 or a blanket consent to any further subcontracting.
- 16.10** CONSORTIUM Executive Director is hereby authorized to act for and on behalf of CONSORTIUM pursuant to this Paragraph 16, including consenting to any subcontracting or lower tier subcontracting.
- 16.11** CONTRACTOR shall be solely liable and responsible for any and all payments and other compensation to all Subcontractors and their officers, employees, and agents. CONSORTIUM shall have no liability or responsibility whatsoever for any payment or other compensation for any Subcontractors or their officers, employees, and agents.
- 16.12** CONTRACTOR shall deliver to CONSORTIUM Executive Director a fully executed copy of each subcontract entered into by CONTRACTOR pursuant to this Paragraph 16, on or immediately after the effective date of the subcontract but in no event later than the date any Work is performed under the subcontract.
- 16.13** In the event that CONSORTIUM consents to any subcontracting, CONTRACTOR shall obtain an executed Subcontractor Employee Acknowledgment, Confidentiality and Copyright Assignment Agreement (see Exhibit 3 to Exhibit L (Required Subcontract Provisions)) for each of Subcontractor's employees performing Work under the subcontract. Such agreements shall be delivered to

CONSORTIUM Executive Director on or immediately after the effective date of the particular subcontract but in no event later than the date any such employee performs Work under the subcontract.

17. INDEMNIFICATION, INSURANCE, AND PERFORMANCE SECURITY:

17.1 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless CONSORTIUM and the State, and their respective elected and appointed officers, employees, agents, Consortium Members (hereafter in this Paragraph 17 “CONSORTIUM Indemnities”) from and against any and all claims, liabilities, damages, costs, and expenses, including defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to claims and lawsuits, for any damages of any nature whatsoever, for bodily injury, death, personal injury (including purely economic damage), or real or personal property damage arising from CONTRACTOR, CONTRACTOR’s agents’, employees’ or Subcontractors’ alleged or actual negligent acts, errors, or omissions or willful misconduct in the performance of services or provision of products hereunder, including to the extent applicable workers’ compensation suits, liability, or expense, provided that CONSORTIUM Indemnitees provides CONTRACTOR with prompt notice of any such claim of which CONSORTIUM Executive Director has actual knowledge and provides reasonable cooperation in CONTRACTOR’s defense and any related settlement negotiations. Any legal defense pursuant to CONTRACTOR’s indemnification obligations under this Paragraph 17 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by CONSORTIUM (except that CONSORTIUM will not have such approval right if CONTRACTOR’s interests are adverse to CONSORTIUM’s). Notwithstanding the preceding sentence, CONSORTIUM Indemnitees shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide a full and

adequate defense, CONSORTIUM Indemnitees shall be entitled to retain its own counsel and receive reimbursement from CONTRACTOR for all such costs and expenses incurred by CONSORTIUM Indemnitees in doing so. CONTRACTOR shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of CONSORTIUM Indemnitees without CONSORTIUM Indemnitee's prior approval.

17.1.1 Demand for Indemnification By Third Parties

CONTRACTOR's obligation to indemnify CONSORTIUM Members or any other third party under this Agreement shall only be exercised through the CONSORTIUM and upon written demand by the CONSORTIUM. Any demand for indemnification by a CONSORTIUM Member, the State, or their respective officers, employees, or agents, shall be tendered to the CONSORTIUM, which shall have the authority to make the demand for indemnification to CONTRACTOR. The obligation on CONSORTIUM Members to submit demands for indemnification to the CONSORTIUM rather than directly to the CONTRACTOR shall not apply to LA COUNTY so long as LA COUNTY remains the sole county utilizing the LRS System in actual production. Once a second county migrates into the LRS System and from that point forward, all indemnification claims must go through the CONSORTIUM.

17.2 INSURANCE:

17.2.1 General Insurance Requirements.

Without limiting or expanding CONTRACTOR's indemnification of CONSORTIUM Indemnitees, during the term of this Agreement, CONTRACTOR shall maintain, and shall require all of its Subcontractors to maintain in accordance with the applicable Subcontract, the programs of insurance specified in this Subparagraph 17.2. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by CONSORTIUM or State, and such coverage shall

be maintained at CONTRACTOR's own expense. In addition, CONTRACTOR shall be responsible for and shall pay all deductibles or self-insured retentions under the programs of insurance specified in this Subparagraph 17.2.

17.2.2 Evidence of Insurance.

Certificate(s) of insurance as evidence of coverage shall be delivered to CONSORTIUM Executive Director prior to commencing Work under this Agreement. Such certificates shall:

- (A) Specifically identify this Agreement.
- (B) Clearly evidence all coverages required in this Agreement.
- (C) Include a copy of the actual policy provision or endorsement as verification that CONSORTIUM Indemnitees and State have been added as additional insureds under all policies specified in this Subparagraph 17.2.2.
- (D) CONTRACTOR agrees to provide the CONSORTIUM Executive Director with a thirty (30) day notice of policy cancellation.

17.2.3 Insurer Financial Ratings.

Insurance is to be provided by an insurance company with an A.M. Best rating of not less than A-:VII.

17.2.4 Notification of Incidents, Claims, or Suits.

CONTRACTOR shall promptly report to CONSORTIUM:

- (A) Any accident or incident relating to Work performed under this Agreement that involves injury or property damage that may result in the filing of a claim or lawsuit against CONTRACTOR and/or CONSORTIUM Indemnitees. Such report shall be made in writing within twenty-four (24) hours of occurrence.

- (B) Any third-party claim, or lawsuit filed against CONTRACTOR arising from or related to services performed by CONTRACTOR under this Agreement.
- (C) Any injury to a CONTRACTOR employee that occurs on CONSORTIUM property. This report shall be submitted on a CONSORTIUM “Non-employee Injury Report” to CONSORTIUM Executive Director.
- (D) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of CONSORTIUM property, monies, or securities entrusted to CONTRACTOR under the terms of this Agreement.

17.2.5 Compensation for CONSORTIUM Costs.

In the event that CONTRACTOR fails to comply with any of the indemnification or insurance provisions of this Agreement, and such failure to comply results in any costs to CONSORTIUM Indemnitees or State, CONTRACTOR shall pay full compensation for all costs incurred by CONSORTIUM Indemnitees and State.

17.2.6 Insurance Coverage Requirements for Subcontractors.

CONTRACTOR shall ensure that any and all Subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by providing evidence submitted by each Subcontractor evidencing that such Subcontractor maintains the required insurance coverage in accordance with the applicable Subcontract. CONSORTIUM Indemnitees retains the right to obtain copies of evidence of Subcontractor insurance coverage at any time.

17.2.7 Insurance Coverage Requirements.

CONTRACTOR’s insurance shall include the following:

- (A) General Liability insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

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<u>COVERAGE</u>	<u>LIMIT</u>
General Aggregate	\$4 million
Products/Completed Operations Aggregate	\$4 million
Personal and Advertising Injury	\$2 million
Each Occurrence of above	\$2 million

- (B) Automobile Liability insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all CONTRACTOR “owned”, “hired,” and “non-owned” vehicles, or coverage for “any auto”.
- (C) Workers’ Compensation and Employers’ Liability insurance providing workers’ compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which CONTRACTOR is responsible. If CONTRACTOR’s employees will be engaged in maritime employment, coverage shall provide workers’ compensation benefits as required by the U.S. Longshore and Harbor Workers’ Compensation Act, Jones Act, or any other federal law for which CONTRACTOR is responsible.

In all cases, the above insurance also shall include Employers’ Liability coverage with limits of not less than the following:

<u>COVERAGE</u>	<u>LIMIT</u>
Each Accident	\$1 million
Disease - policy limit	\$1 million
Disease - each employee	\$1 million

- (D) Professional Liability insurance covering CONTRACTOR’s liability arising from any error, omission, negligent or wrongful act of CONTRACTOR, its officers or employees, with limits of not less than \$3 million per claim and aggregate. The coverage also shall be

maintained for at least two (2) years following the expiration of this Agreement or provide an extended two (2) year reporting period commencing upon termination or cancellation of this Agreement.

- (E) Crime Coverage insurance with limits in amounts not less than indicated below covering against theft of money, securities, or other property committed by CONTRACTOR's staff performing Work, and naming CONSORTIUM as loss payee.

<u>COVERAGE</u>	<u>LIMIT</u>
Per Loss	\$1 million
Aggregate	\$2 million

17.3 PERFORMANCE SECURITY REQUIREMENTS:

Prior to November 7, 2012, CONTRACTOR shall have provided to CONSORTIUM performance security in the form of a performance bond, in a form and from a surety company approved by CONSORTIUM, payable to CONSORTIUM in an amount of \$60 million, which shall be maintained until three hundred and sixty-five (365) days after the completion of Phase 1 (Design/Development/Implementation Phase), and \$12 million, thereafter, which shall be maintained until: (i) one hundred and eighty (180) days after termination of this Agreement pursuant to Paragraphs 34 (Termination for Insolvency), 35 (Termination for Default) (excluding Subparagraph 35.7), and/or 36 (Termination for Improper Consideration); or (ii) any other termination of this Agreement or the expiration of the term of this Agreement. In addition, on or before November 7, 2012, CONTRACTOR shall have provided to CONSORTIUM the duly executed Accenture plc Performance Guarantee (Exhibit D) by Accenture plc.

17.4 FAILURE TO MAINTAIN INSURANCE AND PERFORMANCE SECURITY:

Failure by CONTRACTOR to maintain the required insurance, to provide insurance certificates, pay the deductibles or self-insured retentions as specified in

Subparagraph 17.2.1 (General Insurance Requirements), or to maintain performance security, including the Accenture plc Performance Guarantee (Exhibit D), as set forth in Subparagraph 17.3 (Performance Security Requirements), shall constitute a material breach of this Agreement upon which CONSORTIUM may terminate this Agreement pursuant to Subparagraph 35.1 or, as to maintaining required insurance or performance security, immediately suspend this Agreement. CONSORTIUM, at its sole option, may obtain damages from CONTRACTOR resulting from such breach.

If the bond provided for the benefit of CONSORTIUM, as required by Subparagraph 17.3 (Performance Security Requirements), will by its terms expire prior to the expiration of the applicable period specified in Subparagraph 17.3, CONTRACTOR shall procure, not later than thirty (30) calendar days prior to the expiration of such bond, and provide to CONSORTIUM within one (1) Working Day of receipt, an unconditional commitment from an insurer admitted to do business in California and reasonably acceptable to CONSORTIUM to provide a replacement bond for the benefit of the CONSORTIUM on terms that in all material respects will be identical to those of the expiring bond, to be effective not later than concurrently with the expiration of the expiring bond.

17.5 LIMITATION ON LIABILITY OF CONSORTIUM AND CONTRACTOR:

CONSORTIUM and CONTRACTOR agree that, with respect to all claims under this Agreement, neither party's liability for damages (including those based on breach of contract, negligence, misrepresentation, or other contract or tort claim) shall exceed, in the aggregate, the following amounts:

- (A) Three Hundred Million Dollars (\$300,000,000) for damages first occurring on or prior to three hundred and sixty-five (365) days after the completion of Phase 1 (Design/Development/Implementation Phase).
- (B) Eighty Million Dollars (\$80,000,000) for damages first occurring subsequent to three hundred and sixty-five (365) days after the completion of Phase 1 (Design/Development/Implementation Phase).

