

SCO ID:

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER
00000000000000000000081875PURCHASING AUTHORITY NUMBER (If Applicable)
FTB-7730*IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.***CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Money Network Financial, LLC

CONTRACTOR BUSINESS ADDRESS

255 Fiserv Drive

CITY

Brookfield

STATE

WI

ZIP

53045

PRINTED NAME OF PERSON SIGNING


Jose Garcia

TITLE

Senior Vice President

CONTRACTOR AUTHORIZED SIGNATURE

Garcia, Jose, F2D2OJV

 Digitally signed by Garcia, Jose, F2D2OJV
Date: 2022.07.01 17:33:45 -05'00'

DATE SIGNED

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Franchise Tax Board

CONTRACTING AGENCY ADDRESS

PO Box 2086

CITY

Rancho Cordova

STATE

CA

ZIP

95741

PRINTED NAME OF PERSON SIGNING


Jeanne Harriman

TITLE

Chief Financial Officer or Designee

CONTRACTING AGENCY AUTHORIZED SIGNATURE

Jeanne Harriman

 Digitally signed by Jeanne Harriman
Date: 2022.07.01 16:43:55 -07'00'

DATE SIGNED

07/01/2022

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

The California Franchise Tax Board, hereinafter referred to as the “State” or “FTB”, agrees to retain and hereby does retain, Money Network Financial, LLC, hereinafter referred to as “Contractor” for the services described herein in support of California Assembly Bill 192, hereinafter referred to as “AB-192” or “stimulus relief program.” Under the direction of the Filing Services Bureau, the Contractor agrees to perform the services as described within its respondent proposal and in ITN 22-23 Debit Cards and addenda. These documents are hereby incorporated by reference and are part of this Agreement. Both parties will abide by all provisions of this agreement. Attachments 3, 4, and 5 attached hereto and incorporated by reference herein, set forth the additional terms to which the parties agree to be bound.

A. INTRODUCTION

The purpose of this Agreement is for the Contractor to process and mail payments to California residents on behalf of the State of California by way of Debit Cards in accordance with the direction provided by the State. In addition, the Contractor will provide contact center services to support incoming taxpayer inquiries regarding general program information related to a relief program, as provided in AB-192 (Ch. 51, Stats. 2022). Contact center services shall include support for early-program inquiries as well as ongoing program inquiries from all taxpayers. The Contractor will supply staffing, equipment, materials, training and facilities that include required data exchange infrastructure, call connectivity and debit card issuing processes and services.

The relief program would provide relief to Californians from the impacts of high gas prices and other growing costs due to inflation. Relief program payments would be issued to qualified taxpayers, as determined by the State, in the form of an electronic fund transfer (EFT) or a debit card. The State estimates it will issue eleven (11) to thirteen (13) million debit card payments and approximately seven (7) million EFT payments to qualified taxpayers.

The total dollar amount of a recipient's payment will be determined as specified in AB-192.

The approximately 7 million EFT payments will be coordinated with and issued by the California State Controller's Office (SCO). The first EFT payments are anticipated to begin the last week of October 2022.

The first payments by debit card would be issued to qualified taxpayers beginning the last week of October 2022. The State estimates that ninety-five percent (95%) of the payments are anticipated to be issued by January 2023, with an approximate total of 11-13 million payments being issued by the Contractor. The State shall require the use of an EMV (Europay, MasterCard, and Visa) chip enabled card to offer the maximum protection possible.

As a result of the volume of payments and interest in the program from California residents, the State expects the Contractor to respond to all program related inquiries for the period beginning August 1, 2022, and ending on July 31, 2026. The data to be exchanged pursuant to this

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

Agreement is confidential. This Agreement does not include the exchange of Federal Tax Information (FTI).

In addition, the Contractor agrees to print and mail the 1099-MISC Forms to the debit card and EFT recipients in accordance with the timelines and requirements specified in EXHIBIT V – 1099-MISC FORMS: PRINT AND MAIL REQUIREMENTS.

B. PROJECT OBJECTIVES

The Contractor will perform the requisite services to meet the following project objectives:

1. Provide an agreed upon **Delivery Plan** for distributing total estimated volume of debit cards in an efficient, effective manner recognizing any the State program parameters.
2. Meet the State's Marketing and Naming schemes on debit cards.
3. Meet the State's and SCO's technical requirements for exchanging files.
4. Meet the State and SCO privacy, legal, and information security requirements for exchanging confidential data.
5. Will not disclose, share, or use the information provided by the State for any purpose other than those related to providing debit cards for the relief program.
6. Provide platinum (maximum) level fraud protection and client and customer service support.
7. Establish an agreement with the State on the contact center early support (pre-issuance of payments both EFT and Debit Card).
8. Provide contact center support post issuance of debit cards
9. Assist taxpayers with self-service options supporting debit card services.
10. Provide program guidelines/requirements.
11. Triage inquiries and as needed transfer inquiries back to the State for more account specific questions and assistance.

C. AGREEMENT TERM

The Contractor must be available to commence the services outlined in this Agreement during the term specified on the Standard Agreement (Std. 213) or upon approval/completion of the State's background screening, whichever is later. The Contractor must complete the services outlined in this Statement of Work (SOW) within the term specified in the Std.213.

The term for this Agreement will be four (4) years and one (1) month from **July 1, 2022**, through **July 31, 2026**.

The Contractor shall not be authorized to deliver or commence performance of services as described in the SOW until written approval has been obtained from all required entities and funds are appropriated for each fiscal year. No delivery or performance of service may commence prior to the execution of the Agreement and appropriation of funds for the relevant fiscal year.

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

Consistent with the terms and conditions of the original contract, and upon mutual consent, the State may execute written amendments to this Agreement, if needed. At the State's discretion, this Agreement may be amended for time, money or both, based on the rates specified herein. No verbal understanding or agreement not incorporated into the Agreement is binding on any of the parties.

D. RESPONSIBILITIES OF THE CONTRACTOR

1. Timeline

- a. The Contractor shall provide a detailed **Implementation Timeline** demonstrating a plan for proposed facilities, support staffing, and technology readiness to deliver debit cards and receive customer contacts. The Implementation Timeline shall be mutually finalized and agreed to by the Contractor and the State by August 1, 2022.
- b. By July 15, 2022, or earlier, the Contractor shall provide a detailed **Ramp-up Plan** for early support of customer service needs, agent staffing and production to demonstrate readiness to begin receiving customer contacts on August 1, 2022.
- c. The Contractor will begin providing the State's Contract Manager with their draft **Start-up and Implementation Report** at least twice weekly (Mondays and Thursdays) within the first week the Agreement is executed. The Report will detail the progression of the implementation and integration process as it relates to relevant elements of this SOW.
- d. By August 1, 2022, the Contractor shall provide a detailed **Delivery Plan** with first payments being delivered by the last week of October 2022.

2. Fraud and Security Debit Card Services:

Contractor must provide staff, services, and facilities located in the territorial United States pursuant to the following requirements:

- a. [REDACTED] to safeguard against fraud. [REDACTED] these cards shall be distributed via a strategy that is mutually agreed to between the Contractor and the State.
- b. Provide activation of the debit card and provide support to debit card recipients using industrywide best practices for identify proofing /authentication services relying on validation of at least [REDACTED] confidential data points and requiring at least [REDACTED] of the confidential data points provided by the State.
- c. Provide sophisticated fraud prevention services with evidence of preventing fraud at a

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

success rate of ninety-nine percent (99%) or higher. Contractor's basis points for fraud shall be two (2) basis points or less.

- d. Provide fraud prevention services from the point of receiving recipient account information and until all debit card balances have been exhausted by each recipient or returned to the state due to expiring.
- e. Immediately freeze the funds on a debit card that the State or Contractor has determined to possibly have been obtained fraudulently. Debit card funds will remain frozen until the debit card is concluded to not be fraudulent by either the Contractor or FTB. If fraud is concluded, funds will be returned to the State immediately. "Immediately," as used in this provision, is defined as "as soon as possible not to exceed twenty-four (24) hours of notification from the State."
- f. Allow debit card recipients to report lost or stolen cards and immediately freeze the account.
- g. If the Contractor identifies an account as possibly being fraudulent before mailing, the Contractor must immediately report the account to the State. "Immediately" is defined as within twenty-four (24) hours of the discovery (or a timeframe mutually agreed to between the Contractor and the State) of an actual or possible fraudulent account.
- h. Report to the State all fraudulent activity related to a recipient including trends that may assist in the prevention of income tax related fraudulent activities. Report frequency can be negotiated but should not be less frequently than weekly.
- i. The Contractor will provide the State card activation data, including but not limited to, [REDACTED] to the State for purposes of fraud prevention pursuant to 12 CCR section 1016.15(a)(2)(ii) only. With that exception, due to federal regulations regarding the sharing of consumer financial data, Contractor will otherwise only be required to provide nonpublic personal information to the State if instructed to do so by a court or administrative order. "Nonpublic personal information," has the same meaning as is provided in the Gramm-Leach-Bliley Act, 15 USC § 6809(4)
- j. Contractor shall only utilize the address provided by the State when mailing the debit cards to the recipient and shall not forward the debit cards to any other address.
- k. Contractor shall destroy any debit cards that are undeliverable. The debit cards shall be destroyed in a manner to be deemed unusable or unreadable, and to the extent that an individual record can no longer be reasonably ascertained.
- l. Contractor shall assume responsibility (from the point of activation) for any replacement of debit card funds resulting from fraudulent use of recipients' debit card.

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

- m. Contractor shall work expeditiously to address and resolve instances of fraud when the Contractor detects fraudulent activity on an account. In addition, the Contractor will notify the State if an instance of fraud cannot be resolved within five (5) calendar days. The Contractor will then provide the State mutually agreed to data elements for additional investigative activities and will collaborate with the State to determine next steps toward a resolution.
- n. Meet the State and SCO information security and privacy requirements as outlined in Attachment 4.
- o. Meet all security and privacy requirements provided in California State Administrative Manual (SAM), National Institute of Standards and Technology (NIST), Federal Information Processing Standards (FIPS), Government Code §11015.5 and §11019.9, Vehicle Code, and California Information Practices Act (IPA) Civil Code §1798 et seq.

3. Card Management and Delivery:

- a. Meet the State's and SCO's technical requirements for exchanging recipient payment files to be scheduled and confirmation returned.
- b. Establish an agreed upon **Delivery Plan** for the production and mailing of the debit cards with approximately ninety-five percent (95%) of cards having been mailed in eight to ten (8 to 10) weeks from start date. Mailings of cards must commence by late October 2022.
- c. If at any time the Contractor is unable to meet the agreed upon schedule, Contractor must notify the State in writing of the anticipated shortfall at least two (2) weeks before the delay impacts the schedule.
- d. If the Contractor is notified of any significant mailing delays, communicate the reason for the delays to the State within twenty-four (24) hours of the Contractor becoming aware of the delay.
- e. Produce and mail a minimum of one (1) million debit cards each week unless otherwise agreed upon by the State until all debit cards have been issued.
- f. Use a method of delivery that ensures debit cards are being distributed geographically across the state each week.
- g. Include the exact name of recipient(s) provided by the State on the debit card, subject to the Contractor's character limit for debit card name field length.
- h. In the instance there are two (2) names due to being a married filing joint taxpayer, both names will be included on the card.

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

- i. Fund the debit card with the exact monetary amount provided by the State.
- j. Follow the provisions of the legislation, which may include provisions prohibiting specified collection activities by the State of California to collect other outstanding debt(s) from the relief program payments.
- k. Mail the debit card to only the addresses provided by the State.
- l. If a debit card is returned to the Contractor by the United State Postal Service as undeliverable, the Contractor will notify the State when this occurs.
- m. Provide confirmation of delivery and provide the State unique transaction number or identifier that the State can use to associate the confirmation of delivery to the taxpayer's account and the State's records.
- n. Provide a designated account and coordinate deposits for payment of debit cards consistent with the requirements of the State, SCO, and the California State Treasurer's Offices.
- o. Provide client services for the State and SCO accounting and cash management of the state's funds associated to the relief program. This includes, but is not limited to, the number of cards and balances of debit cards issued, returned, activated, not activated, deactivated, and expired.
- p. Consistent with final statutory language and the State's direction, ensure all debit cards produced have an expiration date of April 30, 2026.
- q. Consistent with final statutory language, the Contractor shall issue no new cards after April 30, 2026.
- r. Consistent with final statutory requirements, Contractor shall return to the State upon expiration of the debit cards any unexpended or unclaimed balance of the payments remaining on the expired cards, and all unused balances shall be returned no later than May 31, 2026 to an account designated by the State.
- s. All remaining funds on a card that has not been activated shall be returned to the State in accordance with AB-192. However, all remaining funds on a card that has been activated will be returned to the State in accordance with applicable law, as well as both parties' (Contractor and State) respective legal analysis and as mutually agreed to by the Contractor and the State.
- t. All relief funds to be distributed by the Contractor shall be held in a non-interest bearing account.
- u. Allow the State, SCO, and the California State Auditor the ability and access to audit and review internal control and pre and post processing activities. This would include, but not be limited to, the review of the delivery of debit cards, accuracy in delivery,

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

activation of the debit cards, a review of cards not activated, and the cash management of funds.

- v. Ensure all debit cards issued for this program are non-reloadable.

4. Marketing:

- a. Debit Cards will include approved marketing identifying the card's purposes such as the relief program.
- b. Marketing information may also be a part of the envelope as well as any additional documentation included in the mailing.
- c. Marketing information will be included or referenced on any web pages, Interactive Voice Response (IVR), or other customer service channels such as live chat or SMS.
- d. Marketing information will point to any approved self-service tools or web content included on the State's public website.
- e. The State and Contractor websites will be aligned to provide the best customer service possible for the relief program recipients.

5. Customer Service and Support of the Program

- a. Establish an agreement for early support of the program prior to payments being issued. This period is estimated to be up to eight to ten weeks.
- b. Provide multi-channel customer service and support including self-service and live service including phone, and live chat, collectively referred to as "contacts."
- c. Provide an online self-service web/IVR portal to provide program eligibility (if required by the State).
- d. There shall be no fees related to activation or transactions using the debit card and such "no fee" service should be communicated to the recipient.
- e. No fees shall be charged for the use of customer service support including the need to speak or chat with a live person.
- f. No fees shall be charged for the first or the second debit card. Any fees charged for the third or more replacement card shall be communicated to the customer before the fee is charged.
- g. Any common out of network fees not controlled by the Contractor shall be published on the Contractor's website and communicated to the recipients. Contractor shall also publish associated in network fees and additional fees for customers on the Contractor's website.

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

- h. Provide ramp up customer service support for the relief program which is anticipated to begin up to eight (8) weeks before the first scheduled payments.
- i. Contractor's communication of services must be specific to the relief program in addition to the support activities once the debit card has been received and activated.
- j. Utilize scripts approved by the State to assist customer service staff with answering questions related to qualifications and how and when they may receive their relief program payment. Responses will be provided not only for debit card payments but also for those who may be receiving their payments by EFT.
- k. Enable the State to direct contacts related to the relief program to the Contractor's services by the channels described above. Example: Allow an option on the State's IVR to transfer a call to the Contractor's customer support for the program.
- l. For all non-activated debit cards, a timely reminder letter will be sent to each taxpayer explaining the benefits of the program, the expiration date on the debit card, including offering a replacement debit card if needed. This letter should be sent three (3) months after the debit card is issued and again no later than six (6) months before the debit card would expire and the funds returned to the state.
- m. In situations where the Contractor is unable to provide support to the customer because of account specific issues (e.g., deceased taxpayer, incarcerated taxpayer) the Contractor will route contacts back to designated State IVR queues.
- n. Establish a process for rush or expedited debit card issuance/reissuance. The rush or expedited request shall take no longer than three (3) business days to process and mail to the customer.

6. System Integration:

- a. Contractor will follow approved data exchange requirements. This will include Request and Response format, layout, and other pertinent data exchange details.
- b. Contractor will provide a secure data exchange process using The State's preferred file exchange method, Secure File Transfer Protocol (SFTP) through the State's Secure Web Internet File Transfer (SWIFT) tool.
- c. Contractor will provide a detailed data integration schedule including items such as:
 - i. Design Deliverables
 - ii. Development Deliverables
 - iii. System Test Deliverables
- d. Contractor will provide a process to capture and store request information being sent to provider.