The above limitations of liability not-to-exceed amounts shall not apply to any liability, claims or damages which are referred to in: (i) Subparagraph 17.1 (Indemnification), except that damages, costs, expenses, and liabilities that arise from CONTRACTOR's simple negligence and that do not cause bodily injury to persons or death, or damage to property, shall be subject to the limitations in this Subparagraph 17.5; (ii) Paragraph 24 (Intellectual Property Indemnification); and (iii) Subparagraph 21.6 (Disclosure, Confidentiality, and Security Indemnification) to the extent such liability claim or damage was caused by intentional or willful conduct of CONTRACTOR.

CONSORTIUM SHALL NOT BE LIABLE OR RESPONSIBLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM IN WHICH ANY ACTION IS BROUGHT.

CONTRACTOR SHALL NOT BE LIABLE OR RESPONSIBLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM IN WHICH ANY ACTION IS BROUGHT. NOTWITHSTANDING THE FOREGOING SENTENCE, THE PARTIES AGREE THAT CONSEQUENTIAL, INCIDENTAL, INDIRECT AND SPECIAL DAMAGES, COSTS, EXPENSES AND LIABILITIES WHICH ARE SUFFERED BY CONSORTIUM (INCLUDING DISALLOWANCES, SANCTIONS OR PENALTIES THAT ARE IMPOSED ON CONSORTIUM TO THE EXTENT THE SANCTIONS AND PENALTIES ARE CAUSED BY CONTRACTOR), UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHER LEGAL THEORY, AND WHICH ARISE FROM CLAIMS UNDER SUBPARAGRAPHS 17.1 (INDEMNIFICATION) AND 21.6 (DISCLOSURE, CONFIDENTIALITY, AND SECURITY INDEMNIFICATION) AND PARAGRAPHS 15 (INDEPENDENT CONTRACTOR STATUS) AND 24 (INTELLECTUAL PROPERTY INDEMNIFICATION), SHALL BE DEEMED

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TO BE INCLUDED WITHIN THE DEFINITION OF DIRECT DAMAGES
WHICH ARE SUFFERED BY CONSORTIUM FOR PURPOSES OF THIS
AGREEMENT.

18. RECORDS AND AUDITS:

- 18.1** CONTRACTOR shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. CONTRACTOR shall also maintain accurate and complete employment and other records relating to its performance of this Agreement to determine compliance with this Agreement. CONTRACTOR agrees that CONSORTIUM, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Agreement. All such material necessary to determine compliance with this Agreement including any applicable financial records, bank statements, cancelled checks, or other proof of payment, time cards, signed-in/signed-out sheets, and other time and employment records, and proprietary data and information, shall be kept and maintained by CONTRACTOR and shall be made available to CONSORTIUM during the term of this Agreement and for a period of five (5) years thereafter unless CONSORTIUM's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by CONTRACTOR at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then CONTRACTOR shall make all necessary arrangements, at its own cost and expense, to have originals of such materials made available to CONSORTIUM at a CONSORTIUM-approved location in Los Angeles County. If a CONSORTIUM representative having access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records relating to this Agreement as provided in this Subparagraph 18.1 is a competitor of CONTRACTOR, such representative shall execute a non-disclosure agreement containing terms and conditions that are reasonably satisfactory to CONTRACTOR and CONSORTIUM.
- 18.2** In the event that an audit is conducted of CONTRACTOR specifically regarding this Agreement: (i) by any federal or State auditor, then CONTRACTOR shall file a copy of such audit report with CONSORTIUM's Auditor-Controller within thirty

(30) days of CONTRACTOR's receipt thereof, unless otherwise provided by applicable federal or State law or under this Agreement; or (ii) by an auditor or accountant engaged by CONTRACTOR, then CONTRACTOR shall debrief CONSORTIUM of such audit within thirty (30) days of completion of the audit. Subject to federal, State, and CONSORTIUM laws, regulations, and policies, as well as Paragraph 20 (Public Records Act), CONSORTIUM shall make a reasonable effort to maintain the confidentiality of such audit report(s) and debriefings.

- 18.3** Failure on the part of CONTRACTOR to comply with any of the provisions of this Paragraph 18 shall constitute a material breach of this Agreement upon which CONSORTIUM may terminate this Agreement.

19. AUDIT SETTLEMENTS:

If, at any time during the term of this Agreement or within five (5) years after the expiration or termination of this Agreement, representatives of CONSORTIUM conduct an audit of CONTRACTOR regarding the Work performed under this Agreement, and if such audit finds that CONSORTIUM's dollar liability for any such Work is less than payments made by CONSORTIUM to CONTRACTOR, then the difference, together with CONSORTIUM's reasonable costs of audit, shall be either repaid by CONTRACTOR to CONSORTIUM by cash payment upon demand or, at the sole option of CONSORTIUM Executive Director, deducted from any amounts due to CONTRACTOR from CONSORTIUM, whether under this Agreement or otherwise. If such audit finds that CONSORTIUM's dollar liability for such Work is more than the payments made by CONSORTIUM to CONTRACTOR, then the difference shall be paid to CONTRACTOR by CONSORTIUM, but in no event shall CONSORTIUM's payments to CONTRACTOR exceed the Total Maximum Contract Sum identified in Paragraph 8 (Contract Sum).

20. PUBLIC RECORDS ACT:

Documents submitted by CONTRACTOR; all information obtained in connection with CONSORTIUM's right to audit and inspect CONTRACTOR's documents, books and accounting records pursuant to Paragraph 18 (Records and Audits); as well as those documents which were required to be submitted in response to CONSORTIUM's Request for Proposals for a LEADER Replacement System (Exhibit R) used in the solicitation process for this Agreement may be regarded as public records. Exceptions will be those defined in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret," "confidential," or "proprietary." CONSORTIUM will not in any way be liable or responsible for the disclosure of any such records, including, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction. CONSORTIUM will provide CONTRACTOR with prompt notice of any public records requests relating to this Agreement of which CONSORTIUM Executive Director has actual knowledge.

In the event CONSORTIUM is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret," "confidential," or "proprietary," CONTRACTOR agrees to defend and indemnify CONSORTIUM from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

21. DISCLOSURE, CONFIDENTIALITY, AND SECURITY OF RECORDS AND INFORMATION:

21.1 DISCLOSURE OF AGREEMENT:

CONTRACTOR shall not disclose any terms or conditions of, or any circumstances or events that occur during the performance of, this Agreement to any person or entity except as may be otherwise provided herein or required by law or performance of this Agreement. In the event CONTRACTOR receives any court or administrative agency order, service of process, or request by any person or

entity (other than CONTRACTOR's professionals) for disclosure of any such details, CONTRACTOR shall immediately notify CONSORTIUM Executive Director. Thereafter, CONTRACTOR shall comply with such order, process, or request only to the extent required by applicable law. Notwithstanding the preceding sentence, to the extent permitted by law, CONTRACTOR shall delay such compliance and cooperate with CONSORTIUM to obtain relief from such obligations to disclose until CONSORTIUM shall have been given a reasonable opportunity to obtain such relief. However, in recognizing CONTRACTOR's need to identify its services and related clients to sustain itself, CONSORTIUM shall not inhibit CONTRACTOR from publishing its role under this Agreement within the following conditions:

- (A) CONTRACTOR shall develop all publicity material in a "first class", professional manner.
- (B) During the term of this Agreement, CONTRACTOR shall not publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of CONSORTIUM without the prior consent of CONSORTIUM Executive Director for each such item. CONSORTIUM shall not unreasonably withhold consent.
- (C) CONTRACTOR may, without the prior consent of CONSORTIUM, indicate in its proposals and sales materials that it has been awarded this LRS Agreement or this Agreement with the CONSORTIUM, provided that the requirements of this Paragraph 21 shall apply.

21.2 AUTHORIZED DISCLOSURES:

Notwithstanding any other provision of this Agreement, either party may disclose information about the other that: (i) is lawfully in the public domain at the time of disclosure; (ii) is disclosed with the prior written approval of the party to which such information pertains; or (iii) is required by law to be disclosed.

**21.3 CONFIDENTIALITY OF CONSORTIUM AND THIRD-PARTY
RECORDS AND INFORMATION:**

CONTRACTOR shall maintain the confidentiality of all confidential records and information, including Program Data, billings, CONSORTIUM records, and applicant/participant records and information in compliance with all applicable: (i) federal and State laws, rules, and regulations, including California Civil Code Section 1798.82 and California Welfare and Institutions Code Section 10850; (ii) all local County ordinances; (iii) CONSORTIUM guidelines, directives, policies and procedures relating to confidentiality and information security of Program Data (including any breach of the security of the LEADER Replacement System or CalSAWS System, such as any unauthorized acquisition of Program Data that compromises the security, confidentiality, or integrity of personal information) as described in CONSORTIUM-approved Deliverable 5.3 (Information Systems Security Plan) of Exhibit A (Statement of Work), as may be updated from time to time, or (iv) written direction from CONSORTIUM regarding the protection of specific non-Program Data. To the extent that such CONSORTIUM policies and procedures change, CONSORTIUM will make reasonable efforts to promptly notify CONTRACTOR of updated information and CONTRACTOR shall thereafter comply with such information. All records and information pertaining to persons applying for or receiving assistance and/or services are confidential, and no information related to any individual case or cases shall be in any way disclosed to anyone except to designated CONSORTIUM employees or CONSORTIUM Member employees without the prior written authorization from the CONSORTIUM Executive Director or designee. CONTRACTOR shall inform all of its officers, employees, and agents providing services hereunder of the confidentiality provisions of this Agreement. CONTRACTOR shall provide to CONSORTIUM an executed CONTRACTOR Employee Acknowledgment, Confidentiality, and Copyright Assignment Agreement (Exhibit J) for each of its employees performing Work under this Agreement in accordance with Paragraph 15 (Independent Contractor Status). Further, CONTRACTOR shall provide to CONSORTIUM an executed Subcontractor Employee Acknowledgment,

Confidentiality, and Copyright Assignment Agreement (see Exhibit 3 to Exhibit L (Required Subcontract Provisions)) for each employee of each Subcontractor performing any Work under a CONSORTIUM-approved subcontract in accordance with Subparagraph 16.13.

21.4 APPLICANT/PARTICIPANT CONFIDENTIALITY:

With respect to any identifiable information concerning any applicant/participant that is obtained by CONTRACTOR or any other records and information, CONTRACTOR shall: (i) not use any such records or information for any purpose whatsoever other than carrying out the express terms of this Agreement; (ii) promptly transmit to CONSORTIUM all requests for disclosure of any such records or information; (iii) not disclose, except as otherwise specifically permitted by this Agreement, any such records or information to any person or organization other than CONSORTIUM without CONSORTIUM's prior written authorization that the records are, or information is, releasable; and (iv) at the expiration or termination of this Agreement, return all such records and information to CONSORTIUM or maintain such records and information according to the written procedures sent to CONTRACTOR by CONSORTIUM for this purpose.

21.5 PROGRAM DATA SECURITY:

CONTRACTOR hereby acknowledges the right of privacy of all persons as to whom there exists any Program Data. CONTRACTOR shall protect and secure all Program Data, and keep confidential all confidential Program Data, including identifiable information concerning any individual, in compliance with all applicable: (i) federal and State laws, rules, and regulations, including California Civil Code Section 1798.82, California Welfare and Institutions Code Section 10850 and California Department of Social Services, Manual of Policies and Procedures Chapter 19-000; (ii) CONSORTIUM Member ordinances; and (iii) CONSORTIUM guidelines, directives, policies and procedures, relating to confidentiality and information security of Program Data (including any breach of the security of the LEADER Replacement System or CalSAWS System, such as

any unauthorized acquisition of Program Data that compromises the security, confidentiality, or integrity of personal information) as described in CONSORTIUM-approved Deliverable 5.3 (Information Systems Security Plan) of Exhibit A (Statement of Work), as may be updated from time to time. Further, CONTRACTOR shall take all reasonable actions necessary or advisable to protect all Program Data in its possession, custody, or control from loss or damage by any cause, including fire, theft, or other catastrophe, provided that CONTRACTOR will not be responsible for loss or damage of Program Data to the extent such loss or damage is caused by other CONSORTIUM or CONSORTIUM County contractors or subcontractors or caused by a security breach originating within the LA COUNTY Enterprise Network/LAnet/EN, or the CONSORTIUM Members' network models. In addition, if requested by CONSORTIUM Executive Director, CONTRACTOR shall provide notification to all persons whose unencrypted personal information was, or is reasonably believed to have been, acquired by any unauthorized person, and the content, method, and timing of such notification shall be subject to the prior approval of CONSORTIUM Executive Director. CONTRACTOR shall not use Program Data for any purpose or reason other than to fulfill its obligations under this Agreement.