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

- e. Contractor will provide a process to capture and store response information being received from provider.
- f. The solution offers the ability to route calls back to State via the Interactive Voice Response (IVR) system or route inquiries via an efficient referral process and tool ((if required by the State)).

7. Service Center Representative Staffing

The Contractor shall provide staff and facilities to perform the requisite Debit Card and Contact Center services pursuant to the following requirements:

- a. All Contractor staff must be located within the territorial United States.
- b. Contractor will supply equipment, materials, training, and facilities that include required connectivity to receive and respond to inquiries for the period beginning August 1, 2022, and ending on July 31, 2026. The end date of services may change based on final statutory language.
- c. Contractor must account for planned and unplanned time that staff are not available for work including but not limited to: call outs, lates, no shows, vacations, or any other activities not scheduled that makes Contractor staff unavailable for work.
- d. Contractor is responsible for staffing the appropriate number of employees to ensure that the minimum number of required staff as deemed by the contractor can perform work as required by this Agreement.
- e. Contractor must be prepared to support a minimum of 7% of contacts in Spanish. The Contractor's bilingual (Spanish/English) staff must, at minimum, be proficient in Spanish. The Contractor must document the procedures for how language speakers are vetted, proficiency tested, monitored, and coached in the Contractor's **Quality and Training Plan** due to the State by July 15, 2022.
- f. Within twenty-four (24) hours' notice, and at the direction of the State, Contractor shall make commercially reasonable schedule adjustments to align with the State's business needs.
- g. Upon the State's request and within a timeframe mutually agreed to between the Contractor and the State, the Contractor shall provide contact center agents who can support incoming contacts in the following languages: Mandarin, Hindi, Vietnamese, Korean, and Punjabi. The Contractor and the State will work together to support additional languages as needed.

8. Background Checks, Data Exchange and Security Safeguards

- a. Contractor will perform background checks on all Contractor staff in accordance with

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

the provisions outlined in **Attachment 4 - State's Special Terms and Conditions**.

- b. Where a California filing requirement exists, contractor staff will comply with the income tax laws of the state of California, including filing state income tax returns and pay any taxes due as outlined in **Attachment 4 - State's Special Terms and Conditions**.
- c. Contractor shall adhere to the data exchange and information security requirements outlined in **Attachment 4 - State's Special Terms and Conditions**.

9. Key Personnel

The Contractor's Key Personnel must meet or exceed the required work experience specified in **Exhibit III – Minimum Qualifications for Contractor's Staff**. The State has the right of refusal for any personnel assigned to these tasks. The Contractor shall ensure the Contractor's Key Personnel listed in bullets a - c are filled throughout the term of the Agreement:

- a. **Contractor Project Director:** Shall lead the Contractor executive management team and is responsible for overall project delivery of the debit card and contact center solution. Shall have authority to act on all aspects of the contract and shall serve as the primary point of contact to whom all project communication shall be addressed.
- b. **Contractor Information Technology Manager:** Shall be responsible for managing all technical aspects of the debit card and contact center solution and shall have experience with information technologies that support the scheduling and delivery and maintenance of the debit cards. Shall assist with integration testing, troubleshooting, and shall serve as the primary technical contact for all technical issues.
- c. **Contractor Operations Manager:** Shall manage the day-to-day operations of the Contractor's debit card and contact center solution. Is responsible for managing Supervisors; and shall oversee all tasks tied to the services of the delivery and servicing of the debit cards and California citizens.

10. Support Staff

The Contractor must provide Support Staff that meet or exceed the required work experience specified in **Exhibit III – Minimum Qualifications for Contractor's Staff**. The State has the right of refusal for any personnel assigned to these tasks.

- a. **Managers:** Contractor shall provide sufficient management staff to support supervisors and perform other operational and project related duties.
- b. **Supervisors:** Contractor shall provide sufficient supervisor staff including bilingual (Spanish) to support and lead contact center activities. Tasks include performing escalation functions, administrative tasks, staff feedback, coaching, mentoring, development, recognition, and retention activities.

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

- c. **Contact Center Agents:** Contractor shall provide sufficient contact center agents to respond to contacts meeting a ninety percent (90%) Level of Access (LOA). Tasks include using a computer to access knowledge documents, understanding customer's request for information, and communicating accurate information to the customer.

11. Training

- a. Contractor shall provide training to support all initial hiring wave (ramp up) activities and on-going training activities for the duration of this Agreement.
- b. Contractor shall provide sufficient qualified training to staff to ensure all contact center agents are provided with initial and on-going training as necessary to support taxpayers. During ramp-up activities, Contractor shall provide qualified contact center trainers to support contact center agents. Contractor trainers will utilize the State's training materials.
- c. Contractor Operations manager shall oversee training activities for Contractor agents and work closely with the State to develop the training criteria. The State will work with the Contractor's Training Team to provide them any new training and training for trainers as necessary to achieve training goals. Contractor to provide test results to the State on a weekly basis and as new staff are on boarded.
- d. Annual security awareness and compliance training is mandated by the State. All Contractor staff performing work under this agreement will participate in the State's Privacy and Security training on an annual basis. The Contractor and each of their employees who may have access to the confidential data shall be required to complete Privacy, Security, and Disclosure Training (PSDT), material provided by the State. The training must be completed within two (2) business days of commencing work with the State, and annually thereafter. Upon completion of the PSDT, each employee must sign and return the Privacy, Security and Disclosure Training Certification (Form 7819), to DisclosureTraining@ftb.ca.gov to confirm that the training was completed.

12. Quality of Work

- a. Contractor shall onboard agents to support the relief program.
- b. Contractor shall adhere to the State's protocols, job aids, task guides and training materials for contact handling. The State will provide all protocols, job aids, and training materials to Contractor. All State provided protocols, job aids, and training materials are the sole property of the State and shall be used solely for the purposes described in the Scope of Work of this Agreement. Contractor shall contact the State for any clarification of these materials.
- c. Contractor may not, without the prior approval in writing by the State's Project Management Team, initiate or implement any process or procedure for consumer

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

interaction outside of those contained in the State training material.

- d. The Contractor shall work with the State to develop and maintain a robust Quality Assurance program. Sample monitoring guidelines are included in **Exhibit I Draft Monitoring Guidelines** and **Exhibit II Draft Quality Assurance Evaluation Scorecard**.
- e. Contractor can utilize the Quality Assurance (QA) forms and QA evaluation plan provided by the State's Project Management Team to monitor, evaluate, and document results for a representative sample that includes a minimum of four (4) customer contacts and not to exceed twenty percent (20%) of the total calls and inquiries the agent takes per month.
- f. Contractor will provide quality assurance staff to perform evaluations, monitor agent interaction with customers and to provide feedback to the training team to assist in any additional training needs for staff.
- g. Contractor shall establish and maintain a **Corrective Action Plan (CAP)** that describes the process to receive, triage, and resolve performance escalations received from the State and provide a monthly summary of all performance escalations. The CAP shall be submitted within two (2) business days of notification from the State and will include all of Contractor's findings and all coaching and other actions taken.
- h. Contractor shall record 100% of all calls and inquiries received. Recordings shall be in compliance with state and federal laws, including California Penal Code section 632, et seq. Recordings shall be retained for a minimum of ninety (90) calendar days from date the call was received. Recordings shall be made available to the State upon request.
- i. Contractor will immediately notify the State's Privacy & Disclosure Office (FTBDisclosureOffice@ftb.ca.gov) of any unauthorized or suspected unauthorized uses and/or disclosures (incidents) of personal information obtained from callers. For purposes of this section, "immediately" is defined as within 24 hours of the discovery. Contractor should provide the following:
 - i. Agent Information
 - ii. Taxpayer information
 - iii. Incident description and information
 - iv. Information disclosed
 - v. Name(s) of third parties to whom information was disclosed

13. Contact Center Operations

- a. Contractor shall allow the State's Project Management Team and its approved

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

representatives to access Contractor's on-site operations during normal business hours of operation. The State reserves the right to access Contractor's on-site operations to review Contractor's services and ensure compliance with this Agreement. The State may schedule a visit with Contractor to visit the Contact Center, but also reserves the right to perform unscheduled visits during normal business hours of operation.

- b. Contractor shall participate in meetings as required by the State with the State's Project Management Team to report on status of operations, adherence to Service Level Agreements (SLA), technology, and areas of opportunity.
- c. Contractor shall designate a single person (e.g., Contractor Project Director) and a back-up to whom all project communications may be addressed and who has the authority to act on all aspects of the Agreement for services. This person will be responsible for the overall project and will be the contact for all invoice issues.
- d. Contractor will strictly follow the State's protocols, use approved job aids and training materials for all work performed to support the State. In addition, Contractor must implement quality evaluation monitoring procedures to ensure its agents deliver services in accordance with State approved protocols.
- e. Contractor shall maintain Contact Center hours of operation identical to the State's Contact Center hours of operation as described in Section f below. With advance notice, Contractor may be required to maintain other hours as requested by State's Project Management Team, including weekends and/or holidays. Contractor will adequately staff its Contact Center during those hours of operation.
- f. Contact Center Hours: Monday through Friday from 8:00 am – 5:00 pm, Pacific Time (except for State holidays) for calls and inquiries received by taxpayers and their representative. Contractor agents must remain available after 5:00 pm in order to ensure calls and inquiries are cleared from the queues.
- g. Online Contact Center Services should be available 24x7. Debit card recipients should be able to report lost or stolen cards (if required by the State).
- h. When agents are logged into the dedicated State queue, they shall work on the State's Contact Center work only.
- i. Contractor shall ensure its agents can handle calls and inquiries through the entire life cycle from inquiry to resolution.
- j. Contact Center Staff to perform contact center services to meet 90% LOA. Level of Access is a percent of the contacts answered as compared to the total number of contacts offered. Contractor is responsible for staffing the appropriate number of

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

contact center agents to ensure that the minimum number of required contact center agents can answer, diagnose and resolve, or properly transfer calls and inquiries if outside of an agreed set of call drivers and perform work as required by this Agreement.

- k. During Contractor telephony, live chat or SMS system down time, Contractor shall notify the State Contract Managers immediately. Contractor shall have agents review the training and procedure guides, the Contractor decision tree, and the State webpage at FTB.ca.gov. Once service is restored, Contractor shall perform integration testing with the State technical staff to ensure calls can be transferred to the State or redirected to Contractor.

14. Facilities

- a. Contractor will employ a workforce within the territorial United States.
- b. Any facilities used for in-office workforce must include all necessary equipment to perform all work and training as outlined in this Agreement. The facility should have the necessary power and environmental controls to protect the equipment from external factors such as power, climate, fire and water threats. The Contractor must also accommodate all training that the agents must undertake prior to performing services. The facility will support telephony, server and network equipment in a physically secure area.
- c. Contractor shall supply all remote workers with the necessary equipment to perform all work and training as outlined in this Agreement.

15. Workforce Management

- a. Contractor shall use its own Workforce Management (WFM) system to monitor and track staffing levels and schedules.
- b. Contractor's Project Director shall work with the State's Project Management Team to maintain acceptable schedule adherence and respond quickly to minimize service impacts caused by unexpected events.
- c. Contractor shall maintain WFM staff to support ongoing scheduling, real time analysis and reporting for the duration of this Agreement.

16. Reports

The State will utilize one or more of the following Contractor's reports to monitor the Contractor's performance:

- a. Depending on final statutory language, on March 1, 2023, and the first of the month each six (6) months thereafter, provide a listing to the State of all cards that have not

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

- been activated and all cards that have balances remaining. Information provided should include names, address, and other key identifying information on the recipient, whether card has been activated, and any balance remaining.
- b. Contact interval reporting provides data on trends in contact volume, service level performance, and other Key Performance Indicators (KPIs).
 - c. The Real Time Agent Report provides real time data to monitor the duration of time that contact center agents spend in various stages of customer interactions.
 - d. Contact Quality Reporting compares performance against set quality goals.
 - e. Contact Handling: The Contractor's Daily Operations Report shows the Contact Center's performance, day by day, and by date range. Components of this report include Calls to IVR, Contacts Offered, Contacts Answered, Contacts Abandoned, Average Handle Time, Average Speed of Answer, Average Wait Time, Deflected Contacts, Contacts Transferred to the State and Contacts Quality Assurance.
 - f. Contractor shall provide a **Monthly Written Status Report** by the fifth day of each calendar month after the Start Date of the Agreement. If the fifth day falls on a non-working day, the report is due the first following State business day. The report should include the following:
 - i. Work accomplished during the previous month.
 - ii. In-progress activities including estimated time and effort to complete.
 - iii. Planned activities including estimated time and effort.
 - iv. Identification of any risks and/or issues that will impede completion of the work.
 - v. Recommendations regarding how to mitigate the impact of the identified risks and issues/concerns identified.

17. Technical Implementation

- a. The State shall provide data elements for payments including, but not limited to (taxpayer name, address, identification number, estimated payment amount, payment issue date and payment type (EFT or debit card)).
- b. Contractor shall provide their own telephony system to field the State calls and ensure that their system has enough capacity (trunks) to handle the State relief program calls.
- c. Contractor shall provide a toll-free phone number for the State to route relief program calls to Contractor or for taxpayer to call directly.
- d. Contractor shall transfer more complex calls to the State using predetermined phone numbers.

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

- e. Contractor shall perform integration testing with the State technical staff to ensure calls can be transferred to the State or redirected to Contractor. Integration testing to be completed **within three (3) weeks of contract award**.

E. RESPONSIBILITIES OF THE STATE

1. The State will designate a State Contract Manager to serve as the single point of contact for all Contractor inquiries.
2. The assigned State Contract Manager will have the authority to make project decisions and shall represent the State in all matters related to this SOW. The assigned State Contract Manager will provide a single consolidated response to any review, approval, change, or decision request.
3. The State Contract Manager will review the Agreement and associated documents with the Contractor Project Manager to ensure mutual understanding of the responsibilities of both parties.
4. The State will assign State staff and management with the requisite expertise, business or technical, to actively participate in this engagement. These participants are spokespersons for the areas they represent, and the State will provide the Contractor regular and timely access to them. If the State staff participants are unable to attend a scheduled meeting, then the assigned State Contract Manager shall be the final authority on all items of discussion.
5. The State is responsible for the content, completeness, accuracy, and consistency of the data, materials, and information supplied by the State.
6. The State Contract Manager shall oversee the Contractor's work on a day-to-day basis to ensure the tasks and deliverables of the Agreement are completed according to the requirements herein and will review the state-accepted Contractor invoices for approval.

F. DOCUMENTATION:

Contractor's documentation deliverables must meet the accessibility requirements specified in Attachment 3 – State Special Provisions, Section D, including, but not limited to, compliance with Web Content Accessibility Guidelines (WCAG) 2.1.

All Contractor documentation deliverables shall be provided in Microsoft (MS) Office Suite 2010 or newer (e.g., MS Word, MS Excel, MS Visio, MS Project) as specified by State, or a combination of any of the specified formats.

Documentation deliverables include but are not limited to:

1. Delivery Plan
2. Implementation Timeline
3. Ramp-up Plan
4. Start-up and Implementation Report

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

5. Quality and Training Plan
6. Corrective Action Plan
7. Monthly Written Status Reports

G. PROBLEM ESCALATION

Problems or issues shall normally be reported to the Contractor in regular in-person meetings or status reports as deemed by the State. The parties acknowledge and agree that certain problems or issues may arise that cannot be solved at the lowest level and therefore justify escalated reporting. To this extent, the Contractor's Project Manager shall notify the State personnel at the First Level. The First Level State personnel reviews the problem or issue to determine if it may be resolved or needs to be escalated to the Second Level. If required, the Second Level State personnel reviews and resolves the problem or issue, or escalates to the Third Level for review or resolution. The State personnel include, but are not limited, to the following:

1. First Level – State Project Directors, Cherrie Hayes and Stephanie Johnson
2. Second Level – State Project Oversight, Mandy Fithian and Roger Lackey
3. Third Level – State Sponsors, Jeanne Harriman and Carol Williams

H. TRAVEL AND EXPENSES

Travel and per diem are not applicable to this Agreement. The State will not reimburse Contractor for any travel or expenses.

I. STATE'S POINTS OF CONTACT

STATE'S POINTS OF CONTACT			
Name	Phone(s)	Fax	Email
Cherrie Hayes (State Contract Manager / State Primary Business Contact)	916-845-4693		Cherrie.Hayes@ftb.ca.gov
Stephanie Johnson (State Contract Manager)	916-845-6849		Stephanie.Johnson@ftb.ca.gov
Kerry Ditlevesen (State Primary Technical Contact)	916-845-5412		Kerry.Ditlevesen@ftb.ca.gov
Julia Gutierrez (State Procurement Official)	916-845-7772	(916) 843-5809	Julia.Gutierrez@ftb.ca.gov

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

J. CONTRACTOR'S POINTS OF CONTACT

CONTRACTOR'S POINTS OF CONTACT			
Name	Phone(s)	Address	Email
Crystal Cooper Vice President, Government Sales & Delivery, Fiserv, Inc.	916-997-4809	8875 Washington Blvd, Roseville, CA 95678	crystal.cooper@fiserv.com
Jose Garcia Senior Vice President, Fiserv, Inc.	708-267-7903	2900 Westside Parkway, Alpharetta, GA 30004	jose.garcia4@fiserv.com

K. CONTRACTOR'S KEY PERSONNEL

The following Contractor's Key Personnel will provide the deliverables (and perform the associated tasks) as described in this SOW. The State will be notified, in writing, of any proposed changes in the Contractor's Key Personnel assigned to these tasks and the proposed staff shall meet or exceed required work experience specified in **Exhibit III – Minimum Qualifications for Contractor's Staff**. The Contractor and the State agree that Contractor's Key Personnel are critical to the performance of this Agreement and cannot be removed without prior State approval.

Any changes to Contractor's Key Personnel must be approved in writing by State prior to commencing work. New staff may not report until their names have been approved by State and added to the Agreement through an approved State Work Authorization (Exhibit IV). **No amendment to the Agreement will be needed.**

CONTRACTOR'S KEY PERSONNEL			
Name	Role	Phone	Email
Savita Shankar	Contractor Project Director	678.395.1285	savita.shankar@fiserv.com
Rajesh Unnikrishnapillai	Contractor Information Technology Manager	470.669.6782	rajesh.unnikrishnapillai@Fiserv.com
Deanna Bannister- Walker	Contractor Operations Manager	732.397.8372	deanna.bannisterwalker@Fiserv.com

L. CHANGES TO THE SOW

Requests for changes in scope or Agreement terms must be made in writing to the assigned State Contract Manager. However, no such changes may commence unless approved by State, in writing, in the form of an amendment to the Agreement.

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

M. UNANTICIPATED TASKS

This Agreement may include Unanticipated Tasks including services, including work products, not specifically set forth in this Agreement, but which are subsequently identified as in-scope and necessary for the successful delivery of the services described in this Agreement. Prior to commencement of any work being performed for Unanticipated Tasks, the Contractor shall have received an approved State Work Authorization for such work. The rates for Unanticipated Tasks shall not exceed rates as stated in Attachment 2 - Cost Worksheet and Payment Provisions. State Work Authorizations for Unanticipated Tasks shall include the Contractor's estimated number of hours required to complete the work, multiplied by the unanticipated tasks hourly labor rates specified therein, or shall be consistent with the rates specified in Attachment 2 - Cost Worksheet and Payment Provisions. The State will release payment for any State Work Authorizations upon State Acceptance of the acceptance criteria specified in the approved State Work Authorization in accordance with Attachment 2 - Cost Worksheet and Payment Provisions

- a. In the event that additional work must be performed which was wholly unanticipated and is not specified in the SOW, but which in the opinion of the State, is necessary to the successful accomplishment of the general scope of work outlined, the procedures outlined in this Section will be employed. However, no such changes may commence without the prior approval of the State Contract Manager and the State Procurement Official via an approved State Work Authorization (Exhibit IV).
- b. For each item of unanticipated work not specified in the Statement of Work, a State Work Authorization will be prepared in accordance with the sample attached as Exhibit IV.
- c. It is understood and agreed by both parties to this Contract that all of the terms and conditions of this Contract shall remain in force with the inclusion of any such State Work Authorization. Such State Work Authorization shall in no way constitute a Contract other than as provided pursuant to this Contract nor in any way amend or supersede any of the other provisions of this Contract.
- d. Each State Work Authorization shall consist of a detailed statement of the purpose, objective, or goals to be undertaken by the Contractor, the job classification or approximate skill level of the personnel to be made available by the Contractor, an identification of all significant material to be developed by the Contractor and delivered to the State, an identification of all significant materials to be delivered by the State to the Contractor, an estimated time schedule for the provisions of these services by the Contractor, completion criteria for the work to be performed, the name or identification of the Contractor personnel to be assigned, the Contractor's estimated work hours required to accomplish the purpose, objective or goals, the Contractor's billing rates per work hour, and the Contractor's estimated total cost of the State Work Authorization.

ATTACHMENT 1 - STATEMENT OF WORK (SOW)

Debit Card Vendor

- e. All State Work Authorizations must be in writing prior to beginning work and signed by the Contractor and the State.
- f. The State has the right to require the Contractor to stop or suspend work on any State Work Authorization pursuant to the "Stop Work" provision of the IT General Provisions.
- g. Personnel resources will not be expended (at a cost to the State) on task accomplishment in excess of estimated work hours required unless the procedure below is followed:
- h. If, in the performance of the work, the Contractor determines that a State Work Authorization to be performed under this Contract cannot be accomplished within the estimated work hours, the Contractor will immediately notify the State in writing of the Contractor's estimate of the work hours that will be required to complete the State Work Authorization in full. Upon receipt of such notification, the State may:
 - 1. Authorize the Contractor to expend the estimated additional work hours or service in excess of the original estimate necessary to accomplish the State Work Authorization (such an authorization not unreasonably to be withheld), or
 - 2. Terminate the State Work Authorization, or
 - 3. Alter the scope of the State Work Authorization in order to define tasks that can be accomplished within the remaining estimated work hours.
- i. The State will notify the Contractor in writing of its election within seven (7) calendar days after receipt of the Contractor's notification. If notice of the election is given to proceed, the Contractor may expend the estimated additional work hours or services. The State agrees to reimburse the Contractor for such additional work hours.

EXHIBIT I: DRAFT MONITORING GUIDELINES
Debit Card Vendor

Note: These are guidelines, not directives. Every contact and situation is different. Please use your best judgment and discretion along with these guidelines when scoring each report, particularly in matters that are subjective. If you have questions consult State's Project Management Team.

*Exceeds Over 100%	*Meets 100%-85%	*Needs Improvement 84.99%-70%	*Does Not Meet 69.99% and below
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*The scores above will represent the entire Monitoring Evaluation total, not individual question scores.

PERFORMANCE AREA – GREETING WEIGHT 20	
1. Greeting: Was the appropriate/approved greeting statement used?	
Yes	No
<i>Items to be considered when determining a Yes score are:</i>	<i>Item to be considered when determining a No score is:</i>
<ul style="list-style-type: none"> Identified self by first name Offered assistance Provided approved security/Contractor statement. 	<ul style="list-style-type: none"> Did not address all items in Yes column

PERFORMANCE AREA – JOB KNOWLEDGE WEIGHT 20	
2. Analysis: Was analysis thorough and accurate?	
Yes	No
<i>Items to be considered when determining a Yes score are:</i>	<i>Items to be considered when determining a No score are:</i>
<ul style="list-style-type: none"> Was able to identify and use tools in order to resolve caller's issue (i.e. State public website (ftb.ca.gov), procedure manual, supervisors, recent Emails, etc.) Used appropriate tools and resources to answer caller's question Provided self-service options as appropriate Appropriately transferred call to the State 	<ul style="list-style-type: none"> Did not identify and use tools in order to resolve caller's issue (i.e., State public website (ftb.ca.gov), procedure manual, supervisors, recent Emails, etc.) Did not use available resources Incorrectly transferred call and/or did not provide the phone number for transfer

EXHIBIT I: DRAFT MONITORING GUIDELINES
Debit Card Vendor

PERFORMANCE AREA – CUSTOMER SERVICE SKILLS			
WEIGHT 20			
3. Professionalism: Was the contact handled in a professional and courteous manner?			
*Exceeds, +5 points	*Meets	*Needs Improvement	*Does Not Meet
<i>In addition to items listed in the “Meets” column, items to be considered when determining an Exceeds score are:</i> <ul style="list-style-type: none"> • Diffused difficult call, avoided call escalation • Verified customer’s satisfaction (i.e., “Did I answer your question?”) 	<i>Items to be considered when determining a Meets score are:</i> <ul style="list-style-type: none"> • Acknowledged and empathized with caller’s situation • Used appropriate telephone technique • Established and maintained control of the call • Practiced good business manners • Used appropriate tone • Used proper hold methods • Offered assistance before taking call back for another agent/supervisor • Addressed caller appropriately and integrated courtesies • Minimized dead air time by keeping caller involved 	<i>Items to be considered when determining a Needs Improvement score are:</i> <ul style="list-style-type: none"> • Interrupted caller unnecessarily • Inappropriate silence (i.e., long silence without making caller aware of actions taking place) • Unnecessary or unrelated conversation encouraged by the agent (i.e., weather, personal conversation, etc.) 	<i>Items to be considered when determining a Does Not Meet score are:</i> <ul style="list-style-type: none"> • Repeatedly interrupted caller • Used inappropriate tone • Talked down to caller • Impatient with caller • Argumentative, sarcastic, or raised voice with caller • Did not use established procedures when terminating call • Did not offer assistance before taking call back for another agent/supervisor • Hung up on the caller • Inattentive (i.e., reading personal emails or surfing the internet while assisting the caller, cell phone or text messaging)

EXHIBIT I: DRAFT MONITORING GUIDELINES
Debit Card Vendor

PERFORMANCE AREA – CUSTOMER SERVICE SKILLS			
WEIGHT 20			
4. Communication: Were effective listening and communication skills used?			
*Exceeds, +5 points	*Meets	*Needs Improvement	*Does Not Meet
<p><i>In addition to items listed in the “Meets” column, items to be considered when determining an Exceeds score are:</i></p> <ul style="list-style-type: none"> • Answered caller's questions and provided additional information (i.e., offered applicable publications, forms, and/or automated services, facilitated future compliance) • Used creative problem solving/communication skills 	<p><i>Items to be considered when determining a Meets score are:</i></p> <ul style="list-style-type: none"> • Listened effectively and asked clarifying questions (i.e., showed interest by giving caller undivided attention, did not interrupt caller) • Asked questions necessary to ensure resolution of caller's issues and understands information (i.e., clarified reason for call) • Explained rights, responsibilities, applicable law, and options to caller as needed • Provided telephone number before transfer when appropriate and identified section or agency caller is being transferred to 	<p><i>Items to be considered when determining a Needs Improvement score are:</i></p> <ul style="list-style-type: none"> • Used in-house terminology and/or acronyms • Did not advise of self-service options when appropriate • Isolated case where the agent assumed caller's intent rather than asking questions • Used ambiguous statements (i.e. “Maybe if you...” or “You should wait about” ...” or “I think...”) • Did not offer to transfer call where appropriate • Did not give phone number of referral before transferring the call • Minimal or vague information was given without elaboration (i.e., no time frame given, no explanation of what caller should expect, etc.) 	<p><i>Items to be considered when determining a Does Not Meet score are:</i></p> <ul style="list-style-type: none"> • Repeated or constant assumptions of caller's intent rather than asking questions • Agent did not understand caller's request and did not ask questions to gain a better understanding • Did not answer the caller accurately • Did not respond to questions asked • Gave short “Yes” or “No” answers • Did not quote law accurately • Referred caller inappropriately • Transfer without advising

EXHIBIT I: DRAFT MONITORING GUIDELINES
Debit Card Vendor

PERFORMANCE AREA – Closing	
WEIGHT 20	
5. Closing: Was the approved closing statement used appropriately?	
Yes	No
<i>Items to be considered when determining a Yes score are:</i> <ul style="list-style-type: none">• Verified customer's satisfaction, for example "Did I answer your question?"• Final offer to help, for example, "Is there anything else I can do for you?"• Thank the caller for the contact; including the name relief program team, for example, "Thank you for calling the relief program team"	<i>Item to be considered when determining a No score is:</i> <ul style="list-style-type: none">• Did not hit all the items at the closing of the call in the Yes column

EXHIBIT II – DRAFT QUALITY ASSURANCE EVALUATION SCORECARD
Debit Card Vendor

Title: Call date/agent name

Review date:

Transaction code:

Status: Complete/pending

Total Quality score:

Reviewer name:

1. Was the appropriate/approved greeting used?

Yes

No

Not Applicable

Comment:

2. Were available resources used to resolve the caller's issue?

Yes

No

Not Applicable

Comment:

3. Was call handled in a professional and courteous manner?

Exceeds

Meets

Needs Improvement

Does Not Meet

Not Applicable

Comment:

4. Were effective listening and communication skills used?

Exceeds

Meets

Needs Improvement

Does Not Meet

Not Applicable

Comment:

5. Was the approved closing statement used appropriately?

Yes

No

Not Applicable

Comment:

EXHIBIT III- MINIMUM QUALIFICATIONS FOR CONTRACTOR'S STAFF
Debit Card Vendor

1. Contractor Project Director:

Required:

- Minimum of three (3) years' experience managing a debit card solution with a contact center
- Where a California filing requirement exists, complies with the income tax laws of the state of California, including filing state income tax returns and pay any taxes due
- Ability to collaborate across business lines to get the job done
- High school diploma or equivalent
- Proficient in use of a personal computer and MS Office applications
- Ability to communicate verbally and in writing in English

Desirable:

- Ability to think and respond positively by being open-minded, enthusiastic, patient, trusting, approachable, available, and flexible, adjusting approaches to suit different people and situations
- Ability to think in an enterprise manner and consider the overall impact to the program when planning, managing operations and making decisions
- Knowledge of the management principles for effective recruitment, selection, development and retention of competent staff; includes making appropriate assignments and managing staff performance
- Skill to obtain the relevant facts and information needed in a crisis, convey a sense of confidence and commitment to a successful outcome and earn the trust of others
- Knowledge of the various decision-making tools and techniques that can assist in making effective data driven decisions and justifying action plans.
- Ability to recognize and value the importance of a customer-centric organization that values the role of all internal and external customers.
- Skill to create and express the vision in a way that resonates with others and influence others to translate the vision into action.
- Ability to demonstrate strong personal commitment to a group or project and motivate others to be committed to the effort in a meaningful way
- Excellent written and verbal communication skills when communicating sensitive and sometimes controversial ideas and issues
- Experience with and ability to develop and implement enterprise-oriented solutions.
- Ability to perform effectively in a fast-paced environment
- Demonstrated performance encouraging positive relationships, creating high job satisfaction, encouraging success, showing understanding, and being trusting and supportive
- Ability to think and respond positively by being open-minded, enthusiastic, patient, trusting, approachable, available, and flexible, adjusting approaches to suit different people and situations

2. Contractor Information Technology Manager:

Required:

- Minimum three (3) years' experience managing integrated technical solutions
- Where a California filing requirement exists, complies with the income tax laws of the state of California, including filing state income tax returns and pay any taxes due
- Ability to collaborate across business lines to get the job done
- High school diploma or equivalent

EXHIBIT III- MINIMUM QUALIFICATIONS FOR CONTRACTOR'S STAFF
Debit Card Vendor

- Proficient in use of a personal computer and MS Office applications
- Ability to communicate verbally and in writing in English

Desirable:

- Independent leader with solid sense of responsibility, accountability and integrity who anticipates needs and proactively implements strategies to meet them
- Effective communicator and active listener who can ask relevant questions and present information appropriate to the audience and setting
- Skilled change agent who can effectively lead and motivate staff through changes as well as adapt management styles as situations demand
- Critical thinker with an innovative mindset who can anticipate and resolve issues
- Strong decision maker with an enterprise perspective who is able to negotiate solutions and make concessions when needed
- Energetic leader who models appropriate behavior, displays realistic optimism, understands and manages perceptions, and inspires confidence in staff, peers, customers and overseers
- Experience managing and leading highly technical teams on large and complex information technology projects
- Knowledge and experience with information technologies that support contact center, telephony platforms.
- Experience with integration testing and troubleshooting
- Demonstrated performance encouraging positive relationships, creating high job satisfaction, encouraging success, showing understanding, and being trusting and supportive

3. Contractor Operations Manager:

Required:

- Minimum of three (3) years' experience managing a debit card solution with a contact center
- Where a California filing requirement exists, complies with the income tax laws of the state of California, including filing state income tax returns and pay any taxes due
- High school diploma or equivalent
- Proficient in use of a personal computer and MS Office applications
- Ability to communicate verbally and in writing in English

Desirable:

- Ability to interpret, apply and/or explain provisions of the relief program requirements.
- Ability to recognize and determine the need to shift priorities and/or resources to maximize operations and/or address changes in assigned goals and objectives
- Contact center experience
- Ability to create a work environment that encourages creative thinking, innovation, and seeks proactive solutions to problems
- Skilled in establishing cooperative working relationships and gaining support of key individuals to ensure goals are accomplished
- Strong interpersonal, organizational, program management, and change management skills
- Ability to effectively present ideas and information
- Ability to recognize a problem and develop a proactive approach to resolve it
- Ability to effectively plan, organize, and manage multiple workloads and priorities

EXHIBIT III- MINIMUM QUALIFICATIONS FOR CONTRACTOR'S STAFF
Debit Card Vendor

- Strong analytical, critical thinking, and problem-solving skills
- Experience in managing or leading organization/program
- Ability to lead various levels of staff
- Demonstrated performance encouraging positive relationships, creating high job satisfaction, encouraging success, showing understanding, and being trusting and supportive

4. Managers:

Required:

- Minimum of two (2) years' experience managing a large contact center
- Where a California filing requirement exists, complies with the income tax laws of the state of California, including filing state income tax returns and pay any taxes due
- High school diploma or equivalent
- Proficient in use of a personal computer and MS Office applications
- Ability to communicate verbally and in writing in English

Desirable:

- Ability to interpret, apply and/or explain provisions of the relief program requirements.
- Ability to recognize and determine the need to shift priorities and/or resources to maximize operations and/or address changes in assigned goals and objectives
- Contact center experience
- Ability to create a work environment that encourages creative thinking, innovation, and seeks proactive solutions to problems
- Skilled in establishing cooperative working relationships and gaining support of key individuals to ensure goals are accomplished
- Strong interpersonal, organizational, program management, and change management skills
- Ability to effectively present ideas and information
- Ability to recognize a problem and develop a proactive approach to resolve it
- Ability to effectively plan, organize, and manage multiple workloads and priorities
- Strong analytical, critical thinking, and problem-solving skills
- Experience in managing or leading organization/program
- Ability to lead various levels of staff
- Demonstrated performance encouraging positive relationships, creating high job satisfaction, encouraging success, showing understanding, and being trusting and supportive

5. Supervisors:

Required:

- Minimum of one (1) years' experience in a supervisory capacity
- Where a California filing requirement exists, complies with the income tax laws of the state of California, including filing state income tax returns and pay any taxes due
- High school diploma or equivalent
- Proficient in use of a personal computer and MS Office applications
- Ability to communicate verbally and in writing in English

Desirable:

EXHIBIT III- MINIMUM QUALIFICATIONS FOR CONTRACTOR'S STAFF
Debit Card Vendor

- Ability to interpret, apply and/or explain provisions of the relief program requirements.
- Strong leadership skills, including the ability to inspire, motivate, mentor and build cohesive teams
- Excellent communication skills, both verbal and written
- Ability to effectively work with the public and establish and maintain positive relationships
- Ability to effectively work independently and in a team environment
- Demonstrated dependability, interpersonal and customer service skills
- Project and/or process improvement experience
- Contact center experience
- Ability to demonstrate good judgment and dependability
- Ability to remain flexible and open in response to changing priorities and workloads
- Strong analytical, organizational, and time management skills
- Ability to accept and utilize constructive feedback
- Self-motivated, enthusiastic, flexible, and customer service oriented
- Willingness to adjust work schedule to meet operational needs
- Ability to motivate and coach staff
- Excellent work ethic
- Positive attitude

6. Contact Center Agents:

Required:

- Minimum six (6) months' experience in a customer service environment
- High school diploma or equivalent
- Where a California filing requirement exists, complies with the income tax laws of the state of California, including filing state income tax returns and pay any taxes due
- Proficient in use of a personal computer and MS Office applications
- Ability to communicate verbally and in writing in English

Desirable:

- Ability to interpret, apply and/or explain provisions of the relief program requirements
- Ability to work independently
- Ability to communicate effectively and tactfully
- Well-developed organizational/time management skills
- Experience working with sensitive and confidential material
- Excellent communication skills, both verbal and written
- Excellent customer service experience on the phone
- Excellent technical, analytical, and organizational skills
- Ability to research and navigate through the www.ftb.ca.gov webpage
- Ability to use a variety of techniques to make sound decisions based on the available information
- Ability to adjust to changing priorities
- Ability to work cooperatively with others

EXHIBIT IV – STATE WORK AUTHORIZATION
(Sample Template)
Debit Card Vendor

Date: *Month, Day, Year*
Subject: *XXX*
Work Authorization #: *X*

State Authorized Representative:

Name
Telephone
Email

Contractor Authorized Representative:

Name
Telephone
Email

Description of Services/Tasks to be Performed:

The State is requesting the following:
XXX

Schedule Dates:

Start Date: *Month, Day, Year*
Completion Date: *Month, Day, Year*

Estimated Services Hours

XXX

Hourly Rate

\$00.00

Estimated Total Cost*

\$00.00

Contractor Personnel to be Assigned

John Doe

Job Classification/Services Category

XXX

Completion Criteria:

XXX

These services/tasks will be performed in accordance with this Work Authorization and the provisions of Agreement No. **XXXXXX**.

Approval:

Upon authorized original signature by both parties, the Contractor is approved to perform the services/tasks specified above. Per Agreement No. **XXXXXX**. The State shall pay the Contractor for services rendered, in arrears. Services invoices prepared in accordance with the aforementioned provisions shall not be submitted more frequently than monthly in arrears to the State. This Work Authorization is incorporated by reference to Agreement No. **XXXXXX**.

Authorized Representative

Contractor Name

Contract Manager

State of California

Procurement Official

State of California

EXHIBIT V – 1099-MISC FORMS: PRINT AND MAIL REQUIREMENTS
Debit Card Vendor

A. BACKGROUND

The Contractor agrees to process State-supplied addresses using United States Postal Service (USPS) approved software to print and mail the State's 1099-MISC Forms on behalf of State. In addition, the Contractor will provide preparation of proofs, imaging, printing, sorting, folding, sealing, and the mailing services needed to distribute the confidential mailer 1099-MISC Forms required by the Internal Revenue Service (IRS) by the timelines specified in section **B. Timelines** below.

LEGAL REQUIREMENT: Internal Revenue Code Section 6041 states that any state making payments of income aggregating \$600 or more for an individual in any calendar year is required to submit to the IRS and to the payee, an information return. In complying with this law, the State has the responsibility of issuing nearly nine (9) million 1099-MISC statements to taxpayers to whom the State has paid income.

This Agreement does not include the exchange of Federal Tax Information (FTI).

B. TIMELINES

The Contractor shall print and mail 1099-MISC Forms in accordance with the following payment distribution dates and associated timeframes specific to payments issued in calendar years 2022 and 2023:

1. For stimulus relief payments (both debit card and EFT) issued in calendar year 2022, the Contractor shall ensure all 1099-MISC Forms are mailed and received by the recipients by **January 31, 2023**.
2. For stimulus relief payments (both debit card and EFT) issued in calendar year 2023, the Contractor shall ensure all 1099-MISC Forms are mailed and received by the recipients by **January 31, 2024**.

C. RESPONSIBILITIES OF THE STATE

1. Every September, the State will provide the Contractor all updates made to the 1099-MISC Form, as well as any updates required to meet IRS standards.
2. Every October, the State will provide the Contractor with file layouts for data files.
3. The State will provide the Contractor the following data extracts of individuals that shall be issued a 1099-MISC Form through a secure electronic transmission method:
 - a. Test data in November of each year
 - b. Live data in January of each year

EXHIBIT V – 1099-MISC FORMS: PRINT AND MAIL REQUIREMENTS
Debit Card Vendor

4. The State will review and provide approval of test forms to the Contractor's Project Director **within two (2) State business days** of receipt of the test forms by the State.
5. The State will provide the Contractor the layout of the data points for the purposes of this agreement, which shall include a truncated SSN.
6. The State will send data files specific to the 1099-MISC reporting requirements to the IRS.

D. RESPONSIBILITIES OF THE CONTRACTOR

1. The Contractor shall format 1099-MISC Form templates to meet IRS standards and provide the State with proofs for review and approval **within ten (10) State business days** of receipt of the sample forms with annual changes from the State.
2. The Contractor shall print proof twenty-five thousand (25,000) test paper samples and production paper stock.
3. The Contractor shall provide the State with paper and form specifications **within the first week of Contract Award** to allow sufficient time for the Contractor and the State to perform quality assurance paper testing, which includes but is not limited to, reviewing the print proof and complete end-to-end testing of test samples. NOTE: Both the Contractor and the State shall approve the pre-production sample forms.
4. The Contractor shall process electronic files received from the State to print the 1099-MISC Forms to meet USPS mail requirements.
5. The Contractor shall print the test samples, scan them to PDF, and email them to the State for approval.
6. The Contractor shall print, seal, sort, and mail all 1099-MISC Forms by the dates specified in section **B. Timelines** above.
7. The Contractor shall confirm to the State that all 1099-MISC Forms were delivered to the USPS by the dates specified in section **B. Timelines** above.
8. The Contractor will be responsible to supply postage for all mailings.

E. REQUIRED SERVICES

1. **USPS Clearance:** The Contractor must use USPS CASS-certified software for assigning and correcting Intelligent Mail Barcodes on mail produced by Contractor and provide an assurance that the 1099-MISC Forms document construction meets USPS standards for the lowest "letter" rate.
2. **Volume Criteria:** The Contractor must have the ability to produce (and distribute) a quantity of nine million (9,000,000) count 1099-MISC Forms in accordance with the payment

EXHIBIT V – 1099-MISC FORMS: PRINT AND MAIL REQUIREMENTS
Debit Card Vendor

distribution dates and timeframes outlined in **section B. Timelines** above, and with the implementation schedule described in Attachment 1 – Statement of Work, section **A. Introduction** and section **D. Responsibilities of the Contractor**, with the final receipt dates of **January 31, 2023 and January 31, 2024**.

3. **Mail Scheduling Criteria:** The Contractor must have the ability to mail the required volume of nine million (9,000,000) 1099-MISC Forms in accordance with the payment distribution dates and timeframes outlined in **section B. Timelines** above, and with the implementation schedule described in Attachment 1 – Statement of Work, section **A. Introduction** and section **D. Responsibilities of the Contractor**, with the final receipt dates of **January 31, 2023 and January 31, 2024**. Note: The volume that the Contractor will mail the 1099-MISC Forms will be consistent with the volume of the respective payments (both debit cards and EFT) issued by the Contractor in each calendar year.
4. **Quality Assurance:** The Contractor must maintain a thorough quality assurance program to guarantee that none of the delivered 1009-MISC Forms have illegible, misaligned, incorrect or invalid information. Any 1099-MISC Forms that are damaged, mutilated, illegible, or misaligned, or have incorrect or invalid information, must be shredded immediately upon discovery in accordance with bullet E.5 below.
5. **Shredded Forms:** All shredded forms must be remanufactured and mailed as replacement forms by the required mailing dates specified in section **B. Timelines**. Paper to be shredded must be inserted so that lines of print are perpendicular to the cutting line, and the material must be shredded to 5/16 inch or smaller strips so that none of the data can be read or reasonably ascertained.
6. **Quality Controls:** Production quality controls include but are not limited to: 2D - Mail Run Data File (MRDF) Processing, Touch & Toss, and Piece-level Tracking.
7. **Proofs:**
 - a. **Upon Contract Award**, the Contractor shall send the State a sample of the envelopes and paper that will be used for this effort, in accordance with the specifications outlined in **Section I. Specifications for Paper and Envelopes**.
 - b. The Contractor shall submit all paper print proofs of the 1099-MISC template to the State **within ten (10) State business days** after the Contractor's receipt of sample forms 1099-MISC template from the State. The State shall provide the Contractor the sample template forms in September of each calendar year.
 - c. The Contractor shall provide data proofs to the State **within ten (10) State business days** after the Contractor's receipt of the test file from the State which will be provided to the Contractor in November of each calendar year.

EXHIBIT V – 1099-MISC FORMS: PRINT AND MAIL REQUIREMENTS
Debit Card Vendor

- d. The State reserves the right to modify the text and format of the 1099-MISC Form **up to December 10, 2022, and December 10, 2023**. The Contractor shall not proceed with production until receipt of final written approval from the State.

F. MAILING REQUIREMENTS

1. **Mailing Deadline:** The Contractor will deliver the addressed, sealed, and sorted 1099-MISC Forms directly to the USPS from the Contractor's facility. The Contractor must guarantee that the 1099-MISC Forms will be mailed to ensure the receipt of the form is received by the payment recipient **NO LATER than January 31, 2023, and January 31, 2024**. If the Contractor fails to meet the January 31, 2023, and January 31, 2024 deadlines, the Contractor shall be liable to the State for all damages, losses, and other costs sustained by the State as a result of delay in the performance of this Agreement. This will apply only if the failure to meet the deadline is caused by the Contractor.
2. **Insufficient Address:** The Contractor will provide the State with an electronic file of insufficient address records, to include truncated social security number, name, dollar amount and total number of all records included in the batch.

G. DATA FILES

1. **Data to Contractor:** The State shall provide live data files to Contractor no later than early January each calendar year.
2. **Initial Verification Reports:** The Contractor must verify and report data file totals to the State, and must reconcile the reports with the State, **within two (2) State business days** of the Contractor's receipt of the data files, and **before** 1099-MISC printing begins.
3. **Sample Prints:** The Contractor must provide sample prints with live data to the State within **two (2) State business days** of the Contractor's receipt of the live data files.

H. PRODUCTION FACILITY VISIT

The State may require a visit by a State representative to the Contractor's facility during the time of the production job for examination of the custom printing processes and mailing operations, including review of the Contractor's security and safeguards for the confidential data.

I. SPECIFICATIONS FOR PAPER AND ENVELOPES

1. Paper:
 - o Core Size: 3 inches
 - o Roll Size: 50 inches
 - o Splices: 1 processable splice per roll, clearly marked on the roll, with a maximum of 10% of the rolls on this order having a splice.

EXHIBIT V – 1099-MISC FORMS: PRINT AND MAIL REQUIREMENTS
Debit Card Vendor

- o Overall size: 8 ½" (± 1/32") X 11" (± 1/32")
 - o Must be square and to size
 - o 8 ½ x 11 finished, 20lb. Husky Inkjet white paper stock, caliper 4.0 mils, 94% brightness, 89% opacity
2. Envelope:
- o Standard #10 size (4 1/8 x 9 1/2), double window envelope, 24lb white wove with inside security tint pattern

J. FINISH PRODUCT SPECIFICATIONS

1. Finished products shall demonstrate the following characteristics when tested in accordance with the Technical Association of the Pulp and Paper Industry (TAPPI) standards:
 - o Basic weight 20 lbs. Husky Inkjet.
 - o Production stock and test samples must be identical.
 - o Paper must withstand high-speed automated equipment processing without abrading.
 - o Laser printing must not show through reverse side of paper.
 - o Finished product printed on a laser printing system to be folded and inserted in #10 Double window envelope. Return address to show through return window, upper left. Outgoing address to show through outgoing window, lower left. All window positions meet USPS requirements.
2. **Ink:** Ink shall be compatible with the Contractor's printers. Black ink will be used for the printing of all forms.
3. **Perforations:** None.
4. **Folding:** After being variably duplexed imaged, the form is folded in thirds so that the outgoing address and postal bar code are positioned just above the fold to meet all USPS requirements to ensure lowest first class "letter" rates.
5. **Insertion:** All taxpayer information contained on the 1099-MISC Forms, except name and address, must be shipped in a confidential environment, thus protecting the taxpayer information in accordance with requirements as defined in Section 11019.7 of the California Government Code.
6. **Addressing:** Outgoing address and postal bar code are positioned to meet postal automation discount requirements for a First Class, Intelligent Mail Barcode.