21.6 DISCLOSURE, CONFIDENTIALITY, AND SECURITY

INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless CONSORTIUM, the State, and their respective officers, employees, and agents, from and against any and all losses, damages, liabilities, and expenses, including defense costs and legal, accounting and other expert, consulting, or professional fees, arising from any failure by CONTRACTOR, its officers, employees, agents, or Subcontractors, to comply with this Paragraph 21, as reasonably determined by CONSORTIUM. CONSORTIUM will provide CONTRACTOR with prompt notice of any claim of which CONSORTIUM Executive Director has actual knowledge. Any legal defense pursuant to CONTRACTOR's indemnification obligations under this Paragraph 21 shall be conducted by CONTRACTOR and performed by counsel

selected by CONTRACTOR and approved by CONSORTIUM (except that CONSORTIUM will not have such approval right if CONTRACTOR's interests are adverse to CONSORTIUM's). Notwithstanding the preceding sentence, CONSORTIUM shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide CONSORTIUM with a full and adequate defense, CONSORTIUM shall be entitled to retain its own counsel, and receive reimbursement from CONTRACTOR for all such costs and expenses incurred by CONSORTIUM in doing so. CONTRACTOR shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of CONSORTIUM without CONSORTIUM's prior approval.

21.7 REMEDIES:

CONTRACTOR acknowledges that a breach by CONTRACTOR of this Paragraph 21 may result in irreparable injury to CONSORTIUM that may not be adequately compensated by monetary damages, and that, in addition to CONSORTIUM's other rights under this Paragraph 21 and at law and in equity, CONSORTIUM shall have the right to injunctive relief to enforce the provisions of this Paragraph 21.

22. SHRED DOCUMENTS:

CONTRACTOR shall ensure that all confidential documents/papers, as defined under State law (including Welfare and Institutions Code Sections 10850 and 17006) relating to this Agreement must be shredded and not put in trash containers when CONTRACTOR disposes of these documents/papers. All documents/papers to be shredded shall be placed in a locked or secure container/bin/box and labeled "shred" until they are destroyed. No confidential documents/papers shall be recycled.

Documents/papers for record and retention purposes in accordance with Paragraph 18 (Records and Audits) shall be maintained for a period of five (5) years after the expiration or termination of this Agreement.

23. PROPRIETARY CONSIDERATIONS:

- 23.1** Subject to Paragraph 12 (Ownership), CONTRACTOR and CONSORTIUM agree that all materials of all types, including documents, plans, designs, specifications, diagrams, configurations, reports, manuals, acceptance test criteria, acceptance test plans, LRS Application Software, LRS Software, Program Data, Project Control Document, departmental procedures and processes, Deliverables, tools, notes, algorithms, formulas, procedures, processes, data, and information, developed under this Agreement, together, in each case, with all copyrights, patent rights, trade secret rights, and other proprietary rights therein and thereto (collectively referred to in this Paragraph 23 as “CONSORTIUM Materials”), shall be the sole property of CONSORTIUM, and CONTRACTOR hereby assigns and transfers to CONSORTIUM all CONTRACTOR’s right, title, and interest in and to all CONSORTIUM Materials.
- 23.2** Upon request of CONSORTIUM, CONTRACTOR shall execute all documents reasonably requested by CONSORTIUM and shall perform all other acts reasonably requested by CONSORTIUM to assign and transfer to, and vest in, CONSORTIUM all CONTRACTOR’s right, title, and interest in and to the CONSORTIUM Materials, including all copyrights, patents, and trade secret rights. CONSORTIUM shall have the right to register all copyrights and patents in the name of the CONSORTIUM. Further, subject to Paragraph 12 (Ownership), CONSORTIUM shall have the right to assign, license, or otherwise transfer any and all CONSORTIUM’s right, title, and interest, including copyrights and patents, in and to the CONSORTIUM Materials.
- 23.3** As requested in writing by CONSORTIUM Executive Director, and subject to Paragraph 12 (Ownership), CONTRACTOR shall affix the following notice to CONSORTIUM Materials: “© 2010 (or applicable date of first publication or other appropriate date), CONSORTIUM. All Rights Reserved.” CONTRACTOR shall affix such notice as directed by CONSORTIUM.
- 23.4** Subject to Paragraph 12 (Ownership) and the other provisions of this Paragraph 23, CONTRACTOR may retain rights to utilize the know-how, ideas, concepts and

techniques developed by CONTRACTOR under this Agreement, in other work performed for itself and others.

- 23.5** Any and all materials of all types which are developed or were originally acquired by CONTRACTOR outside the scope of this Agreement, excluding Accenture Pre-Existing Framework Software, which CONTRACTOR desires to use hereunder, and which CONTRACTOR considers to be proprietary or confidential (collectively referred to in this Paragraph 23 as "CONTRACTOR Materials"), shall be specifically identified, in writing, by CONTRACTOR to CONSORTIUM Executive Director as proprietary or confidential, and shall be plainly and prominently marked by CONTRACTOR as "PROPRIETARY" or "CONFIDENTIAL".
- 23.6** CONTRACTOR hereby grants to CONSORTIUM for the use of CONSORTIUM and all Users a perpetual, no-cost, royalty-free, nonexclusive, unrestricted, transferrable, and irrevocable license to use, modify, distribute, and reproduce all CONTRACTOR Materials for CONSORTIUM purposes to the extent reasonably necessary to permit CONSORTIUM's utilization of CONTRACTOR Materials for the development, management, operations, and support of the LRS or CalSAWS System.
- 23.7** CONSORTIUM will use reasonable means to ensure that CONTRACTOR's proprietary and confidential CONTRACTOR Materials described and marked in accordance with Subparagraph 23.5 are safeguarded and held in confidence. CONSORTIUM agrees not to reproduce, distribute, or disclose to non-CONSORTIUM entities (other than outside counsel, consultants, or others as required by law, subject to non-disclosure agreements or obligations) CONTRACTOR's proprietary and confidential CONTRACTOR Materials, without the prior written permission of CONTRACTOR or as required by law.
- 23.8** Notwithstanding any other provision of this Agreement, CONSORTIUM shall not be obligated in any way under this Agreement for:

- (A) Any CONTRACTOR's proprietary and/or confidential CONTRACTOR Materials not plainly and prominently marked with restrictive legends required pursuant to Subparagraph 23.5; and
- (B) Any disclosure of any CONTRACTOR Materials which CONSORTIUM is required to make under the California Public Records Act or otherwise by applicable federal, State, and local laws, rules, regulations, ordinances, or any federal or State guidelines, directives, policies, and procedures.

23.9 CONTRACTOR shall protect the security of and keep confidential all CONSORTIUM Materials obtained or developed under this Agreement. Further, CONTRACTOR shall use whatever security measures are reasonably necessary to protect all such CONSORTIUM Materials from loss or damage by any cause, including fire and theft.

23.10 CONTRACTOR shall not reproduce, distribute, or disclose to any person or entity any information identifying, characterizing, or relating to any risk, threat, vulnerability, weakness, or problem regarding data security in CONSORTIUM's computer systems, or to any safeguard, countermeasure, or contingency plan, policy or procedure for data security contemplated or implemented by CONSORTIUM, without CONSORTIUM's prior consent.

24. INTELLECTUAL PROPERTY INDEMNIFICATION:

24.1 Subject to the limitations of Subparagraph 24.3, CONTRACTOR shall indemnify, defend, and hold harmless CONSORTIUM and the State, and their respective officers, employees, and agents, from and against any and all third party claims, demands, damages, liabilities, losses, costs, and expenses, including defense costs and legal, accounting and other expert, consulting or professional fees, as such are incurred, for or by reason of any actual or alleged infringement of any third party's U.S. patents issued and existing prior to or during the term of this Agreement or any other intellectual property rights, including copyrights or trademarks, or any actual or alleged trade secret disclosure or misappropriation, arising from, connected with, or related to the LEADER Replacement System or CalSAWS

System or the operation and utilization of the Work under this Agreement (collectively referred to herein as “Infringement Claim”). CONSORTIUM will provide CONTRACTOR with prompt notice of any claim of which CONSORTIUM Executive Director has actual knowledge. Any legal defense pursuant to CONTRACTOR’s indemnification obligations under this Paragraph 24 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by CONSORTIUM. Notwithstanding the preceding sentence, CONSORTIUM shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide CONSORTIUM with a full and adequate defense, CONSORTIUM shall be entitled to retain its own counsel, including County Counsel, and reimbursement from CONTRACTOR for all such costs and expenses incurred by CONSORTIUM in doing so. CONTRACTOR shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of CONSORTIUM without CONSORTIUM’s prior approval.

- 24.2** Without limiting the foregoing, in the event CONSORTIUM Executive Director becomes aware that ongoing use of the LEADER Replacement System or any LRS Component, or the CalSAWS System or any CalSAWS Component, or any part of them, is the subject of any Infringement Claim that may preclude or impair CONSORTIUM’s use of such Systems or any of its Components (e.g., injunctive relief), or that CONSORTIUM’s continued use of the such Systems or such Components may subject CONSORTIUM to punitive damages or statutory penalties or other costs or expenses, CONSORTIUM shall give notice to CONTRACTOR of such facts. CONTRACTOR shall also give CONSORTIUM notice of all facts that it learns that may expose CONSORTIUM to an Infringement Claim. Upon notice of facts that may expose CONSORTIUM to any Infringement Claim, CONTRACTOR shall, at no additional cost to CONSORTIUM, either: (i) procure the right, by license or otherwise, for CONSORTIUM to continue to use the applicable System or affected Component, or parts thereof, to the same extent of CONSORTIUM’s rights under this Agreement; or (ii) to the extent CONTRACTOR is unable to procure such right, replace or modify the applicable

System or Component with another system or components of equivalent quality and performance capabilities, in accordance with the Specifications, to become non-infringing, non-misappropriating and/or non-disclosing. If CONTRACTOR fails to complete the remedial acts set forth above within ninety (90) days of the date of the notice from CONSORTIUM, and such Infringement Claim results in an imminent or actual preclusion or impairment of CONSORTIUM's ongoing use of the applicable System or any Component, in whole or in part, CONSORTIUM shall have the right to take such remedial acts as are reasonable to mitigate any such preclusion or impairment of CONSORTIUM's ongoing use (referred to in this Paragraph 24 as "CONSORTIUM's Remedial Acts"). CONTRACTOR shall indemnify CONSORTIUM for all amounts paid by and all direct and documented costs incurred by CONSORTIUM, as a result of undertaking such CONSORTIUM's Remedial Acts. CONTRACTOR shall pay such amounts and costs within thirty (30) days of CONTRACTOR's receipt of invoice (including documentation of costs) from CONSORTIUM. If CONTRACTOR fails to pay such amounts and costs in the time period specified above, then CONSORTIUM shall, in addition to and cumulative to all other remedies, be entitled to immediately withhold payments due to CONTRACTOR by CONSORTIUM under this Agreement or otherwise up to the total of such amounts and costs to be paid by CONTRACTOR.