EXHIBIT V – 1099-MISC FORMS: PRINT AND MAIL REQUIREMENTS
Debit Card Vendor

7. **Variable Data:** The Contractor must be able to integrate variable data supplied by the State on secure electronic media into the appropriate 1099-MISC Form shell.
8. **Printing:** All printing and/or imaging shall be accomplished using high-speed Inkjet technology. It shall also be durable, of uniform quality, clearly legible, and of proper contrast for rapid processing through the USPS automated sorting system.
9. **Workmanship:** The finished 1099-MISC Form shall be free of all defects in paper and printing that may degrade appearance, performance, and/or serviceability.
10. **Sampling & Inspection:** The 1099-MISC Form shall be sampled and inspected by the State for compliance to these specifications, as deemed necessary.

K. COMPUTER SERVICE

1. **Programming/Systems:** The Contractor agrees to notify the State before any programming and/or system changes are made that may have any impact on the 1099-MISC Form distribution process. Once the State has accepted the system by approving data print proofs from a simulated test and from a test on live production equipment with test data, the Contractor must flag the system to show that it is “frozen,” indicating that no further changes should be made beyond that point.
2. **Data Processing:** No subcontracting of any processing element will be allowed. The State will provide data through a secured electronic file transmission. The State will supply data in a fixed block, fixed record format. The Contractor will be required to do all programming for all reports and to ensure proper location of variable information on the 1099-MISC Form.

The Contractor must convert and correct claimant addresses to Intelligent Mail Barcodes using an USPS CASS-certified software.

3. **File Addendum:** After applying USPS CASS-certified and Verimove-certified software, the Contractor will append the data file sent by the State with an indicator specifying if a city or a zip code different from the one provided was used to mail the document. Any changes to the original city and zip code are also to be noted on the appended file. The appended data file is to be returned through a secure electronic file transmission to the State **by January 19, 2023, and January 19, 2024**. It is critical that the appended data file is returned by the due date. Indicators are outlined below:

M = city change

Z = zip code change

U = undeliverable

Blank = no change

EXHIBIT V – 1099-MISC FORMS: PRINT AND MAIL REQUIREMENTS
Debit Card Vendor

L. DATA TEST

1. **Test Data:** In the month of November of each calendar year, the State will furnish test files to the Contractor through a secure electronic file transmission. The specific accounts and conditions to test for will be specified by the State prior to sending the test file to the Contractor. **Within ten (10) State business days** from the Contractor's receipt of the test files, the Contractor must provide the State with test data print proofs from a simulated environment test and from a live production environment test, showing the actual typestyles and variable data. In addition, the data and audit reports for the test data will be provided by the Contractor along with the test proofs. The simulated test proofs are to be sent from the Contractor to the State through a secure electronic file transmission. Production cannot continue until the State approves this data test in writing. NOTE: Additional tests with test data may be required **before production begins in January 2023 and before production begins in January 2024.**
2. **Live Data:** A test using live data will be required in the month of January of each calendar year. This second test will also require a live simulated environment test and a live production environment test. The specific accounts and conditions to test for will be specified by the State before sending the live file. The live records from the simulated test must be sent from the Contractor to the State through a secure electronic file transmission **within two (2) State business days** after receipt of the live production files. The State will respond to the live simulated test within twenty-four (24) hours of receipt of the records. The Contractor must receive written final approval from the State before starting production of the actual 1099-MISC Form for mailing.
3. **Additional Documentation:** The State shall have the discretion to request additional documentation at any time to ensure the 1099-MISC Form is being produced correctly.
4. **Modification of File Data Format:** The State reserves the right to modify file data format **up to December 10, 2022.**

M. REPORTS

The following reports must be provided by the Contractor to the State in a timely manner as required by the State:

1. **Test Data Report:** Test run of the 1099-MISC Form production with test data must be completed in **December each calendar year or earlier**, and within the timeframe specified in section L. **DATA TEST**, bullet 1. **Test Data**. Sample imaged 1099-MISC Form and a test print file will be provided to the State for verification and approval.
2. **Live Data Report:** The Contractor will provide the printed samples and a report from the live test data file for approval by the State within the timeframe specified in section G. **DATA**

EXHIBIT V – 1099-MISC FORMS: PRINT AND MAIL REQUIREMENTS
Debit Card Vendor

FILES, bullet **3. Sample Prints** and prior to starting the actual 1099-MISC Form production in January 2023 and January 2024.

3. **Production Report:** The Contractor will provide the State with a daily status report of production volumes and actual U.S. postal mailings by 11:00 a.m. Pacific Time of the following State business day.
4. **Audit Report:** After completion of the 1099-MISC Form production, the Contractor will submit audit verification reports of mailings within **ten (10) State business days** for approval by the State.
5. **Insufficient Address Report:** The Contractor will provide a file of all insufficient address records, to include the original 1099-MISC Form recipient's truncated social security number, name, dollar amount, and total number of records and dollar amount, as long as this information was included in the original address file.

ATTACHMENT 2 – COST WORKSHEET AND PAYMENT PROVISIONS
Debit Card Vendor

A. COST WORKSHEET

The bundled prices specified in Table A1: Cost Worksheet below will cover all ITN solicitation and SOW requirements and attachments.

TABLE A1: COST WORKSHEET			
Line Item #	Item Description	Bundled Unit Cost	Units
1.	Total Program Management Cost	\$1.35	Per Magstripe Card
<i>Assumes a minimum of 11 million cards</i>			
2.	EMV Surcharge	\$0.50	Per EMV Chip
3.	Reminder Letter with Postage	\$0.68	Per Letter
4.	1099-MISC with Postage	\$0.68	Per Letter
5.	Priority Shipping Fee for Reissuance of Lost/Stolen Card <i>Note: If requested by the State, the State will pay. If requested by the debit card recipient, the recipient will pay.</i>	\$8.00	Per Priority Reissuance
COMPREHENSIVE PROGRAM MANAGEMENT: Key services included, but are not limited to Contractor's program management solution:			
Debit Card Program			
6.	File Transmission, Pre-processing and Verification	Included	
7.	Plastic Production	Included	
8.	Envelope and Carrier	Included	
9.	Personalization	Included	
10.	Postage	Included	
11.	Reg E Insert	Included	
12.	EMV Chip	Surcharge Applies	
13.	Fraud Prevention and Monitoring	Included	
14.	Cardholder Mobile App and Website	Included	
Call Center and IVR			
15.	Staffing	Included	
16.	Training	Included	
17.	Call Center Scripts	Included	
18.	IVR Flows	Included	
19.	Pre-issuance, EFT and Debit Card Support	Included	
20.	Post-issuance, EFT and Debit Card Support	Included	
21.	EFT and Debit Card Support	Included	
Initial Setup			
22.	Program Development	Included	
23.	Integrations	Included	
24.	Website Design	Included	
25.	Marketing	Included	
26.	Custom Card Artwork	Included	

ATTACHMENT 2 – COST WORKSHEET AND PAYMENT PROVISIONS
Debit Card Vendor

TABLE A1: COST WORKSHEET			
Line Item #	Item Description	Bundled Unit Cost	Units
<u>TOTAL CONTRACT AMOUNT (NOT TO EXCEED):</u>			\$ 25,335,200.00

B. PAYMENT PROVISIONS

The Contractor shall submit invoices, monthly in the arrears, for work completed by the Contractor during the previous calendar month.

Invoices shall include the following information:

- Agreement Number 000000000000000000081875
- Description of work completed including but not limited to services rendered, service period, transactions types and quantities, etc.
- Total amount of invoice

The State shall pay the Contractor in arrears, upon receipt of an FTB-approved, undisputed, itemized invoice submitted by the Contractor, in triplicate, via U.S. mail to:

Franchise Tax Board
ATTN: Fiscal Accounting
P.O. Box 2800
Sacramento, CA 95812-2800

ATTACHMENT 3 – STATE SPECIAL PROVISIONS
Debit Card Vendor

A. CONFLICT OF INTEREST

In recognition of the fact that the Contractor personnel providing services under this Agreement may perform similar services from time to time for others, this Agreement shall not prevent the Contractor from performing such similar services or restrict from using the personnel provided to the State under this Agreement, providing that such use does not conflict with the performance of services under this Agreement.

During the performance of this Agreement, should the Contractor become aware of a financial conflict of interest that may foreseeably allow an individual or organization involved in this Agreement to materially benefit from the State's adoption of an action(s) recommended as a result of this Agreement, the Contractor must inform the State in writing within ten (10) State business days. If, in the State's judgment, the financial interest will jeopardize the objectivity of the recommendation, the State shall have the option of terminating the Agreement.

Failure to disclose a relevant financial interest on the part of the Contractor will be deemed grounds for termination of the Agreement, with all associated costs to be borne by the Contractor.

B. CONFIDENTIALITY OF DATA

Any data or information that the State identifies to the Contractor to be confidential, will be treated in the following manner:

1. Any employee, agent or representative of the Contractor whose duties require access to such data or information, or to any equipment or device which contains such data or information, may be required to sign a Confidentiality Statement (Form 7904 or Form 7912, or both).
2. When Contractor exercises the option to replace defective parts of any equipment or device containing confidential data, Contractor will certify to the State that all such data contained therein has been destroyed and is no longer readable. Any hard copy printouts created during testing or servicing of equipment or devices, which disclose any confidential data or information will be destroyed by the Contractor in accordance with Internal Revenue Service specifications, or will be given to the State for proper disposal.

C. GENERAL ACCESSIBILITY REQUIREMENTS

1. Contractor shall ensure and warrants that all products and services consisting of or utilizing electronic, information or communication technology (EICT), including but not limited to software and web-based applications, meet the applicable requirements of each of the following statutes, regulations, standards, guidelines and policies ("Requirements"):
 - a. California Government Code (Cal. Gov. Code) Section 11135, which prohibits discrimination on the basis of physical or mental disability and other grounds.

ATTACHMENT 3 – STATE SPECIAL PROVISIONS
Debit Card Vendor

- b. Section 202 of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12132, et seq.), and the federal rules and regulations adopted in implementation thereof, which are incorporated in California law by Cal. Gov. Code Section 11135;
 - c. Cal. Gov. Code Section 7405, which:
 - i. Incorporates in California law Section 508 of the Rehabilitation Act of 1973, as amended [29 United States Code (USC) Sec. 794d], and implementing regulations, as set forth in 36 Code of Federal Regulations (CFR) Part 1194, and
 - ii. Requires Contractors with state governmental entities subject to Cal. Gov. Code Section 11135 to respond to and resolve complaints regarding accessibility of its EICT products and related services;
 - d. To the extent any telecommunications products or services are provided under the Agreement, 47 USC Section 255 and related regulations, including 47 CFR Parts 6, 7, 14 and (if real-time text functionality is provided) 67;
 - e. California Fair Employment and Housing Act (Cal. Gov. Code sections 12900-12953 & 12960-12976);
 - f. Unruh Civil Rights Act (California Civil Code section 51);
 - g. Disabled Persons Act (California Civil Code sections 54-54.1);
 - h. Cal. Gov. Code sections 19230-19237;
 - i. Web Content Accessibility Guidelines (WCAG) 2.1 Levels A and AA;
 - j. WCAG 1.0 Level AA, to the extent these guidelines include additional requirements that are not included in and are not inconsistent with WCAG 2.1 Levels A and AA;
 - k. State Administrative Manual (SAM) Section 4833;
 - l. State Information Management Manual (SIMM) Section 25.
- 2. Contractor shall ensure that its products and services maintain or enhance, and do not diminish, the net accessibility, usability and compatibility of the State's existing environment and applications.
 - 3. All documentation, user guides, training materials and services, and challenge response password and other identity-verification systems must meet the Requirements. The Contractor shall ensure that individuals with disabilities have access to the full functionality and documentation for the product, including instructions, product information (including information on accessible features), and technical support which is provided to individuals without disabilities.
 - 4. All subsequent updates, upgrades, bug-fixes and patches provided pursuant to the Agreement shall meet the Requirements.
 - 5. In accordance with Cal. Gov. Code section 7405(b), the Contractor shall have an ongoing obligation to promptly respond to and resolve any complaint regarding accessibility of its EICT products and services that is brought to the attention of the Contractor, to the satisfaction of the State.

ATTACHMENT 3 – STATE SPECIAL PROVISIONS
Debit Card Vendor

6. A failure to meet any of the Requirements may result in rejection of the product or services by the State, withholding of payment, a complaint filed with California Department of Fair Employment and Housing (DFEH), a civil action, or other remedies, including, but not limited to, those provided in Cal. Gov. Code sections 11136 – 11139 and 12930, and GSPD-401IT.
7. In the event of a conflict between accessibility standards, the highest standard will apply.

D. STATE CENTRAL OFFICE WORKSITE POLICIES

1. Badges

The State issues a security identification badge (badge) to all persons who enter the central office campus secure buildings. The badge serves as a means of identification and/or a means of gaining authorized access to the facility. Badges allow access with allowances or restrictions for specific locations, days and times.

The Worksite Security Section of the State will arrange for the Contractor's staff assigned to the State to be issued a non-employee badge. The assigned Contractor's staff will be required to complete and pass a California Department of Justice criminal history background check. The Contractor's staff must present their badge at the access point using the electronic badge reader to enter the facility. The Contractor's staff must wear the badge above the waist on their front torso at all times while on the premises.

The photograph must be easily visible and presented to security officers or authorized management upon request. If the badge is lost, misplaced or stolen, the Contractor's staff must notify the State staff, who will work with the Contractor's staff to get a new badge issued.

If the Contractor's staff does not have their badge, they can report to the Welcome Center in the Lobby, and Worksite Security can issue a temporary badge. The temporary badge is issued and active for one day only. The permanent badge is disabled until the Contractor's staff returns both the temporary and permanent badge to the Welcome Center in the Lobby, at which time the permanent badge will be re-enabled for access permissions.

Badges are the property of the department. The badge must be surrendered if the Contractor's staff is no longer assigned to the State.

Security officers will request individuals within the State central office campus who do not have a visible badge to present it immediately. The security officer will direct or escort non-employees to the Welcome Center to contact the host/sponsor to obtain an authorized badge. If a Contractor staff member does not have an assigned badge and is required to come on-site, they must arrange with the Worksite Security Section to have a visitor badge issued and must be escorted.

ATTACHMENT 3 – STATE SPECIAL PROVISIONS

Debit Card Vendor

2. Parking

All persons driving on the State's premises are expected at all times to obey our traffic and parking policies and rules, as well as all applicable provisions of the California Vehicle Code.

Do not park in numbered, reserved or disabled access spaces. Worksite Security Services is responsible for traffic management and parking enforcement services at the central office campus. Driving and parking on our premises is a privilege, not a right.

Violations of our policies and/or California Vehicle Code provisions on our property may result in a local law enforcement, California Highway Patrol or private security citation, and/or towing directed by the California Highway Patrol.

E. INSURANCE REQUIREMENTS

1. General Requirements

If self-insured, review and approval of financial information may be required. Coverage needs to be in force for the complete term of the Agreement. If insurance will expire during the term of the Agreement, a new certificate must be received by the State at least ten (10) days prior to the expiration of that insurance. The new insurance must still meet the terms of the original Agreement.

In the event Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate the Agreement upon the occurrence of such event, subject to the provisions of the Agreement.

Insurance policies shall contain a provision that states that coverage will not be cancelled without 30 days' prior written notification to the State. Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by the State.

2. Commercial General Liability

Contractor shall maintain general liability insurance coverage with limits of not less than \$1,000,000.00 per occurrence for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent Contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured Agreement. This insurance shall apply separately to each insured against whom a claim is made or suit is brought, subject to the Contractor's limit of liability. The policy must include the State of California, its officers, agents, employees and servants as additional insureds, but only insofar as the operations under the Agreement are concerned.

ATTACHMENT 3 – STATE SPECIAL PROVISIONS
Debit Card Vendor

3. Workers' Compensation/Employer's Liability

Contractor shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Agreement, including special coverage extensions where applicable. Employer's liability limits of not less than \$1,000,000.00 shall be required.

F. INDEPENDENT CONTRACTORS

1. In addition to the Independent Contractor's section provided in section 5 of GSPD-401IT, the Contractor represents that it has, or shall secure at its own expense, all staff, including subcontractors and legal staff, required to perform the services described in this Agreement. Such personnel shall not be employees of or have any personal contractual relationship with any governmental entity of the State of California.
2. In accordance with its status as an independent Contractor, the Contractor agrees that it will conduct itself consistently with such status, that it will neither hold itself out as nor claim to be an officer or employee of the State, and that it will not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.
3. The State disclaims any obligation to employ the Contractor's services for any future consulting needs, other than the services required by this Agreement.
4. Termination or expiration of this Agreement does not relieve the Contractor of the responsibility to turn over to the State immediately upon request all information, whether in paper format or electronic data, received from or on behalf of the State, or created for the State.

G. INDEMNIFICATION

In addition to the indemnification provided in section 28 of GSPD-401IT, Contractor agrees that if, in connection with the performance of this Agreement, Contractor's subcontractor, agent or employee is determined in a judicial or administrative proceeding, mediation or arbitration, or settlement of any of the foregoing, to be an employee of the State, either alone or as a co-employer with Contractor, Contractor agrees to indemnify and hold the State harmless from any and all claims, damages, costs, expenses and liabilities related to the Agreement, including, but not limited to, wages, unemployment insurance benefits, penalties, fines, fees, legal fees and costs, mediator's or arbitrator's fees and costs, and interest. This provision is an express exception to the limitation of liability provided in paragraph 26(d) of GSPD-401IT, pursuant to either (i) or (ii) of that paragraph, including, but not limited to damages for violation of paragraph 7 of GSPD-401IT, and Contractor agrees that Contractor may be liable to the State for consequential, incidental, indirect, special or punitive damages to the extent set forth in this paragraph in the event Contractor's subcontractor, agent or employee is determined in a judicial or administrative

ATTACHMENT 3 – STATE SPECIAL PROVISIONS
Debit Card Vendor

proceeding, mediation or arbitration, or settlement of any of the foregoing, to be an employee of the State, either alone or as a co-employer.

ATTACHMENT 4 – STATE SPECIAL TERMS AND CONDITIONS
Debit Card Vendor

1. STATEMENT OF CONFIDENTIALITY: The State has state tax return information and other information and data in its custody, which are confidential. Unauthorized inspection or disclosure of state returns or other confidential information or data is a misdemeanor (Revenue and Taxation Code Sections 19542, 19542.1, 19542.3 and 19552, and Government Code Section 90005). .

For purposes of this exhibit, the terms “information” and “data” are used interchangeably and each, when used, encompasses the meanings of both terms. As used in this exhibit, the terms “confidential information” and “confidential data” each include “sensitive information and data”.

Upon the approval of this Agreement and prior to any access to the confidential data of the State, the Contractor, and each of the Contractor’s employees who may have access to the confidential data, shall be required to have on file annually a signed Vendor/Contractor Confidentiality Statement (Form 7904), attesting to the fact that it/he/she is aware of the confidential data and the penalties for unauthorized access, inspection, acquisition, or disclosure thereof under applicable state and federal law. The Contractor and each of their employees who may have access to the confidential data shall be required to complete Privacy, Security, and Disclosure Training () provided by the State. The training must be completed within two (2) business days of commencing work with the State, and annually thereafter. Upon completion of the PSDT, the employee will sign and return the Privacy, Security and Disclosure Training Certification (Form 7819) to DisclosureTraining@ftb.ca.gov confirm that the training was completed.

2. USE OF INFORMATION: The Contractor agrees that the information furnished or secured pursuant to this Agreement shall be used solely for the purposes described in Attachment 1 – Statement of Work. The Contractor further agrees that information obtained under this Agreement will not be reproduced, published, sold, or released in original or in any other form for any purpose other than as identified in Attachment 1 – Statement of Work. Some or all of the data specified in this Agreement may constitute protected personally identifiable information (PII) under state law. The Contractor agrees that the creation, receipt, maintenance, transmittal and disclosure of STATE data containing PII shall be subject to the provisions of the California Information Practices Act, Civil Code Section 1798.

3. DATA OWNERSHIP: The confidential tax information or other confidential information being provided under this Agreement remains the exclusive property of the State. Confidential tax information and other confidential information are not open to the public and require special precautions to protect from loss and unauthorized access, inspection, acquisition, use, disclosure, modification, or destruction. The Contractor shall have the right to use and process the disclosed information for the purposes stated in Attachment 1 - Statement of Work of this Agreement, which right shall be revoked and terminated immediately upon termination of this Agreement.

4. BACKGROUND CHECK AND FINGERPRINTING OF CONTRACTOR PERSONNEL: The Contractor will only utilize personnel who have passed the Contractor’s background check to have access to the State’s data, confidential materials, or provide services for this contract. The Contractor may not utilize any personnel for this contract who have previous convictions which include, but are not limited to, (a) misappropriation of funds; (b) falsification of documents; (c) petty or grand theft; (d) fraud; (e) crimes of

ATTACHMENT 4 – STATE SPECIAL TERMS AND CONDITIONS Debit Card Vendor

violence against persons; (f) possession and/or discharge of firearms; (g) driving under the influence; (h) forgery; (i) bribery (j) possession of controlled substances; (k) unlawful transportation, sale, or manufacturing of controlled substances; (l) noncompliance with state income tax laws; (m) intentionally attempted to practice deception or fraud on an application or in a securing eligibility for employment; (n) convicted of a felony or misdemeanor involving moral turpitude such that other persons would generally hold that person in disrespect – examples include, stealing, petty or grand theft, embezzlement, various sexual crimes, illegal use and/or possession of narcotics and drugs, DUI, etc.; (o) multiple convictions. The State will require such Contractors, subcontractors, independent contractors, and their employees to complete a background check for information regarding prior criminal history and will utilize continuous monitoring to detect unauthorized accesses, acquisitions, record modification, and disclosures to ensure compliance with the State's requirements while the agreement is in effect, consistent with Contractor's privacy obligations to its Contractor Staff. The State reserves the right to prohibit individuals from performing work under this Contract.

As part of the background check, the State may require tax identification information to validate compliance with the California Revenue and Taxation Code throughout the term of the contract, consistent with Contractor's privacy obligations to its Contractor Staff. Upon the State's approval, the Contractor shall administer a self-attestation certification process regarding tax compliance for all Contractor staff who shall have access to the State's data, confidential materials, or provide services for this Contract. Compliance with the Revenue and Taxation Code means an individual has filed all required State income tax returns, and all State income taxes are paid or a current payment installment agreement is in place. Prospective contract staff are encouraged to verify their individual filing status by calling 1-800-852-5711 to resolve any potential tax compliance issues.

The State requires all contractors, subcontractors, and members of their staff to be residents of the territorial United States. All contractors, subcontractors, and members of their staff must also be eligible for authorization to work in the US. Individuals must be: (1) US citizens; (2) lawful permanent residents; or (3)(a) foreign nationals, (b) nonresident aliens, or (c) nonimmigrants, all with the appropriate work visas. Before we grant access to our facilities or data systems, contractors, subcontractors, and members of their staff must meet the citizenship requirement or have the appropriate documentation to work in the US. The State verifies work eligibility through the E-Verify system.

If the Contractor, subcontractor or a member of the Contractor's or subcontractor's staff (including replacements) is ineligible to work for the State, the Contractor will be notified. If the Contractor is unable to provide an eligible replacement per the terms of this Agreement, it may be deemed a breach of this contract and may be grounds for termination of this Agreement.

5. **EMPLOYEE ACCESS TO INFORMATION:** The Contractor agrees that the information obtained will be kept in the strictest confidence and shall make information available to its own employees only on a "need-to-know" basis. The "need-to-know" standard is met by authorized employees who need the information to perform their official duties in connection with the uses of the information authorized by this

ATTACHMENT 4 – STATE SPECIAL TERMS AND CONDITIONS **Debit Card Vendor**

Agreement. Each party recognizes its responsibility to protect the confidentiality of the information in its custody as provided by law and ensure that such information is disclosed only to those individuals and for such purposes as are authorized by law and this Agreement.

6. PROTECTING CONFIDENTIAL INFORMATION / INCIDENT REPORTING: The Contractor, in recognizing the confidentiality of the State information, agrees to take all appropriate precautions to protect the confidential information obtained pursuant to this Agreement from unauthorized access, use, or disclosure. The Contractor will conduct oversight of its users with access to the confidential information provided under this Agreement and will immediately notify the State's Information Security Audit & Investigations Unit (SecurityAuditMail@ftb.ca.gov) of any unauthorized or suspected unauthorized accesses, uses and/or disclosures (incidents). For purposes of this section, "immediately" is defined as within 24 hours of the discovery of the breach or suspected breach. The notification must describe the incident in detail and identify responsible personnel (name, title, and contact information). The Contractor will provide to the State the information necessary to comply with the incident reporting requirements provided in Civil Code Section 1798.29, State Administrative Manual (SAM) Chapter 5300 and Sections 8643, and State Information Management Manual 5340-A and 5340-C to facilitate or fulfill the required reporting to the taxpayers or state oversight agencies.

7. INFORMATION SECURITY: Information security is defined as the preservation of the confidentiality, integrity, and availability of information. A secure environment is required to protect the confidential information obtained from the State pursuant to this Agreement. The Contractor shall store the information so that it is physically secure from unauthorized access. The records received by the Contractor shall be securely maintained and accessible only by the employees of the Contractor who are committed to protect the data from unauthorized access, use, or disclosure. All State electronic data must be encrypted when in transit using FIPS 140-3 approved encryption technology, and be password protected and secure at all times when in storage. Confidential information obtained from the State must be secured in accordance with the SAM Chapters 5100 and 5300 (Information Security); National Institute of Standards and Technology (NIST) Special Publication 800-53 (moderate); and additional security requirements provided by the State, as mutually agreed. If this Agreement calls for Federal Tax Information (FTI) to be provided by the State, the Contractor must also comply with Internal Revenue Service Publication 1075. The State may require that a Security Questionnaire for the Contractor receiving confidential data from the State be completed or on file with the State's Chief Security Officer, or his/her designee.

8. CLOUD COMPUTING ENVIRONMENT: Contractors receiving the State's confidential data must submit a completed State Cloud Security Questionnaire before using a Cloud Computing Environment. The questionnaire will be reviewed for approval by the State's Chief Security Officer, or his/her designee. A Cloud Computing Environment cannot be used to receive, transmit, store, or process the State's confidential data without prior written approval from the State's Chief Security Officer.

9. DESTRUCTION OF RECORDS: All records received by the Contractor from the State, and any database created, copies made, or files attributed to the records received, will be returned or destroyed

ATTACHMENT 4 – STATE SPECIAL TERMS AND CONDITIONS
Debit Card Vendor

upon completion of the business purpose for which they were obtained. The records shall be destroyed in a manner to be deemed unusable or unreadable, and to the extent that an individual record can no longer be reasonably ascertained.

10. **SAFEGUARD REVIEW**: The State retains the right to conduct on-site safeguard reviews of the Contractor's use of the State's information and the Contractor's security controls established. The safeguard reviews may include, but are not limited to, an examination of the adequacy of information security controls, "need-to-know", and use justifications established by the Contractor to ensure compliance with the terms and conditions of this Agreement. The State will provide a minimum of seven (7) days' notice of a safeguard review being conducted by the State staff.

11. **DISPUTE RESOLUTION**: In the event of a dispute, the Contractor shall file a "Notice of Dispute" with the State's Chief Financial Officer within ten (10) days of discovery of the problem. Within ten (10) days, the Chief Financial Officer, or his/her designee, shall meet with the Contractor's designee for purposes of resolving the dispute. The decision of the Chief Financial Officer shall be final.

12. **EVALUATION OF CONTRACTOR**: Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on the Contract/Contractor Evaluation Sheet STD. 4 and maintained in the Agreement file. A copy of the evaluation will be sent to the Department of General Services Legal Office, if it is negative and the contract amount is over \$5,000.00.

13. **EXCISE TAX**: The State of California (the State) is exempt from Federal Excise Taxes, and no payment will be made by the State for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. The State may pay any applicable sales or use tax imposed by another state.

14. **STATE LIABILITY**: The Contractor warrants, by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon 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 the Contractor for the purpose of securing business. For breach or violation of this warranty, the State will, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

15. **POTENTIAL SUBCONTRACTORS**: Prior to the use of any subcontractor to store, use, process, transmit, and/or access the State's data, notification to, and written approval from, State is required 60 days in advance. The notification must include the complete name and address of the entity, location(s) where the data is or will be stored or used, and contact information. The State will require a Security Questionnaire from the subcontractor(s) and perform risk analysis to meet the State's security requirements, prior to allowing the subcontractors(s) access to the State's data.

ATTACHMENT 4 – STATE SPECIAL TERMS AND CONDITIONS
Debit Card Vendor

Nothing contained in this Agreement or otherwise shall create any contractual relationship between the State and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by any of them, as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make any payments to the Contractor. As a result, the State shall have no obligation to pay or to verify the payment of any monies to any subcontractor or agent of the Contractor.

16. **DENIAL OF ACCESS TO SUBCONTRACTOR**: The State reserves the right to deny access to the Contractor's subcontractor immediately in the event the State determines, in its sole discretion, that the subcontractor is not in compliance with, or at any time in the past has not complied with, any terms or conditions of this **Attachment 4**, or that the results of a State safeguard review of the subcontractor's use of the State information or security controls established are not satisfactory to the State. The State will provide written notice to the Contractor upon termination of the subcontractor's access. Unless terminated earlier, subcontractor's access shall be terminated automatically upon termination of this Agreement, without further notice to the subcontractor. The subcontractor's obligations to protect the confidentiality of the State's data and information, including the destruction of records, shall survive the termination of the subcontractor's access to the State data and information under this Agreement and the termination of this Agreement.

17. **SOFTWARE**: The Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

18. **TAX COMPLIANCE**: The Contractor must be in compliance with the Revenue and Taxation Code throughout the term of the Agreement. Failure to comply with this provision shall be deemed to be a breach of this Agreement and shall be grounds for cancellation of this Agreement.

19. **SURVIVAL OF OBLIGATION TO PROTECT DATA**: The Contractor's obligation to protect the data and information received from the State shall survive the expiration or termination of this Agreement. In the event the State continues to provide any data or information to the Contractor after the expiration or termination of this Agreement, the Contractor agrees to continue to protect all such data and information received in accordance with the provisions of this **Attachment 4**, and all applicable state and federal laws.

ATTACHMENT 5 – STATE CONFIDENTIALITY STATEMENT

Debit Card Vendor



STATE OF CALIFORNIA
Franchise Tax Board

Confidentiality Statement

I, _____, an employee or contractor of _____,
Print Your Name Print Your State Agency or Company Name

hereby acknowledge that confidential information is protected from disclosure by law, regulation, and policy. I further acknowledge that protecting confidential information is in the public's interest, the state's interest, and my own personal interest.