- 24.3** In the event of Infringement Claims, the root causes of which are due to Third Party Software, CONTRACTOR's liability for such claims shall not exceed the sum of Five Million Dollars (\$5,000,000), in the aggregate, including costs for correcting such infringement pursuant to Subparagraph 11.4 (Correction of Deficiencies), indemnification, and Liquidated Damages. Notwithstanding Subparagraphs 3.3.5, 3.3.6, 3.3.7, 3.3.10, and 4.1 (General), work performed by CONTRACTOR to correct any such infringement may be performed, at CONTRACTOR's option: (i) using any of CONTRACTOR's global resources other than in any jurisdiction prohibited by Board policy or Board directive; or (ii) using other global resources as approved by CONSORTIUM Executive Director.

24.4 CONTRACTOR shall have no obligation to indemnify or defend CONSORTIUM under this Agreement to the extent that an Infringement Claim arises (i) from CONSORTIUM's introduction of intellectual property into the LRS or CalSAWS System without CONTRACTOR's consent, or (ii) from CONSORTIUM's misuse of intellectual property properly incorporated into the LRS by CONTRACTOR.

25. COMPLIANCE WITH APPLICABLE LAW:

25.1 Each party's performance hereunder shall comply with all applicable federal and state laws, rules, regulations, ordinances, guidelines, directives, policies, and procedures, and with all applicable local ordinances and CONSORTIUM Board of Directors policies, directives, and other mandates adopted by CONSORTIUM Board of Directors in a public hearing, and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference. The LEADER Replacement System or CalSAWS System shall comply with all applicable federal and State laws, rules, regulations, ordinances, guidelines, directives, policies, and procedures, in accordance with the Specifications. Any changes to the LRS or CalSAWS System after CONSORTIUM approval of Deliverable 6.1 (Functional Design Document (FDD)) of Exhibit A (Statement of Work), which are necessitated by applicable federal and State laws, rules, regulations, ordinances, guidelines, directives, policies, and procedures, shall be addressed in accordance with the terms of this Agreement.

25.2 CONTRACTOR shall indemnify, defend, and hold harmless CONSORTIUM and the State, and their respective officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by CONTRACTOR, its officers, employees, agents, or Subcontractors, to comply with any laws, rules, regulations, ordinances, guidelines, directives, policies, or procedures, as specified by Subparagraph 25.1. CONSORTIUM will provide CONTRACTOR with prompt notice of any claim of which CONSORTIUM has actual knowledge. Any legal defense pursuant to CONTRACTOR's indemnification obligations under this

Paragraph 25 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by CONSORTIUM (except that CONSORTIUM will not have such approval right if CONTRACTOR's interests are adverse to CONSORTIUM's). Notwithstanding the preceding sentence, CONSORTIUM shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide CONSORTIUM with a full and adequate defense, CONSORTIUM shall be entitled to retain its own counsel, including County Counsel, and receive reimbursement from CONTRACTOR for all such costs and expenses incurred by CONSORTIUM in doing so. CONTRACTOR shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of CONSORTIUM without CONSORTIUM's prior approval.

26. FAIR LABOR STANDARDS:

CONTRACTOR shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless CONSORTIUM and the State, and their respective officers, employees, and agents, from any and all liability, including wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including the Federal Fair Labor Standards Act for Work performed by CONTRACTOR's employees. Any legal defense pursuant to CONTRACTOR's indemnification obligations under this Paragraph 26 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by CONSORTIUM. Notwithstanding the preceding sentence, CONSORTIUM shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide CONSORTIUM with a full and adequate defense, as CONSORTIUM determines, CONSORTIUM shall be entitled to retain its own counsel, including County Counsel, and reimbursement from CONTRACTOR for all such costs and expenses incurred by CONSORTIUM in doing so. CONTRACTOR shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or

make any admission, in each case, on behalf of CONSORTIUM without CONSORTIUM's prior approval.

**27. NONDISCRIMINATION, AFFIRMATIVE ACTION, AND
ASSURANCE OF COMPLIANCE WITH CIVIL RIGHTS
LAWS:**

- 27.1** CONTRACTOR certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, sexual orientation, or political affiliation, in compliance with all applicable federal and state anti-discrimination laws and regulations.
- 27.2** CONTRACTOR shall certify to, and comply with, the provisions of Exhibit N (CONTRACTOR's EEO Certification).
- 27.3** CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, sexual orientation, or political affiliation, in compliance with all applicable federal and state anti-discrimination laws and regulations. Such action shall include employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 27.4** CONTRACTOR certifies and agrees that it will deal with its Subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, sexual orientation, or political affiliation.
- 27.5** CONTRACTOR certifies and agrees that it, its affiliates, subsidiaries or holding companies, shall comply with all applicable federal and state laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, sexual

orientation, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement, or under any project, program, or activity supported by this Agreement.

- 27.6** CONTRACTOR shall allow CONSORTIUM representatives access to CONTRACTOR's relevant employment documents (not including individual employee records unless agreed to by CONTRACTOR or required by law) during regular business hours to verify compliance with the provisions of this Paragraph 27 when reasonably requested by CONSORTIUM.
- 27.7** CONSORTIUM encourages the participation of minority business enterprises (hereafter in this Subparagraph 27.7 "MBE") and women's business enterprises (hereafter in this Subparagraph 27.7 "WBE") in the performance of this Agreement. CONSORTIUM strongly urges the participation of MBE/WBE subcontractors in this Agreement; however, the final selection shall be without regard to race, color or creed. CONTRACTOR shall take affirmative steps to ensure that MBE/WBE subcontractors are utilized by CONTRACTOR when possible as sources of supplies, hardware, software, services, and other Work under this Agreement. The final selection shall be based on the business' ability to provide the best work and value for CONSORTIUM.
- 27.8** If CONSORTIUM finds that any of the provisions of this Paragraph 27 have been violated, such violation shall, at the election of CONSORTIUM, constitute a material breach of this Agreement upon which CONSORTIUM may immediately terminate this Agreement. While CONSORTIUM reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that CONTRACTOR has violated federal or state anti-discrimination laws or regulations shall constitute a finding by CONSORTIUM that CONTRACTOR has violated the anti-discrimination provisions of this Agreement.
- 27.9** The Parties agree that in the event CONTRACTOR violates the anti-discrimination provisions of this Agreement, CONSORTIUM shall be entitled, at its option, to the

sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages, and not as a penalty, in lieu of terminating or suspending this Agreement.

28. EMPLOYMENT ELIGIBILITY VERIFICATION:

28.1 CONTRACTOR warrants that it fully complies with all federal and state statutes and regulations regarding the employment of aliens and others and that all its employees performing Work under this Agreement meet the citizenship or alien status requirements set forth in federal and state statutes and regulations. CONTRACTOR shall obtain, from all employees performing Work hereunder, all verification and other documentation of employment eligibility status required by federal statutes and regulations, including the Immigration Reform and Control Act of 1986, (P.L. 99-603), as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees for the period prescribed by law.

28.2 CONTRACTOR shall indemnify, defend, and hold harmless CONSORTIUM and the State, and their respective officers, employees, and agents from and against any and all third party claims, demands, damages, liabilities, losses, costs, and expenses, including defense costs and legal, accounting and other expert, consulting or professional fees, arising out of or in connection with any employer sanctions and any other liability which may be assessed against CONTRACTOR or CONSORTIUM in connection with any alleged violation of any federal or state statutes or regulations pertaining to the eligibility for employment of any CONTRACTOR staff, including Subcontractor staff, performing Work hereunder. For the purposes of this Subparagraph 28.2, “third party” shall include CONTRACTOR staff, including Subcontractor staff. CONSORTIUM will provide CONTRACTOR with prompt notice of any claim of which CONSORTIUM Executive Director has actual knowledge. Any legal defense pursuant to CONTRACTOR’s indemnification obligations under this Paragraph 28 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by CONSORTIUM (except that CONSORTIUM

will not have such approval right if CONTRACTOR's interests are adverse to CONSORTIUM's). Notwithstanding the preceding sentence, CONSORTIUM shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide CONSORTIUM with a full and adequate defense, CONSORTIUM shall be entitled to retain its own counsel, including County Counsel, and receive reimbursement from CONTRACTOR for all such costs and expenses incurred by CONSORTIUM in doing so. CONTRACTOR shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of CONSORTIUM without CONSORTIUM's prior approval.

29. WAIVER:

No waiver by either party of any breach of any provision of this Agreement shall constitute a waiver of any other breach or of such provision. Failure of either party to enforce at any time, or from time-to-time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this Paragraph 29 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

30. GOVERNING LAW, JURISDICTION, AND VENUE:

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California applicable to agreements made and to be performed within that State. CONTRACTOR agrees and consents to the exclusive jurisdiction of the courts of the State of California in the County of San Bernardino (except with respect to claims that are subject to exclusive federal subject matter jurisdiction, as to which CONTRACTOR agrees and consents to the exclusive jurisdiction of the Federal District Court of the Central District of California) for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of San Bernardino, California. The United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

31. VALIDITY:

If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

32. NON-EXCLUSIVITY:

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with CONTRACTOR. This Agreement shall not restrict CONSORTIUM from acquiring similar, equal or like goods and/or services from other entities or sources.

33. PROHIBITION AGAINST INDUCEMENT OR PERSUASION:

CONTRACTOR and CONSORTIUM agree that, during the term of this Agreement and for a period of one (1) year following its termination or expiration, neither party shall in any way induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists to any hiring initiated through a public announcement.

34. TERMINATION FOR INSOLVENCY:

34.1 CONSORTIUM may terminate this Agreement immediately at any time following the occurrence of any of the following:

- (A) Insolvency of CONTRACTOR. CONTRACTOR shall be deemed to be insolvent if it has ceased to pay or has admitted in writing its inability to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the United States Bankruptcy Code and whether or not CONTRACTOR is insolvent within the meaning of the United States Bankruptcy Code, provided that CONTRACTOR shall not be deemed insolvent if it has ceased in the normal course of business to pay its debts

which are disputed in good faith and which are not related to this Agreement as determined by CONSORTIUM.

- (B) Insolvency of Accenture plc. Accenture, plc shall be deemed to be insolvent if it has ceased to pay or has admitted in writing its inability to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the United States Bankruptcy Code and whether or not Accenture plc is insolvent within the meaning of the United States Bankruptcy Code, provided that Accenture plc shall not be deemed insolvent if it has ceased in the normal course of business to pay its debts which are disputed in good faith and which are not related to this Agreement as determined by CONSORTIUM.
- (C) The filing of a voluntary or involuntary petition (which involuntary petition is not dismissed within sixty (60) days) regarding CONTRACTOR or Accenture plc under the United States Bankruptcy Code.
- (D) The appointment of a receiver or trustee for CONTRACTOR or Accenture plc.
- (E) The execution by CONTRACTOR or Accenture plc of a general assignment for the benefit of creditors.