- I, _____
Initials
- acknowledge that I have completed the mandated information security and privacy training and awareness program per State Administrative Manual (SAM) 5320 and the requirements of Internal Revenue Service (IRS) Publication 1075, Section 6.3, provided by my employer/organization within the last 12 months, reviewed the Information Security Requirements for Employees and Contractors with Access to Confidential Information pamphlet, and reviewed the confidentiality and information security requirements of my employer/organization before accessing information assets of my department and of other departments to which I have access.
- I, _____
Initials
- acknowledge that as a state employee, supplemental employee, contractor, or Board Member, I am required to know whether information I have been granted access to is classified as public, sensitive, personal, or confidential. If I have any questions, then I will contact my manager/supervisor, the Information Security Office, or the Disclosure Office.
- I, _____
Initials
- acknowledge that wrongful access, inspection, acquisition, use, disclosure, modification, removal, or destruction of confidential information is a crime under state and federal laws applicable to the data involved, including but not limited to: California Government Code Sections 15619, 15570.84, 90005 and 91000; California Revenue and Taxation Code Sections 7056.5, 9255, 30455, 19542, 19542.1, and 19552; California Penal Code Section 502; California Public Contract Code Section 10426; California Unemployment Insurance Code Sections 1094, 2111, and 2714; California Civil Code Sections 1798.53 and 1798.55; California Vehicle Code Sections 1808.45 and 1808.46; Health Insurance Portability and Accountability Act; 26 United States Code Sections 6103, 7213, 7213A, and 7431; 20 Code of Federal Regulations Part 603 (beginning with Section 603.1); and 18 United States Code Section 1030.
- I, _____
Initials
- acknowledge that wrongful access, inspection, acquisition, use, disclosure, modification, removal, or destruction of confidential information, including my own, or any attempt to engage in such acts, can result in administrative disciplinary action, including but not limited to, reprimand, suspension without pay, salary reduction, demotion, dismissal from state service, fines and penalties that result from criminal prosecution or civil lawsuits, forfeiture of pension benefits, and/or termination of contract.
- I, _____
Initials
- agree to protect the following types of confidential information:
- Tax account information.
 - Taxpayer and fee payer information.
 - Federal Tax Information (FTI).
 - IRS, Social Security Administration (SSA), Federal Office of Child Support Enforcement, and other agency/entity confidential and proprietary information.
 - Medical Information and Health Insurance Information.
 - Human Resources/Personnel Records.
 - California Driver License, State Identification Card, or information collected through an automated license plate recognition system.
 - Past or present claimant, employer, and employment information (including wage data).
 - National Directory of New Hires Information.
 - Information about individuals that:
 - Relates to their personal life, financial accounts, education, criminal history, or online accounts.
 - Identifies them.
 - Describes them.
 - Would constitute an unwarranted invasion of personal privacy if disclosed.
 - Criteria used for initiating audit selection, including audit techniques and strategies.
 - How my own employer/organization's automated systems operate.
 - Methods agencies use to safeguard their information, including computer systems, networks, server configurations, etc.
 - Any other information that is considered proprietary, copyrighted, or otherwise protected by law or contract.
 - Validation information, such as a user ID/password, security questions, biometric data, etc.
- I, _____
Initials
- agree to protect confidential information in the following ways:
- Access, inspect, acquire, use, disclose, modify, remove, or destroy information only for the purpose of performing official duties.
 - Never access, inspect, acquire, use, disclose, modify, remove, or destroy information for curiosity, personal gain, or any nonbusiness-related reason.
 - Secure confidential information in approved locations.
 - Destroy confidential information by approved methods.
 - Never remove personal, confidential, or sensitive information from my worksite without authorization.
 - Follow encryption requirements for all personal, sensitive, or confidential information on any portable device or media.
 - Never use personal devices, including but not limited to, cameras, video recorders, portable electronic devices, cameras, such as iPods, iPads, tablets, or mobile/smartphones, in the workplace to capture or record confidential information, including that which appears in the background in work areas.
 - Only use authorized state-business devices to capture or record confidential information when there is a business need and in accordance with individual Department guidelines.
 - Never post agency/entity confidential or proprietary information to social media, networking, or other public websites.

ATTACHMENT 5 – STATE CONFIDENTIALITY STATEMENT
Debit Card Vendor

- I, _____
Initials
- expressly consent to the monitoring of my access to personal, confidential or sensitive information stored, displayed on, processed, or transmitted by a computer, computer system, or network by the:
- California Department of Tax and Fee Administration
 - Employment Development Department
 - Franchise Tax Board
 - Internal Revenue Service
 - State Board of Equalization
 - Department of Motor Vehicles
 - Any other designated state agency
- I, _____
Initials
- certify that I understand information security is strictly enforced and wrongful access, inspection, acquisition, use, disclosure, modification, removal, or destruction of confidential information is punishable as a crime and/or can result in disciplinary and/or civil action.
- I, _____
Initials
- certify that I understand the security policy and procedures for safeguarding IRS or SSA information, including, but not limited to, FTI.
- I, _____
Initials
- certify that I understand that immediately upon discovering a possible improper inspection or disclosure of confidential information, including breaches and security incidents, I must follow the proper incident reporting requirements.
- I, _____
Initials
- certify that I understand that immediately upon discovering a possible improper inspection or disclosure of FTI, including breaches and security incidents, I must follow the proper incident reporting requirements to ensure the Office of Safeguards and the Treasury Inspector General for Tax Administration (TIGTA) are immediately notified.
- I, _____
Initials
- certify that I understand that even after my employment has ended or the contract with my employer has been terminated, the disclosure requirements and penalties still apply, and I am prohibited by law from disclosing confidential information to others.

If I choose to initial or sign this form electronically, I agree that my electronic initials or signature are legally binding equivalents to my handwritten initials and signature on a paper form.

Print Employee/Contractor Name	Employee/Contractor Signature	Date
Print Agency/Company Name		

I certify that I reviewed and discussed this *Confidentiality Statement* with the employee and answered all questions

Print Supervisor Name	
Supervisor Signature	Date

Employee Privacy Notice on Collection

Our privacy notice for employees can be found in the annual Privacy, Security, and Disclosure Training or on the Intranet. Go to FTBNet and search for **1131H** to locate FTB 1131H, *Employee Privacy Notice on Collection*. To request this notice by mail, call 916.845.3650 to reach the Personnel Office.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

1. **Definitions:** Unless otherwise specified in the Statement of Work, the following terms shall be given the meaning shown, unless context requires otherwise.
- a) **“Acceptance Tests”** means those tests performed during the Performance period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.
 - b) **“Application Program”** means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.
 - c) **“Attachment”** means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment manufacturer that is not connected by the Contractor.
 - d) **“Business entity”** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability company, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
 - e) **“Buyer”** means the State’s authorized contracting official.
 - f) **“Commercial Hardware”** means Hardware developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
 - g) **“Commercial Software”** means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
 - h) **“Contract”** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
 - i) **“Custom Software”** means Software that does not meet the definition of Commercial Software.
 - j) **“Contractor”** means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with “supplier”, “vendor” or other similar term.
 - k) **“Data Processing Subsystem”** means a complement of Contractor furnished individual Machines, including the necessary controlling elements (or the functional equivalent), Operating Software and Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor supplied power and/or signal

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

cables, e.g., direct access controller and drives, a cluster of terminals with their controller, etc.

- l) **“Data Processing System (System)”** means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors), Operating Software which are acquired to operate as an integrated group.
- m) **“Deliverables”** means Goods, Software, Information Technology, telecommunications technology, Hardware, and other items (e.g., reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.
- n) **“Designated CPU(s)”** means for each product, if applicable, the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific “Designated CPU(s)” are specified on the Contract, the term shall mean any and all CPUs located at the site specified therein.
- o) **“Documentation”** means manuals and other printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Work Product if such materials are required by the Statement of Work.
- p) **“Equipment”** is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software (if any).
- q) **“Equipment Failure”** is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment’s intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment’s intended functions shall be deemed to be an Equipment Failure.
- r) **“Facility Readiness Date”** means the date specified in the Statement of Work by which the State must have the site prepared and available for Equipment delivery and installation.
- s) **“Goods”** means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).
- t) **“Hardware”** usually refers to computer Equipment and is contrasted with Software. See also Equipment.
- u) **“Installation Date”** means the date specified in the Statement of Work by which the Contractor must have the ordered Equipment ready (certified) for use by the State.
- v) **“Information Technology”** includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

- w) **“Machine”** means an individual unit of Data Processing System or Subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc.
- x) **“Machine Alteration”** means any change to a Contractor-supplied Machine which is not made by the Contractor, and which results in the Machine deviating from its physical, mechanical, electrical, or electronic (including microcode) design, whether or not additional devices or parts are employed in making such change.
- y) **“Maintenance Diagnostic Routines”** means the diagnostic programs customarily used by the Contractor to test Equipment for proper functioning and reliability.
- z) **“Manufacturing Materials”** means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.
- aa) **“Mean Time Between Failure (MTBF)”** means the average expected or observed time between consecutive failures in a System or component.
- bb) **“Mean Time to Repair (MTTR)”** means the average expected or observed time required to repair a System or component and return it to normal operation.
- cc) **“Operating Software”** means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
- dd) **“Operational Use Time”** means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operational Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.
- ee) **“Period of Maintenance Coverage”** means the period of time, as selected by the State, during which maintenance services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.
- ff) **“Preventive Maintenance”** means that maintenance, performed on a scheduled basis by the Contractor, which is designed to keep the Equipment in proper operating condition.
- gg) **“Principal Period of Maintenance”** means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.
- hh) **“Programming Aids”** means Contractor-supplied programs and routines executable on the Contractor’s Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

management systems, and utility routines (tape-to-disk routines, disk-to-print routines, etc.).

- ii) **“Program Product”** means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.
- jj) **“Remedial Maintenance”** means that maintenance performed by the Contractor which results from Equipment (including Operating Software) failure, and which is performed as required, i.e., on an unscheduled basis.
- kk) **“Software”** means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.
- ll) **“Software Failure”** means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.
- mm) **“State”** means the government of the State of California, its employees, and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.
- nn) **“System”** means the complete collection of Hardware, Software, and services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.
- oo) **“U.S. Intellectual Property Rights”** means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

2. CONTRACT FORMATION:

- a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor’s bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
- b) If this Contract results from a solicitation other than described in paragraph a), above, the Contractor’s quotation or proposal is deemed a firm offer and this Contract document is the State’s acceptance of that offer.
- c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.

3. COMPLETE INTEGRATION: This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

4. **SEVERABILITY:** The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
 - a) The State and the Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California. The Contractor agrees to indemnify the State against any loss, cost, damage, or liability by reason of the Contractors violation of this provision.
 - b) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - c) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
 - d) If this Contract is in excess of \$554,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
 - e) To the extent that this Contract falls within the scope of Government Code Section 11135, the Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.
8. **CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, the Contractor avers that it will not enter into any

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

arrangement with any third-party which might abridge any rights of the State under this Contract.

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

- 9. ASSIGNMENT:** This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. The State's consent shall not be unreasonably withheld or delayed. For the purpose of this paragraph, the State will not unreasonably prohibit the Contractor from freely assigning its right to payment, provided that the Contractor remains responsible for its obligations hereunder.
- 10. WAIVER OF RIGHTS:** Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.
- 11. ORDER OF PRECEDENCE:** In the event of any inconsistency between the articles, attachments, specifications, or provisions which constitute this Contract, the following order of precedence shall apply:
- a) These General Provisions – Information Technology (In the instances provided herein where the paragraph begins: "Unless otherwise specified in the Statement of Work" provisions specified in the Statement of Work replacing these paragraphs shall take precedence over the paragraph referenced in these General Provisions);
 - b) Contract form, i.e., Purchase Order STD 65, Standard Agreement STD 213, etc., and any amendments thereto;
 - c) Other Special Provisions;
 - d) Statement of Work, including any specifications incorporated by reference herein;
 - e) Cost worksheets; and
 - f) All other attachments incorporated in the Contract by reference.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

12. PACKING AND SHIPMENT:

- a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
 - i. show the number of the container and the total number of containers in the shipment; and
 - ii. the number of the container in which the packing sheet has been enclosed.
- b) All shipments by the Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.
- c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

13. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES: No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.

- a) The Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.
- b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
- c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, the Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

14. DELIVERY: The Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If the Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess Deliverables and may return them to Contractor at the Contractor's expense or utilize any other rights available to the State at law or in equity.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

15. SUBSTITUTIONS: Substitution of Deliverables may not be tendered without advance written consent of the Buyer. The Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.

16. INSPECTION, ACCEPTANCE AND REJECTION: Unless otherwise specified in the Statement of Work:

- a) When acquiring Commercial Hardware or Commercial Software, the State shall rely on Contractor's existing quality assurance system as a substitute for State inspection and testing. For all other acquisitions, Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and services under this Contract and will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. The Contractor will keep records evidencing inspections and their result and will make these records available to the State during Contract performance and for three years after final payment. The Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of the Contractor's quality assurance System or other similar business practices related to performance of the Contract.
- b) All Deliverables may be subject to inspection and test by the State or its authorized representatives.
- c) The Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. The Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d) Subject to subsection 16 (a) above, all Deliverables may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
- e) The State shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the Deliverables do not substantially conform to their specifications. If the State does not provide such notice of rejection within fifteen (15) days of delivery for purchases of Commercial Hardware or Commercial Software or thirty (30) days of delivery for all other purchases, such Deliverables and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.
- f) Unless otherwise specified in the Statement of Work, title to Equipment shall remain with the Contractor and assigns, if any, until such time as successful acceptance testing has been achieved. Title to a special feature installed on a Machine and for which only a

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

single installation charge was paid shall pass to the State at no additional charge, together with title to the Machine on which it was installed.

17. SAMPLES:

- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the Contract.
- b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at the Contractor's expense.

18. WARRANTY:

- a) Unless otherwise specified in the Statement of Work, the warranties in this subsection a) begin upon delivery of the goods or services in question and end one (1) year thereafter. The Contractor warrants that (i) Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Statement of Work directly or by reference, the Contractor will warrant that its Deliverables provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, the Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.
- b) The Contractor warrants that Deliverables furnished hereunder (i) will be free, at the time of delivery, of harmful code (i.e., computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, the Contractor will, upon the State's request, provide a new or clean install of the Software.
- c) Unless otherwise specified in the Statement of Work:
 - i. The Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.
 - ii. The Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by the Contractor, (B) use of Software in combination with or on products other than as specified by the Contractor, or (C) misuse by the State.
 - iii. Where the Contractor resells Commercial Hardware or Commercial Software it purchased from a third-party, Contractor, to the extent it is legally able to do so,

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

will pass through any such third-party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth above.

- d) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.
- e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and the Contractor's sole obligation will be limited to:
 - i. re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or service; or
 - ii. should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or services of equivalent capability, function, and performance. The payment obligation in subsection (e)(ii) above will not exceed the limits on the Contractor's liability set forth in the Section entitled "Limitation of Liability."
- f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, THE CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

19. SAFETY AND ACCIDENT PREVENTION: In performing work under this Contract on State premises, the Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. The Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

20. INSURANCE: The Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance required under the Contract. The Contractor shall furnish insurance certificate(s) evidencing required insurance coverage acceptable to the State, including endorsements showing the State as an "additional insured" if required under the Contract. Any required endorsements requested by the State must be separately provided; merely referring to such coverage on the certificates(s) is insufficient for this purpose. When performing work on state owned or controlled property, Contractor shall provide a waiver of subrogation in favor of the State for its workers' compensation policy.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

21. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to affect such continued payment are not appropriated, the Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any services supplied to the State under this Contract, and relieve the State of any further obligation thereof.
- b) The State agrees that if it appears likely that subsection a) above will be invoked, the State and Contractor shall agree to take all reasonable steps to prioritize work and Deliverables and minimize the incurrence of costs prior to the expiration of funding for this Contract.
- c) THE STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, COMMERCIAL HARDWARE AND SOFTWARE THAT HAS NOT BEEN PAID FOR SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. THE STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO THE CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

22. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - i. Stop work as specified in the Notice of Termination.
 - ii. Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continuing portion of the Contract.
 - iii. Terminate all subcontracts to the extent they relate to the work terminated.
 - iv. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts.
- c) After termination, the Contractor shall submit a final termination settlement proposal to the State in the form and with the information prescribed by the State. The Contractor shall submit the proposal promptly, but no later than 90 days after the effective date of termination, unless a different time is provided in the Statement of Work or in the Notice of Termination.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

- d) The Contractor and the State may agree upon the whole or any part of the amount to be paid as requested under subsection (c) above.
- e) Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience, the State will pay the Contractor the following amounts; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed:
 - i. The Contract price for Deliverables or services accepted or retained by the State and not previously paid for, adjusted for any savings on freight and other charges; and
 - ii. The total of:
 - A. The reasonable costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but excluding any cost attributable to Deliverables or services paid or to be paid;
 - B. The reasonable cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract; and
 - C. Reasonable storage, transportation, demobilization, unamortized overhead and capital costs, and other costs reasonably incurred by the Contractor in winding down and terminating its work.
- f) The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

23. TERMINATION FOR DEFAULT:

- a) The State may, subject to the clause titled “Force Majeure” and to sub-section d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
 - i. Deliver the Deliverables or perform the services within the time specified in the Contract or any amendment thereto;
 - ii. Make progress, so that the lack of progress endangers performance of this Contract; or
 - iii. Perform any of the other provisions of this Contract.
- b) The State’s right to terminate this Contract under sub-section a) above, may be exercised only if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State’s cure notice, which in no event will be less than fifteen (15) days, unless the Statement of Work calls for a different period.
- c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire, under terms and in the manner the Buyer considers appropriate, Deliverables or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Deliverables and services, including without limitation costs third-

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

party vendors charge for Manufacturing Materials (but subject to the clause entitled “Limitation of Liability”). However, the Contractor shall continue the work not terminated.