34.2 The rights and remedies of CONSORTIUM provided in this Paragraph 34 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

35. TERMINATION FOR DEFAULT:

35.1 CONSORTIUM may, by notice to CONTRACTOR, terminate the whole or any part of this Agreement in any one of the following circumstances:

- (A) If CONTRACTOR fails to perform or provide in any material respect any Task, Subtask, Deliverable, good, or service within: (i) the times specified in this Agreement, including the applicable notice and/or cure periods, if

any (if no cure period is specified in this Agreement, CONTRACTOR shall have ten (10) days to provide a plan to cure, and thirty (30) days to cure following CONSORTIUM Executive Director's approval of the plan, prior to termination under this Subparagraph 35.1); or (ii) any extensions thereof as CONSORTIUM Executive Director may authorize in writing; provided that (1) nothing in this Subparagraph 35.1(A) shall in any way limit or modify any rights of CONSORTIUM or obligations of CONTRACTOR relating to timely performance by CONTRACTOR as otherwise set forth in this Agreement and (2) the above cure periods shall in no way apply to the determination or calculation of the Liquidated Damages; or

- (B) Except as set forth in Subpart (A) of this Subparagraph 35.1, if CONTRACTOR fails to perform or comply in any material respect with any of the provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and, in either of these two circumstances, does not cure such failure within a period of thirty (30) days (or such longer period as CONSORTIUM Executive Director may authorize in writing) after receipt of notice from CONSORTIUM specifying such failure; provided that: (i) CONTRACTOR shall not be entitled to any cure period, and CONSORTIUM may terminate this Agreement immediately, in the event that CONTRACTOR's failure to perform or comply is not reasonably capable of being cured by CONTRACTOR in a reasonable time; and (ii) the above cure periods shall in no way apply to the determination or calculation of the Liquidated Damages. If, pursuant to the preceding sentence, CONSORTIUM has terminated this Agreement without providing a cure period, and subsequently a final determination is made that the default was capable of being cured, then the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 37 (Termination for Convenience).
- (C) Accenture plc is in material default of Exhibit D (Accenture plc Performance Guarantee) and does not cure such default within a period of

thirty (30) days (or such longer period as CONSORTIUM Executive Director may authorize in writing) after receipt of notice to CONTRACTOR and Accenture plc from CONSORTIUM specifying such default.

35.2 In the event that this Agreement is terminated in whole or in part other than as provided in Subparagraphs 8.4 (Termination for Non-Appropriation of Funds) and 35.7 and Paragraph 37 (Termination for Convenience), then:

- (A) CONSORTIUM shall have the right to procure, upon such terms and in such a manner as is consistent with CONSORTIUM's procurement policies, any Deliverables, Tasks, Subtasks, goods, and services equivalent to those so terminated, and CONTRACTOR shall be liable to CONSORTIUM for, and shall promptly pay to CONSORTIUM, any and all excess costs incurred by CONSORTIUM to procure and furnish such equivalent Deliverables, Tasks, Subtasks, goods, and services; and
- (B) CONTRACTOR and CONSORTIUM shall continue the performance of this Agreement to the extent not terminated under the provisions of this Agreement; and
- (C) CONTRACTOR understands and agrees that CONSORTIUM has obligations that it cannot satisfy without use of the LEADER Replacement System, the CalSAWS System or an equivalent system, and that a failure to satisfy such obligations could result in irreparable damage to CONSORTIUM and the persons and entities it serves. Therefore, CONTRACTOR agrees that in the event of any termination of this Agreement, in whole or in part, as a result of the breach hereof by CONTRACTOR, in whole or in part, CONTRACTOR shall fully cooperate with CONSORTIUM, at no additional cost to CONSORTIUM, in the transition of CONSORTIUM and the LEADER Replacement System and CalSAWS System to a new system and for such period of time as is reasonably required for such transition, toward the end that there be no interruption of CONSORTIUM's day-to-day operations due to the

unavailability of the LEADER Replacement System or CalSAWS System during such transaction.

- 35.3** Except with respect to defaults of any Subcontractors, CONTRACTOR shall not be liable for any failure or delay in performance, if its failure or delay to perform this Agreement arises out of force majeure. As used in this Subparagraph 35.3, “force majeure” means causes beyond the reasonable control of CONTRACTOR, including fires, floods, epidemics, quarantine restrictions, other Acts of God, strikes, freight embargoes, or acts of terrorism, but in every such case the failure or delay to perform must be beyond the reasonable control, and not due to the fault or negligence of, CONTRACTOR. If the failure or delay to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the reasonable control of both CONTRACTOR and Subcontractor, and is not due to the fault or negligence of either of them, CONTRACTOR shall not be liable for any such failure or delay to perform, unless the goods or services to be furnished by the Subcontractor are obtainable from other sources at commercially reasonable rates: (i) in sufficient time to permit CONTRACTOR to meet the required performance schedule; or (ii) in a materially shorter time in a commercially reasonable manner. CONTRACTOR agrees to use all reasonable commercial efforts to obtain such goods or services from other sources. As used in this Subparagraph 35.3, the terms “Subcontractor” and “Subcontractors” mean Subcontractors at any tier. CONTRACTOR is acting as an agent of the CONSORTIUM to configure a cloud instance procured by CONSORTIUM from Amazon Web Service and is not responsible for failures of Amazon Web Services or its products or services.
- 35.4** If, after CONSORTIUM has given notice of termination under the provisions of this Paragraph 35, it is determined by CONSORTIUM that CONTRACTOR was not in default under the provisions of this Paragraph 35, or that the default was excusable under the provisions of this Paragraph 35, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 37 (Termination for Convenience).

- 35.5** Each party shall have a duty to mitigate damages that would otherwise be recoverable from the other party pursuant to this Agreement by taking appropriate and commercially reasonable actions to reduce or limit the amount of such damages.
- 35.6** The rights and remedies of CONSORTIUM provided in this Paragraph 35 shall not be exclusive and are in addition to any other rights and remedies provided by law, at equity, or under this Agreement.
- 35.7** If CONSORTIUM fails to pay any invoice approved by CONSORTIUM in accordance with Subparagraph 9.4 (CONSORTIUM Approval of Invoices) within sixty (60) days of the date of receipt of such approved invoice, then CONTRACTOR may provide notice to CONSORTIUM of its intent to suspend this Agreement unless CONSORTIUM makes payment for such approved invoice. Upon receipt of such notice, CONSORTIUM shall have thirty (30) days (or such longer time as CONTRACTOR may authorize in writing) to cure any such failure to pay the approved invoice. If CONSORTIUM cures such failure to pay within the applicable time period, then this Agreement shall not be suspended. If CONSORTIUM fails to cure such failure within the applicable time period, then CONTRACTOR, upon notice to CONSORTIUM, may suspend this Agreement for up to thirty (30) days (or such longer period as the Parties may mutually agree in writing). If CONSORTIUM does not cure its failure to pay during the suspension period (regardless of whether CONTRACTOR discontinues work during such suspension period), then CONTRACTOR, upon notice to CONSORTIUM, may terminate this Agreement. Upon such termination, CONTRACTOR shall receive payment pursuant to Subparagraph 37.3. If CONSORTIUM cures its failure to pay during the suspension period, CONTRACTOR shall not terminate this Agreement, but the Parties will negotiate an adjustment to the schedule, which shall generally reflect the period of the suspension on a day-for-day basis.

36. TERMINATION FOR IMPROPER CONSIDERATION:

- 36.1** CONSORTIUM may, by written notice to CONTRACTOR, immediately terminate this Agreement if it is found that consideration, in any form, was offered or given

by CONTRACTOR or any Subcontractor, either directly or through an intermediary, to any CONSORTIUM officer, employee or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment, or extension of this Agreement or the making of any determinations with respect to CONTRACTOR's or any Subcontractor's performance pursuant to this Agreement. In the event of such termination, CONSORTIUM shall be entitled to pursue the same remedies against CONTRACTOR as it could pursue in the event of default of CONTRACTOR.

36.2 CONTRACTOR shall immediately report any attempt by a CONSORTIUM officer or employee to solicit such improper consideration. The report shall be made to the San Bernardino County Auditor-Controller/Treasurer/Tax Collector.

36.3 Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

37. TERMINATION FOR CONVENIENCE:

37.1 This Agreement, including the hosting services, may be terminated, in whole or in part, from time to time, when such action is determined by CONSORTIUM to be in its best interest, and when CONSORTIUM has received: (i) federal and State approval for such termination; and (ii) assurance of the availability of federal and State funds to cover the payments set forth in Subparagraph 37.3. Termination of Work hereunder shall be effected by delivery to CONTRACTOR of a notice of termination specifying the extent to which performance of Work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than thirty (30) days after the notice is sent, provided that in the event CONSORTIUM has purported to terminate this Agreement for default by notice pursuant to Paragraph 35 (Termination for Default) and it has later been determined that CONTRACTOR was not in default, no additional notice shall be required upon such determination.

37.2 After receipt of a notice of termination, and except as otherwise directed by CONSORTIUM, CONTRACTOR shall take the following actions in anticipation of the payments set forth in Subparagraph 37.3:

- (A) Stop Work under this Agreement on the date and to the extent specified in such notice;
- (B) Transfer to CONSORTIUM, to the extent not previously transferred to CONSORTIUM, title or a license to all LRS Application Software, CalSAWS Software and CONSORTIUM Materials pursuant to the terms of this Agreement;
- (C) For each Commercially Available Software component: (i) transfer to CONSORTIUM, to the extent not previously transferred to COUNTY, title to such Commercially Available Software component; or (ii) license to CONSORTIUM, to the extent not previously licensed to CONSORTIUM, a license to such Commercially Available Software component, pursuant to the terms of this Agreement;
- (D) Transfer and deliver to CONSORTIUM copies of all LRS Application Software, Program Data, and CONSORTIUM Repository pursuant to the terms of this Agreement;
- (E) Transfer and deliver to CONSORTIUM all CONSORTIUM Materials and other completed Work and Work in process; and
- (F) Complete performance of such part of the Work as shall not have been terminated by such notice.

37.3 In the event that CONSORTIUM terminates this Agreement as provided in this Paragraph 37, then CONSORTIUM will pay CONTRACTOR for: (i) all Work approved by CONSORTIUM pursuant to Subparagraph 4.2 (CONSORTIUM Approval of Work), and (ii) all Withhold Amounts, if any, for such Work. Nothing in this Paragraph 37 shall be deemed to prejudice any right of CONTRACTOR to make a claim against CONSORTIUM in accordance with applicable law and

regular CONSORTIUM procedures for payment for Work performed through the effective date of CONSORTIUM's termination of this Agreement for convenience.

In addition, CONSORTIUM and CONTRACTOR agree to negotiate in good faith additional amounts, if any, which CONSORTIUM will pay CONTRACTOR to compensate CONTRACTOR for reasonable and documented costs that were incurred by CONTRACTOR to perform this Agreement, which costs were for undepreciated or unamortized equipment and software licenses, early termination of leases, and Work in process, as determined by the CONSORTIUM Executive Director. For purpose of this Section 37.3 as applied to the CalSAWS Project, the CONSORTIUM Executive Director shall not have unilateral discretion to determine CONTRACTOR's costs for compensation. The applicable facts will be established by the mutual agreement of the Parties. In the event that the applicable facts cannot be determined by mutual agreement, the Parties will utilize the dispute resolution process set forth in Section 48.

If the termination is partial and either increases or decreases CONTRACTOR's costs of performing, or causes changes to the schedule for, the continued portion of the Work, CONTRACTOR and CONSORTIUM will negotiate in good faith for an adjustment pursuant to Subparagraph 5.2.2 of the price and schedules for the continued portion of the Work.

- 37.4** For a period of five (5) years after final settlement under this Agreement, CONTRACTOR shall make available to CONSORTIUM, at all reasonable times, all its books, records, documents, or other evidence bearing on the termination of Work hereunder. All such material shall be maintained by CONTRACTOR at a location in Los Angeles County, provided that if such material is located outside Los Angeles County, then CONTRACTOR shall make all necessary arrangements, at its own cost and expense, to have such material made available to CONSORTIUM at a CONSORTIUM-approved location in Los Angeles County.

38. NOTICE OF DELAYS:

When either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, as soon as reasonably possible, give notice thereof, including all relevant information with respect thereto, to the other party.

39. CONFLICT OF INTEREST:

39.1 No CONSORTIUM employee whose position with CONSORTIUM enables such employee to influence the award of this Agreement or any competing agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by CONTRACTOR or have any other direct or indirect financial interest in this Agreement. No officer or employee of CONTRACTOR, who may financially benefit from the performance of Work hereunder, shall participate in any way in CONSORTIUM's approval, or ongoing evaluation, of such Work, or in any way attempt to unlawfully influence CONSORTIUM's approval or ongoing evaluation of such Work.

39.2 CONTRACTOR shall comply with all conflict of interest laws, ordinances, and regulations (e.g., California Fair Political Practices Commission regulations found at <http://www.fppc.ca.gov>) now in effect or hereafter to be enacted during the term of this Agreement. CONTRACTOR warrants that it is not now aware of any facts which do or could create a conflict of interest. If CONTRACTOR hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to CONSORTIUM. Full written disclosure shall include identification of all persons implicated and a complete description of all relevant circumstances.

40. DAMAGE TO FACILITIES, BUILDINGS, OR GROUNDS:

40.1 CONTRACTOR shall repair, or cause to be repaired, at its own cost, any and all damage to CONSORTIUM facilities, buildings, or grounds caused by CONTRACTOR or employees or agents of CONTRACTOR. Such repairs shall

be made immediately after CONTRACTOR has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

- 40.2** If CONTRACTOR fails to make timely repairs, CONSORTIUM may make any necessary repairs. All costs incurred by CONSORTIUM, as determined by CONSORTIUM, for such repairs shall be repaid by CONTRACTOR by cash payment upon demand, or without limitation of all CONSORTIUM's other rights and remedies provided by law, at equity, or under this Agreement, CONSORTIUM may deduct such costs from any amounts due to CONTRACTOR from CONSORTIUM under this Agreement.

41. AUTHORIZATION WARRANTY:

CONTRACTOR hereby represents and warrants that the person executing this Agreement for CONTRACTOR is an authorized agent who has actual authority to bind CONTRACTOR to each and every term, condition, and obligation of this Agreement and that all requirements of CONTRACTOR have been fulfilled to provide such actual authority.

42. RE-SOLICITATION OF BIDS OR PROPOSALS:

- 42.1** CONTRACTOR acknowledges that, prior to the expiration or earlier termination of this Agreement, CONSORTIUM, in its sole discretion, may exercise its right to invite bids or request proposals for the continued provision of the goods and services delivered or contemplated under this Agreement. CONSORTIUM shall make the determination to re-solicit bids or request proposals in accordance with applicable CONSORTIUM policies.
- 42.2** CONTRACTOR acknowledges that CONSORTIUM, in its sole discretion, may enter into a contract for the future provision of goods and services, based upon the bids or proposals received, with a provider or providers other than CONTRACTOR. Further, CONTRACTOR acknowledges that it obtains no greater right to be selected through any future invitation for bids or request for proposals by virtue of its present status as CONTRACTOR.

43. CONTRACTOR'S OFFICES:

CONTRACTOR's principal business office is located at 161 N. Clark, Chicago, Illinois 60601. CONTRACTOR shall notify in writing CONSORTIUM Executive Director of any change in its principal business office at least thirty (30) calendar days prior to the effective date thereof.

44. RESTRICTIONS ON LOBBYING:

44.1 FEDERAL FUNDS PROJECTS:

If federal funds are to be used to pay for a portion of CONTRACTOR's services or other Work under this Agreement, CONTRACTOR shall fully comply with all certification and disclosure requirements prescribed by Section 319 of Public Law 101-121 (31 United States Code Section 1352) and any implementing regulations and shall ensure that each Subcontractor receiving funds provided under this Agreement also fully complies with all such certification and disclosure requirements.

45. RESERVED

**46. CONSIDERATION OF HIRING COUNTY EMPLOYEES
TARGETED FOR LAYOFF OR RE-EMPLOYMENT LIST:**

From the Effective Date to September 1, 2017, should CONTRACTOR require additional or replacement personnel after the Effective Date to perform the services set forth herein, CONTRACTOR shall give first consideration for such employment openings to qualified, permanent LA COUNTY employees who are targeted for layoff or qualified, former LA COUNTY employees who are on a re-employment list during the term of this Agreement. This provision is inapplicable prospectively after the Restatement Effective Date.

47. REPORTING CHILD/ELDER ABUSE AND FRAUD:

- 47.1** CONTRACTOR shall comply with California Penal Code Section 11164 *et seq.* and shall report all known or suspected instances of child abuse to an appropriate child protective agency. CONTRACTOR shall make the report on such abuse and submit the required information in accordance with California Penal Code Sections 11166 and 11167.
- 47.2** Child abuse reports shall be made by telephone to COUNTY's Department of Children and Family Services hotline at (800) 540-4000 within twenty-four (24) hours.
- 47.3** CONTRACTOR shall comply with California Welfare and Institutions Code Section 15600 *et seq.* and shall report all known or suspected instances of physical abuse of elders and dependent adults either to an appropriate COUNTY adult protective services agency or to a local law enforcement agency. CONTRACTOR shall make the report on such abuse and submit the required information in accordance with California Welfare and Institutions Code Sections 15630, 15633, and 15633.5.
- 47.4** CONTRACTOR shall also immediately report to CONSORTIUM all suspected or actual fraud situations related to this Agreement.

48. DISPUTE RESOLUTION PROCEDURE:

- 48.1** CONTRACTOR and CONSORTIUM agree to act immediately to mutually resolve any disputes that may arise with respect to this Agreement. All such disputes shall be subject to the provisions of this Paragraph 48. Time is of the essence in the resolution of disputes.
- 48.2** CONTRACTOR and CONSORTIUM agree that, the existence and details of a dispute notwithstanding, both Parties shall continue without delay their performance hereunder, except for any performance which the Parties mutually determine should be delayed.

- 48.3** In the event of any dispute between the Parties with respect to this Agreement, CONTRACTOR and CONSORTIUM shall submit the matter to CONTRACTOR Deputy Project Director and CONSORTIUM Deputy Executive Director for the purpose of endeavoring to resolve such dispute.
- 48.4** In the event that the Deputy Project Director and Deputy Executive Director are unable to resolve the dispute within a reasonable time not to exceed ten (10) days from the date of submission of the dispute, then the matter shall be immediately submitted to CONTRACTOR Project Director and CONSORTIUM Executive Director for further consideration and discussion to attempt to resolve the dispute.
- 48.5** In the event that the Project Director and Executive Director are unable to resolve the dispute within a reasonable time not to exceed ten (10) days from the date of submission of the dispute, then the matter shall be immediately submitted to CONTRACTOR's Health & Public Service Chief Executive Officer and the Chairperson of the CONSORTIUM's Board of Directors. These persons shall have ten (10) days to attempt to resolve the dispute.
- 48.6** In the event that at these levels, there is not a resolution of the dispute acceptable to both Parties, then each party may assert its other rights and remedies provided under this Agreement and/or its rights and remedies as provided by law or at equity.
- 48.7** All disputes utilizing this dispute resolution procedure shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The Parties shall act in good faith to resolve all disputes. At all three (3) levels described in this Paragraph 48, the efforts to resolve a dispute shall be undertaken by conference between the Parties' respective representatives, either by face-to-face meeting or by telephone.
- 48.8** Notwithstanding any other provision of this Agreement, each party's right, to the extent applicable, to seek injunctive relief to enforce the provisions of Paragraphs 21 (Disclosure, Confidentiality, and Security of Records and Information) and 23 (Proprietary Considerations), or any other provisions hereunder, shall not be subject to this dispute resolution procedure. CONSORTIUM's right to terminate this Agreement pursuant to Paragraphs 34 (Termination for Insolvency), 35

(Termination for Default), 36 (Termination for Improper Consideration), 37 (Termination for Convenience), or any other termination provision hereunder, shall not be subject to this dispute resolution procedure. CONTRACTOR may contest, in good faith, any such termination in accordance with its rights and remedies provided under this Agreement and/or its rights and remedies as provided by law or at equity.

**49. CONTRACTOR PERFORMANCE DURING CIVIL UNREST
AND DISASTER:**

CONTRACTOR recognizes that facilities maintained by CONSORTIUM provide services essential to the residents of the communities they serve, and that these services are of particular importance at the time of a riot, insurrection, civil unrest, natural disaster, or similar event. Notwithstanding any other provision of this Agreement and subject to the Business Continuity/Disaster Recovery Plan set forth in Exhibit A (Statement of Work), full performance by CONTRACTOR during any riot, insurrection, civil unrest, natural disaster, or similar event is not excused if such performance remains physically possible without unreasonable risk. Failure to comply with this requirement shall be considered a material breach of this Agreement by CONTRACTOR for which CONSORTIUM may immediately terminate this Agreement.

**50. CONTRACTOR'S WARRANTY OF ADHERENCE TO
COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM:**

From the Effective Date to September 1, 2017, CONTRACTOR acknowledges that LA COUNTY has established a goal of ensuring that all individuals who benefit financially from LA COUNTY through contract are in compliance with their court-ordered child, family, and spousal support obligations in order to mitigate the economic burden otherwise imposed upon LA COUNTY and its taxpayers.

From the Effective Date to September 1, 2017, as required by LA COUNTY's Child Support Compliance Program (Los Angeles County Code Chapter 2.200) and without limiting CONTRACTOR's duty under this Agreement to comply with all

applicable provisions of law, CONTRACTOR warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 U.S.C. Section 653(a)) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department ("CSSD") Notices of Wage and Earnings Assignment for Child, Family, or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b). This provision is inapplicable prospectively after the Restatement Effective Date.

51. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM:

From the Effective Date to September 1, 2017, failure of CONTRACTOR to maintain compliance with the requirements set forth in Paragraph 50 (CONTRACTOR's Warranty of Adherence to LA COUNTY's Child Support Compliance Program), shall constitute default by CONTRACTOR under this Agreement. Without limiting the rights and remedies available to LA COUNTY under any other provision of this Agreement, failure of CONTRACTOR to cure such default within ninety (90) days of written notice by LA COUNTY (whether through CSSD or otherwise) shall be grounds upon which LA COUNTY may terminate this Agreement pursuant to Paragraph 35 (Termination for Default) and pursue debarment of CONTRACTOR, pursuant to Los Angeles County Code Chapter 2.202. This provision is inapplicable prospectively after the Restatement Effective Date.

52. ACCESS TO CONSORTIUM FACILITIES:

CONTRACTOR, its employees and agents, will be granted access to CONSORTIUM facilities, subject to CONSORTIUM approval, for the purpose of executing CONTRACTOR's obligations hereunder. Except where otherwise set forth in Exhibit A (Statement of Work), access to CONSORTIUM facilities shall be restricted to normal business hours, 8:00 a.m. until 5:00 p.m., Pacific Time,

Monday through Friday, state observed holidays excepted. Unless otherwise so provided, access to CONSORTIUM facilities outside of normal business hours must be approved in advance by CONSORTIUM Executive Director.

53. RISK OF LOSS:

CONTRACTOR shall take all reasonable actions necessary or advisable to protect the LEADER Replacement System and CalSAWS System from loss or damage by any cause. Subject to Subparagraph 21.5 (Program Data Security), CONTRACTOR shall bear the full risk of loss or damage to the LEADER Replacement System or CalSAWS System, any and all Program Data, and CONSORTIUM Repository, to the extent that the LEADER Replacement System, CalSAWS System and the CONSORTIUM Repository are in CONTRACTOR's, including Subcontractor's, possession, custody or control, by any cause except to the extent that such loss or damage is caused by CONSORTIUM or its other contractors and/or subcontractors. The foregoing shall also apply to CONTRACTOR's document retention requirements set forth in Paragraph 18 (Records and Audits). With the exception of damage caused by CONTRACTOR's negligence or intentional acts, CONTRACTOR shall not be responsible for non-LEADER Replacement System or non-CalSAWS equipment of the CONSORTIUM or its other contractors and/or subcontractors, located at the Project Office.

54. SYSTEM USE:

54.1 LEADER Replacement System Use

Following installation by CONTRACTOR, CONSORTIUM shall have the right to use, in a Production Use mode, any completed portion of the LEADER Replacement System, without any additional cost to CONSORTIUM, where CONSORTIUM determines that it is necessary for CONSORTIUM operations. Such Production Use shall not limit or excuse CONTRACTOR's obligations under this Agreement and shall not be deemed acceptance of any Work provided

hereunder under Subparagraph 4.2 (CONSORTIUM Approval of Work) or otherwise, including Work provided for Final Acceptance.

54.2 CalSAWS System Use

As of the Restatement Effective Date of this Agreement, the Parties are continuing to assess the requisite operational services necessary to support the CalSAWS System. These requisite operational services will be identified through the Cloud Enablement Proof of Concept described in Exhibit T to this Agreement. Following the Parties' identification of, and agreement upon, the requisite operational services necessary to support the CalSAWS System, CONSORTIUM shall have the right to use, in a Production Use mode, any completed portion of the CalSAWS System, without any additional cost to CONSORTIUM, where CONSORTIUM determines that it is necessary for CONSORTIUM operations. Such Production Use shall not limit or excuse CONTRACTOR's obligations under this Agreement and shall not be deemed acceptance of any Work provided hereunder under Subparagraph 4.2 (CONSORTIUM Approval of Work) or otherwise, including Work provided for Final Acceptance.

**55. NOTICE TO EMPLOYEES REGARDING THE FEDERAL
EARNED INCOME CREDIT:**

CONTRACTOR shall notify its employees performing Work and shall require each Subcontractor to notify its employees performing Work, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015 (Exhibit P).

56. PHYSICAL ALTERATIONS:

CONTRACTOR shall not in any way physically alter or improve any CONSORTIUM facility without the prior approval of CONSORTIUM.

57. NOTICES:

All notices or demands required or permitted to be given or made under this Agreement, unless otherwise specified, shall be in writing and shall be addressed to the Parties at the following addresses and delivered: (i) by hand with signed receipt; (ii) by first class registered or certified mail, postage prepaid; or (iii) by facsimile or electronic mail transmission followed within twenty-four (24) hours by a confirmation copy mailed by first-class registered or certified mail, postage prepaid. Notices shall be deemed given at the time of signed receipt in the case of hand delivery, three (3) days after deposit in the United States mail as set forth above, or on the date of facsimile or electronic mail transmission if followed by timely confirmation mailing. Addresses may be changed by either party giving ten (10) days prior notice thereof to the other party.

CONSORTIUM Executive Director shall have the authority to issue all notices or demands that are required or permitted by CONSORTIUM under this Agreement. During the term of this Agreement, CONTRACTOR's legal counsel shall only communicate with CONSORTIUM Counsel or his designee, and shall not, without CONSORTIUM Counsel's prior consent, communicate with any CONSORTIUM staff.

If to CONSORTIUM:

1. John Boule, CONSORTIUM Executive Director
CalSAWS Consortium

Address: 11290 Pyrites Way, Suite 150

Rancho Cordova, CA 95670

Telephone Number: (916) 851-3201

Fax Number: (916) 638-4367

Email Address: BouleJ@CalSAWS.org

With a copy to:

2. David Tyra

Counsel for Consortium

Address: 400 Capitol Mall, 27th Floor

Sacramento, California 95814

Telephone Number: (916) 321-4500

Fax Number: (916) 321-4555

Email Address: dtrya@kmtg.com

If to CONTRACTOR:

1. Seth W. Richman, CONTRACTOR Project Director

LRS Project Address: 12440 Imperial Highway, 3rd Floor

Norwalk, CA 90650

Telephone Number: (530) 306-3558

Email Address: seth.w.richman@accenture.com

With a copy to:

2. Jens C. Egerland,

Senior Managing Director

Address: 1610 R Street, Suite 240

Sacramento, California 95811

Telephone Number: (916) 557-2143

Fax Number: (916) 720-0330

Email Address: jens.c.egerland@accenture.com

58. NO THIRD-PARTY BENEFICIARIES:

Notwithstanding any other provision of this Agreement, CONTRACTOR and CONSORTIUM do not intend, in any way, that any person or entity shall acquire any rights as a third-party beneficiary of this Agreement, except that this provision shall not be construed to diminish CONTRACTOR's indemnification obligations hereunder.

59. MOST FAVORED PUBLIC ENTITY:

If CONTRACTOR, at any time during the term of this Agreement, provides the same goods and services under equivalent quantity, delivery, and contractual conditions to the State or any county, municipality, or district of the State at prices below those set forth in this Agreement, then this Agreement, at CONSORTIUM's option, will be amended to provide an equivalent price advantage to CONSORTIUM. For purposes of this provision, "goods and services" shall mean the aggregate goods and services provided by CONTRACTOR under this Agreement.

60. ASSIGNMENT BY CONSORTIUM:

This Agreement may be assigned in whole or in part by CONSORTIUM, in its sole discretion, without the consent of CONTRACTOR, to a party which agrees in writing to perform CONSORTIUM's obligations under this Agreement.

61. CONSORTIUM'S QUALITY ASSURANCE PLAN:

CONSORTIUM or its agent will evaluate CONTRACTOR's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing CONTRACTOR's compliance with the terms and performance standards of this Agreement. Any CONTRACTOR deficiencies which CONSORTIUM determines are severe or continuing and that may place performance of this Agreement in jeopardy if not corrected will be reported to CONSORTIUM's Board of Directors. The report will include improvement/corrective action measures taken by CONSORTIUM and CONTRACTOR. If improvement does not occur consistent with the corrective action measures, CONSORTIUM may terminate this Agreement or impose other penalties as specified in this Agreement.

62. RESERVED

63. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION — LOWER TIER COVERED TRANSACTIONS (45 C.F.R. PART 76):

CONTRACTOR hereby acknowledges that CONSORTIUM is prohibited from contracting with and making sub-awards to Parties that are suspended, debarred, ineligible, or excluded or whose principals are suspended, debarred, ineligible, or excluded from securing federally funded contracts. By executing this Agreement, CONTRACTOR certifies that neither it nor any of its owners, officers partners, directors or other principals is currently suspended, debarred, ineligible, or any excluded from securing federally funded contracts. Further, by executing this Agreement, CONTRACTOR certifies that, to its knowledge none of its Subcontractors, at any tier, or any owner, officer partner, director or other principal of any Subcontractors is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. CONTRACTOR shall immediately notify CONSORTIUM, during the term of this Agreement, should it or any of its Subcontractors or any principals of either be suspended, debarred, ineligible, or excluded from securing federally funded contracts. Failure of CONTRACTOR to comply with this provision shall constitute a material breach of this Agreement upon which CONSORTIUM may immediately terminate or suspend this Agreement.

64. RECYCLED BOND PAPER:

CONTRACTOR agrees to use recycled-content paper to the maximum extent possible on this Agreement.

65. LA COUNTY JURY SERVICE PROGRAM

From the Effective Date to September 1, 2017, this Agreement is subject to the provisions of LA COUNTY's ordinance entitled Contractor Employee Jury Service

(“Jury Service Program”) as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code (see Exhibit O (Jury Service Ordinance)).

Unless CONTRACTOR has demonstrated to LA COUNTY's satisfaction either that CONTRACTOR is not a “Contractor” as defined under the Jury Service Program (Section 2.203.020 of the Los Angeles County Code) or that CONTRACTOR qualifies for an exception to the Jury Service Program (Section 2.203.070 of the Los Angeles County Code), CONTRACTOR shall have and adhere to a written policy that provides that its employees (used herein as defined below) shall receive from CONTRACTOR, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with CONTRACTOR or that CONTRACTOR deduct from the employee's regular pay the fees received for jury service.

For purposes of this Paragraph 66, “Contractor” means a person, partnership, corporation or other entity which has a contract with LA COUNTY or a subcontract with a COUNTY contractor and has received or will receive an aggregate sum of Fifty Thousand Dollars (\$50,000) or more in any twelve (12) month period under one (1) or more COUNTY contracts or subcontracts. “Employee” means any California resident who is a full-time employee of CONTRACTOR. “Full-time” means forty (40) hours or more worked per week, or a lesser number of hours if: (i) the lesser number is a recognized industry standard as determined by COUNTY; or (ii) CONTRACTOR has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) days or less within a twelve (12) -month period are not considered full-time for purposes of the Jury Service Program. If CONTRACTOR uses any Subcontractor to perform services for LA COUNTY under this Agreement, the Subcontractor shall also be subject to the provisions of this Paragraph 65. The provisions of this Paragraph 65 shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

If CONTRACTOR is not required to comply with the Jury Service Program when this Agreement commences, CONTRACTOR shall have a continuing obligation to review the applicability of its “exception status” from the Jury Service Program, and CONTRACTOR shall immediately notify LA COUNTY if CONTRACTOR at any time either comes within the Jury Service Program's definition of “Contractor” or if CONTRACTOR no longer qualifies for an exception to the Jury Service Program. In either event, CONTRACTOR shall immediately implement a written policy consistent with the Jury Service Program. COUNTY may also require, at any time during the term of this Agreement and at its sole discretion, that CONTRACTOR demonstrate to LA COUNTY's satisfaction that CONTRACTOR either continues to remain outside of the Jury Service Program's definition of “Contractor” and/or that CONTRACTOR continues to qualify for an exception to the Jury Service Program.

CONTRACTOR's violation of this Paragraph 65 may constitute a material breach of this Agreement. In the event of such material breach, LA COUNTY may, in its sole discretion, terminate this Agreement and/or bar CONTRACTOR from the award of future LA COUNTY contracts for a period of time consistent with the seriousness of the breach. This provision is inapplicable prospectively after the Restatement Effective Date.

**66. NO PAYMENT FOR SERVICES PROVIDED FOLLOWING
EXPIRATION /TERMINATION OF AGREEMENT:**

CONTRACTOR shall have no claim against CONSORTIUM for payment of any money or reimbursement, of any kind whatsoever, for any service provided by CONTRACTOR after the expiration or other termination of this Agreement. Should CONTRACTOR receive any such payment, it shall immediately notify CONSORTIUM and shall immediately repay all such funds to CONSORTIUM. Payment by CONSORTIUM for services rendered after expiration/termination of the Agreement shall not constitute a waiver of CONSORTIUM's right to recover such payment from CONTRACTOR. This provision shall survive the expiration or other termination of this Agreement.

67. LA COUNTY SAFELY SURRENDERED BABY LAW

From the Effective Date to September 1, 2017, CONTRACTOR shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is available on the Internet at www.babysafela.org for printing purposes (see Exhibit Q (Safely Surrendered Baby Law)). This provision is inapplicable prospectively after the Restatement Effective Date.

68. CONSORTIUM FACILITY OFFICE SPACE:

In order for CONTRACTOR to perform services hereunder and only for the performance of such services, CONSORTIUM may, at the sole discretion of CONSORTIUM Executive Director, subject to CONSORTIUM's standard administrative and security requirements, provide CONTRACTOR with office space and equipment at CONSORTIUM facilities, on a non-exclusive use basis. If such office space is provided, CONSORTIUM may, at the sole discretion of CONSORTIUM Executive Director, also provide CONTRACTOR with reasonable telephone service in such office space for use only for purposes of this Agreement. CONTRACTOR shall have no tenancy or any other property or other rights in CONSORTIUM facilities.

**69. LA COUNTY'S LOCAL BUSINESS ENTERPRISE
PREFERENCE PROGRAM**

From the Effective Date to September 1, 2017, this Agreement is subject to the provisions of LA COUNTY's ordinance entitled Local Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.

CONTRACTOR shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise.

CONTRACTOR shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a LA COUNTY official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.

If CONTRACTOR has obtained certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this Agreement to which it would not otherwise have been entitled, shall:

1. Pay to LA COUNTY any difference between the Agreement amount and what LA COUNTY's costs would have been if the Agreement had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten (10) percent of the amount of the Agreement; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification and fails to notify the state and LA COUNTY's Office of Affirmative Action Compliance (OAAC) of this information prior to responding to a solicitation or accepting a contract award. This provision is inapplicable prospectively after the Restatement Effective Date.

70. DRUG FREE WORKPLACE CERTIFICATION

- 70.1** By signing this Agreement, CONTRACTOR hereby certifies under penalty of perjury under the laws of the State of California that CONTRACTOR will comply with the requirements of the Drug Free Act of 1990

(Government Code Section 8350 et seq.) and will provide a drug free workplace by taking the following actions:

70.1.1 Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by California Government Code 8355(a)(1).

70.1.2 Establish a Drug Free Awareness Program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:

- (i) The dangers of drug abuse in the workplace;
- (ii) CONTRACTOR's policy of maintaining a drug free workplace;
- (iii) Any available counseling, rehabilitation, and employee assistance programs; and
- (iv) Penalties that may be imposed upon employees for drug abuse violations.

70.1.3 Provide, as required by California Government Code Section 8355(a)(3), that every employee who performs Work under this Agreement:

- (i) Will receive a copy of the CONTRACTOR's drug free policy statement; and
- (ii) Will agree to abide by the terms of the CONTRACTOR's statement as a term of condition of employment of this Agreement. Failure to comply with these requirements may result in suspension of payments under this Agreement or termination of this Agreement or both, and CONTRACTOR may be ineligible for award of any future agreements by

CONSORTIUM if CONSORTIUM determines that any of the following has occurred:

- (i) CONTRACTOR has made false certification; or
- (ii) CONTRACTOR violates the certification by failing to carry out the requirements as noted above.

71. ENVIRONMENTAL PROTECTION STANDARDS:

CONTRACTOR shall comply with Section 306 of the Clean Air Act, Section 308 of the Clean Water Act), Executive Order 11738, and Environmental Protection Agency Regulations (40 C.F.R. Part 15).

72. CAPTIONS AND PARAGRAPH HEADINGS:

Captions and paragraph headings used in this Agreement are for convenience only and are not a part of this Agreement and shall not be used in construing this Agreement.

73. ARM'S LENGTH NEGOTIATIONS:

This Agreement is the product of arm's length negotiation between CONTRACTOR and CONSORTIUM. Each party has had the opportunity to receive advice from independent counsel of its own choosing. This Agreement is to be interpreted as if both Parties participated equally in its drafting, and not construed against either party.

74. CONTRACTOR TO NOTIFY CONSORTIUM WHEN IT HAS REACHED 75% OF TOTAL MAXIMUM CONTRACT SUM:

CONTRACTOR shall maintain a system of record keeping that will enable CONTRACTOR to determine when it has incurred seventy-five percent (75%) of the Total Maximum Contract Sum. Upon occurrence of this event, CONTRACTOR shall send notification thereof to CONSORTIUM Executive Director.

75. REMOVAL AND REDIRECTION OF WORK:

75.1 CONSORTIUM, in its sole discretion, may at any time remove all or a portion of the Work and redirect the balance of funds originally intended for such Work to additional Work, pursuant to Subparagraph 5.2 (Required Approvals), which may include work to update Deliverables and other Work as necessary to reflect the removal of Work, and redirection of such funds shall be effected by delivery to CONTRACTOR of a notice specifying removal of such Work and redirection of such funds and the date upon which removal of such Work and redirection of such funds shall become effective, which date shall be no less than thirty (30) days after the notice is sent by CONSORTIUM.

75.2 After receipt of a notice of removal of such Work and redirection of such funds, and except as otherwise directed by CONSORTIUM Executive Director:

- (A) CONTRACTOR shall stop Work under this Agreement on the date and only to the extent specified in such notice.
- (B) CONTRACTOR shall continue and complete performance of all Work not removed by such notice. CONTRACTOR shall assist the CONSORTIUM to ensure that such removal shall not adversely impact the project schedule.
- (C) Any change of the project schedule caused by the removal of such Work shall be set forth in the PCD or the CalSAWS Migration Plan pursuant to Paragraph 6 (Project Control Document).

76. DATA DESTRUCTION

Contractor(s) and vendor(s) that have maintained, processed, or stored the CONSORTIUM's data and/or information, implied or expressed, have the sole responsibility to certify that the data and information have been appropriately destroyed consistent with the National Institute of Standards and Technology (NIST) Special Publication SP 800-88 titled Guidelines for Media Sanitization.

Available at: <http://csrc.nist.gov/publications/PubsDrafts.html#SP-800-88>
[Rev.%201](#)

The data and/or information may be stored on purchased, leased, or rented electronic storage equipment (e.g., printers, hard drives) and electronic devices (e.g., servers, workstations) that are geographically located within the CONSORTIUM Member's jurisdiction, or external to the CONSORTIUM Member's jurisdictional boundaries. The CONSORTIUM must receive within ten (10) business days, a signed document from contractor(s) and vendor(s) that certifies and validates the data and information were placed in one or more of the following stored states: unusable, unreadable, and indecipherable.

CONTRACTOR shall certify that any CONSORTIUM data stored on purchased, leased, or rented electronic storage equipment and electronic devices, including, but not limited to printers, hard drives, servers, and/or workstations are destroyed consistent with the current National Institute of Standard and Technology (NIST) Special Publication SP-800-88, Guidelines for Media Sanitization. CONTRACTOR shall provide CONSORTIUM with written certification, within ten (10) business days of removal of any electronic storage equipment and devices that validates that any and all CONSORTIUM data was destroyed and is unusable, unreadable, and/or undecipherable.

77. DATA ENCRYPTION

CONTRACTOR and Subcontractor that electronically transmit or store personal information (PI), protected health information (PHI) and/or medical information (MI) shall comply with the encryption standards set forth below. PI is defined in Health Insurance Portability and Accountability Act of 1996 (HIPAA), and implementing regulations. MI is defined in California Civil Code Section 56.05(j).

a. Stored Data

CONTRACTORS' AND Subcontractors' workstations and portable devices (e.g., mobile, wearables, tablets, thumb drives, external hard drives) require encryption (i.e. software and/or hardware) in accordance with: (a) Federal Information Processing Standard Publication (FIPS) 140-2; (b) National Institute of Standards and Technology (NIST) Special Publication 800-57 Recommendation for Key Management – Part 1: General (Revision 3); (c) NIST Special Publication 800-57

Recommendation for Key Management – Part 2: Best Practices for Key Management Organization; and (d) NIST Special Publications 800-111 Guide to Storage Encryption Technologies for End User Devices. Advanced Encryption Standard (AES) with cipher strength of 256-bit is minimally required.

b. Transmitted Data

All transmitted (e.g. network) CONSORTIUM and CONSORTIUM Member's PI, PHI and/or MI require encryption in accordance with: (a) NIST Special Publication 800-52 Guidelines for the Selection and Use of Transport Layer Security Implementations; and (b) NIST Special Publication 800-57 Recommendation for Key Management – Part 3: Application- Specific Key Management Guidance. Secure Sockets Layer (SSL) is minimally required with minimum cipher strength of 128-bit.

c. Certification

The CONSORTIUM must receive within ten (10) business days of its request, a certification from CONTRACTOR (for itself and any Subcontractor) that certifies and validates compliance with the encryption standards set forth above. In addition, CONTRACTOR shall maintain a copy of any validation/attestation reports that its data encryption product(s) generate, and such reports shall be subject to audit in accordance with the Agreement. Failure on the part of the CONTRACTOR to comply with any of the provisions of this Sub-paragraph 79 (Data Encryption) shall constitute a material breach of this Agreement upon which the CONSORTIUM may terminate or suspend this Agreement.

78. SURVIVAL:

The following Paragraphs and Subparagraphs of this Agreement shall survive, to the extent applicable, its expiration or termination for any reason:

- 1 Applicable Documents and Definitions
- 5 Change Notices and Amendments
- 8.1 Total Maximum Contract Sum
- 8.2 Maximum Contract Sums
- 8.4 Termination for Non-Appropriation of Funds
- 8.5 Budget Reductions
- 8.7 CONTRACTOR Performance Obligation

CalSAWS
Amended, Restated and Revised LRS Agreement

9	Invoices and Payments
10	Liquidated Damages
11	Warranties
12	Ownership
14	Warranty Against Contingent Fees
15	Independent Contractor Status
16	Subcontracting
17	Indemnification, Insurance, and Performance Security
18	Records and Audits
19	Audit Settlements
20	Public Records Act
21	Disclosure, Confidentiality, and Security of Records and Information
22	Shred Documents
23	Proprietary Considerations
24	Intellectual Property Indemnification
25	Compliance with Applicable Law
26	Fair Labor Standards
27	Nondiscrimination, Affirmative Action, and Assurance of Compliance with Civil Rights Laws
28	Employment Eligibility Verification
29	Waiver
30	Governing Law, Jurisdiction, and Venue
31	Validity
33	Prohibition Against Inducement or Persuasion
34	Termination for Insolvency
35	Termination for Default
36	Termination for Improper Consideration
37	Termination for Convenience
38	Notice of Delays
39	Conflict of Interest
40	Damage to Facilities, Buildings, or Grounds
41	Authorization Warranty
44	Restrictions on Lobbying
48	Dispute Resolution Procedure
53	Risk of Loss
54	System Use
57	Notices
58	No Third-Party Beneficiaries
66	No Payment for Services Provided Following Expiration/Termination of Agreement
72	Captions and Paragraph Headings
73	Arm's Length Negotiations
75	Removal and Redirection of Work
78	Survival

CalSAWS
Amended, Restated and Revised LRS Agreement

In addition, any other Paragraphs, Subparagraphs of, or Exhibits to, this Agreement that by their nature may reasonably be presumed to survive any termination or expiration of this Agreement, shall so survive.

**AMENDED, RESTATED AND REVISED AGREEMENT
FOR A CALIFORNIA STATEWIDE AUTOMATED
WELFARE SYSTEM**

IN WITNESS WHEREOF, the Board of Directors of the CalSAWS Consortium has caused this Agreement to be subscribed by its Chairman and the seal of such Board to be affixed and attested by the Executive Officer thereof, and CONTRACTOR has caused this Agreement to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

CONTRACTOR

CALSAWS CONSORTIUM

By _____

By _____

Chair, Board of Directors

Name

Title

ATTEST:

John Boule
Secretary of the Board of Directors of the
CalSAWS Consortium

By _____

Secretary of the Board of Directors
Executive Director

APPROVED AS TO FORM:

David W. Tyra
Kronick, Moskovitz, Tiedemann & Girard

By _____

Counsel for CalSAWS Consortium