- d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed by the Buyer, any:
 - i. completed Deliverables,
 - ii. partially completed Deliverables, and,
 - iii. subject to provisions of sub-section e) below, Manufacturing Materials related to the terminated portion of this Contract. Nothing in this sub-section d) will be construed to grant the State rights to Deliverables that it would not have received had this Contract been fully performed. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.
- e) The State shall pay Contract price for completed Deliverables delivered and accepted and items the State requires the Contractor to transfer under section (d) above. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and Buyer shall attempt to agree on the amount of payment for Manufacturing Materials and other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will constitute a dispute under the Disputes clause. The State may withhold from these amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- f) If, after termination, it is determined by a final decision that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) Both parties, State and Contractor, upon any termination for default, have a duty to mitigate the damages suffered by it.
- h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract and are subject to the clause titled “Limitation of Liability.”

24. FORCE MAJEURE: Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

25. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

- a) In the event any Deliverables furnished, or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.
- b) In addition to any other rights and remedies the State may have, the State may require the Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.
- c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor (but subject to the clause entitled "Limitation of Liability").
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to the Contractor or to make a claim against the Contractor.

26. LIMITATION OF LIABILITY:

- a) Except as may be otherwise approved by the Department of General Services Deputy Director, Procurement Division or their designee, Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price. For purposes of this sub-section a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that the Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply (i) to any liability under the General Provisions entitled "Compliance with Statutes and Regulations"; (ii) to liability under the General Provisions, entitled "Patent, Copyright, and Trade Secret Indemnity" or to any other liability (including without limitation indemnification obligations) for infringement of third-party intellectual property rights; (iii) to claims arising under provisions herein calling for indemnification for third-party claims against the State for death, bodily injury to persons or damage to real or tangible personal property caused by the Contractor's negligence or willful misconduct; or (iv) to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action.
- c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

- d) In no event will either the Contractor or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that the Contractor's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that the Contractor's liability for such damages arises out of sub- section b)(i), b)(ii), or b)(iv) above.

27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a) The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
- b) The Contractor shall not be liable for damages arising out of or caused by an alteration or an Attachment not made or installed by the Contractor, or for damage to alterations or Attachments that may result from the normal operation and maintenance of the Deliverables provided by the Contractor during the Contract.

28. INDEMNIFICATION: The Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third-party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of the Contractor or any of its affiliates, agents, subcontractors, employees, suppliers, or laborers furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

- 29. INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the Contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.
- 30. REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of Deliverables or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
- 31. TAXES:** Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.
- 32. NEWLY MANUFACTURED GOODS:** All Goods furnished under this Contract shall be newly manufactured Goods or certified as new and warranted as new by the manufacturer; used or reconditioned Goods are prohibited, unless otherwise specified.
- 33. CONTRACT MODIFICATION:** No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.
- 34. CONFIDENTIALITY OF DATA:** All financial statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the state and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession without obligation of confidentiality, is independently developed by the Contractor outside the scope of this Contract or is rightfully obtained from third parties.
- 35. NEWS RELEASES:** Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Contract shall not be made without prior written approval of the Department of General Services.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

36. DOCUMENTATION:

- a) The Contractor agrees to provide to the State, at no charge, all Documentation as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the Equipment or Software provided hereunder. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.
- b) If the Contractor is unable to perform maintenance or the State desires to perform its own maintenance on Equipment purchased under this Contract, then upon written notice by the State the Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the State to maintain the Equipment based on the Contractor's methodology. The Contractor agrees that the State may reproduce such Documentation for its own use in maintaining the Equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the State may have hired to maintain the Equipment to use the above noted Documentation. The State agrees to include the Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by the Contractor.

37. RIGHTS IN WORK PRODUCT:

- a) All inventions, discoveries, intellectual property, technical communications, and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including the Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be the Contractor's exclusive property. The provisions of this sub-section a) may be revised in a Statement of Work.
- b) Software and other materials developed or otherwise obtained by or for the Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If the Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Section 37 will be construed to interfere with the Contractor's or its affiliates' ownership of Pre-Existing Materials.
- c) The State will have Government Purpose Rights to the Work Product as Deliverable or delivered to the State hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights, and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any State government purpose. Such recipients of the Work Product may include, without limitation, State Contractors,

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

California local governments, the U.S. federal government, and the State and local governments of other states. “Government Purpose Rights” do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.

- d) The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by the Contractor or jointly by the Contractor and the State may be used by either party without obligation of notice or accounting.
- e) This Contract shall not preclude the Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

38. SOFTWARE LICENSE: Unless otherwise specified in the Statement of Work, the Contractor hereby grants to the State and the State accepts from the Contractor, subject to the terms and conditions of this Contract, a perpetual, irrevocable, royalty-free, non-exclusive, license to use the Software Products in this Contract (hereinafter referred to as “Software Products”).

- a) The State may use the Software Products in the conduct of its own business, and any division thereof.
- b) The license granted above authorizes the State to use the Software Products in machine-readable form on the Computer System located at the site(s) specified in the Statement of Work. Said Computer System and its associated units (collectively referred to as CPU) are as designated in the Statement of Work. If the designated CPU is inoperative due to malfunction, the license herein granted shall be temporarily extended to authorize the State to use the Software Products, in machine-readable form, on any other State CPU until the designated CPU is returned to operation.
- c) By prior written notice, the State may redesignate the CPU in which the Software Products are to be used provided that the redesignated CPU is substantially similar in size and scale at no additional cost. The redesignation shall not be limited to the original site and will be effective upon the date specified in the notice of redesignation.
- d) Acceptance of Commercial Software (including third-party Software) and Custom Software will be governed by the terms and conditions of this Contract.

39. PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA:

- a) The State agrees that all material appropriately marked or identified in writing as proprietary and furnished hereunder are provided for the State’s exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of the Contractor. The State agrees to take all reasonable steps to ensure that such proprietary data are not disclosed to others, without prior written consent of the Contractor, subject to the California Public Records Act.
- b) The State will ensure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed.
- c) The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to licensed software and other

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

proprietary data to satisfy its obligations in this Contract with respect to use, copying, modification, protection and security of proprietary software and other proprietary data.

40. RIGHT TO COPY OR MODIFY:

- a) Any Software Product provided by the Contractor in machine-readable form may be copied, in whole or in part, in printed or machine-readable form for use by the State with the designated CPU, to perform one-time benchmark tests, for archival or emergency restart purposes, to replace a worn copy, to understand the contents of such machine-readable material, or to modify the Software Product as provided below; provided, however, that no more than the number of printed copies and machine-readable copies as specified in the Statement of Work will be in existence under this Contract at any time without prior written consent of the Contractor. Such consent shall not be unreasonably withheld by the Contractor. The original, and any copies of the Software Product, in whole or in part, which are made hereunder shall be the property of the Contractor.
- b) The State may modify any non-personal computer Software Product, in machine-readable form, for its own use and merge it into other program material. Any portion of the Software Product included in any merged program material shall be used only on the designated CPUs and shall be subject to the terms and conditions of the Contract.

41. FUTURE RELEASES: Unless otherwise specifically provided in this Contract, or the Statement of Work, if improved versions, e.g., patches, bug fixes, updates, or releases, of any Software Product are developed by the contractor, and are made available to other licensees, they will be made available to the State at no additional cost only if such are made available to other licensees at no additional cost. If the Contractor offers new versions or upgrades to the Software Product, they shall be made available to the State at the State's option at a price no greater than the Contract price plus a price increase proportionate to the increase from the list price of the original version to that of the new version, if any. If the Software Product has no list price, such price increase will be proportionate to the increase in average price from the original to the new version, if any, as estimated by the Contractor in good faith.

42. ENCRYPTION/CPU ID AUTHORIZATION CODES:

- a) When Encryption/CPU Identification (ID) authorization codes are required to operate the Software Products, the Contractor will provide all codes to the State with delivery of the Software.
- b) In case of inoperative CPU, the Contractor will provide a temporary encryption/CPU ID authorization code to the State for use on a temporarily authorized CPU until the designated CPU is returned to operation.
- c) When changes in designated CPUs occur, the State will notify the Contractor via telephone and/or facsimile/e-mail of such change. Upon receipt of such notice, the Contractor will issue via telephone and/or facsimile/e-mail to the State within 24 hours, a temporary encryption ID authorization code for use on the newly designated CPU until such time as permanent code is assigned.

43. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY:

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

- a) Contractor will indemnify, defend, and save harmless the State, its officers, agents, and employees, from any and all third-party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Right by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third-party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such third-party ("Third-Party Obligation") and will cooperate in enforcing them; provided that if the third-party manufacturer fails to honor the Third-Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third-Party Obligation, but in no event greater than that called for in the first sentence of this Section). The provisions of the preceding sentence apply only to third-party computer Hardware or Software sold as a distinct unit and accepted by the State.

Unless a Third-Party Obligation provides otherwise, the defense and payment obligations set forth in this Section will be conditional upon the following:

- i. The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - ii. The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (a) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (b) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise which approval will not unreasonably be withheld or delayed; and (c) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Should the Deliverables, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall permit the Contractor, at its option and expense, either to procure for the State the right to continue using the Deliverables, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Deliverables by the State shall be prevented by injunction the Contractor agrees to take back such Deliverables and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other Deliverables acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

Deliverables and refund any sums the State has paid the Contractor less any reasonable amount for use or damage.

- c) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
 - i. The combination or utilization of Deliverables furnished hereunder with Equipment, Software, or devices not made or furnished by the Contractor; or,
 - ii. The operation of Equipment furnished by the Contractor under the control of any Operating Software other than, or in addition to, the current version of Contractor-supplied Operating Software; or
 - iii. The modification initiated by the State, or a third-party at the State's direction, of any Deliverable furnished hereunder; or
 - iv. The combination or utilization of Software furnished hereunder with non-contractor supplied Software.
- d) The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation, or maintenance of computer Software in violation of copyright laws.

44. DISPUTES:

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Contractor shall submit to the contracting Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. The contracting Department Director or designee shall have 30 days after receipt of Contractor's written demand invoking this Section "Disputes" to render a written decision. If a written decision is not rendered within 30 days after receipt of the Contractor's demand, it shall be deemed a decision adverse to the Contractor's contention. If the Contractor is not satisfied with the decision of the contracting Department Director or designee, the Contractor may appeal the decision, in writing, within 15 days of its issuance (or the expiration of the 30 day period in the event no decision is rendered by the contracting department), to the Department of General Services, Deputy Director, Procurement Division, who shall have 45 days to render a final decision. If the Contractor does not appeal the decision of the contracting Department Director or designee, the decision shall be conclusive and binding regarding the dispute and the Contractor shall be barred from commencing an action in court, or with the Victims Compensation Government Claims Board, for failure to exhaust Contractor's administrative remedies.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

- b) Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the State's instructions regarding this Contract. Contractor's failure to diligently proceed in accordance with the State's instructions regarding this Contract shall be considered a material breach of this Contract.
- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Deputy Director, Procurement Division if an appeal was made. If the Deputy Director, Procurement Division fails to render a final decision within 45 days after receipt of the Contractor's appeal for a final decision, it shall be deemed a final decision adverse to the Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- d) For disputes involving purchases made by the Department of General Services, Procurement Division, the Contractor shall submit to the Department Director or designee a written demand for a final decision, which shall be fully supported in the manner described in subsection a) above. The Department Director or designee shall have 30 days to render a final decision. If a final decision is not rendered within 30 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contention. The final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- e) The dates of decision and appeal in this section may be modified by mutual consent, as applicable, excepting the time to commence an action in a court of competent jurisdiction.

45. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period up to 45 days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 45 days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
 - i. Cancel the Stop Work Order; or
 - ii. Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
 - i. The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
 - ii. The Contractor asserts its right to an equitable adjustment within 60 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Contractor for loss of profits because of a Stop Work Order issued under this clause.

46. EXAMINATION AND AUDIT: The Contractor agrees that the State or its designated representative shall have the right to review and copy any records and supporting documentation directly pertaining to performance of this Contract. The Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment unless a longer period of records retention is stipulated. The Contractor agrees to allow the auditor(s) access to such records during normal business hours and in such a manner so as to not interfere unreasonably with normal business activities and to allow interviews of any employees or others who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract. The State shall provide reasonable advance written notice of such audit(s) to the Contractor.

47. FOLLOW-ON CONTRACTS:

- a) If the Contractor or its affiliates provides Technical Consulting and Direction (as defined below), the Contractor and its affiliates:
 - i. will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction; and
 - ii. will not act as consultant to any person or entity that does receive a Contract described in sub-section (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.
- b) "Technical Consulting and Direction" means services for which the Contractor received compensation from the State and includes:

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

- i. development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;
 - ii. development or design of test requirements;
 - iii. evaluation of test data;
 - iv. direction of or evaluation of another Contractor;
 - v. provision of formal recommendations regarding the acquisition of Information Technology products or services; or
 - vi. provisions of formal recommendations regarding any of the above. For purposes of this Section, “affiliates” are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.
- c) To the extent permissible by law, the Director of the Department of General Services, or designee, may waive the restrictions set forth in this Section by written notice to the Contractor if the Director determines their application would not be in the State’s best interest. Except as prohibited by law, the restrictions of this Section will not apply:
 - i. to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
 - ii. where the State has entered into a master agreement for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor’s own products.
- d) The restrictions set forth in this Section are in addition to conflict-of-interest restrictions imposed on public Contractors by California law (“Conflict Laws”). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

48. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with PCC Section 10353.

49. COVENANT AGAINST GRATUITIES: The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

50. NONDISCRIMINATION CLAUSE:

- a) During the performance of this Contract, the Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. The Contractor and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. The Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- b) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

51. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: The Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.

52. ASSIGNMENT OF ANTITRUST ACTIONS: Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of Goods, material or other items, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
- b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

- c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
 - i. the assignee has not been injured thereby, or
 - ii. the assignee declines to file a court action for the cause of action.

53. DRUG-FREE WORKPLACE CERTIFICATION: The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) 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 Government Code Section 8355(a).
- b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace;
 - ii. the person's or organization'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.
- c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
 - i. will receive a copy of the company's drug-free policy statement; and,
 - ii. will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

54. FOUR-DIGIT DATE COMPLIANCE: Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

55. SWEATFREE CODE OF CONDUCT:

- a) Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the Contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

- b) The Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine the Contractor's compliance with the requirements under paragraph (a).

56. RECYCLED CONTENT REQUIREMENTS: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material (as defined in the Public Contract Code (PCC) Section 12200-12209), in products, materials, goods, or supplies offered or sold to the State that fall under any of the statutory categories regardless of whether the product meets the requirements of Section 12209. The certification shall be provided by the contractor, even if the product or good contains no postconsumer recycled material, and even if the postconsumer content is unknown. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205 (b)(2)). A state agency contracting officer may waive the certification requirements if the percentage of postconsumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet web site. Contractors are to use, to the maximum extent economically feasible in the performance of the contract work, recycled content products (PCC 12203(d)).

57. CHILD SUPPORT COMPLIANCE ACT: For any Contract in excess of \$100,000, the Contractor acknowledges in accordance with PCC Section 7110, that:

- a) The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b) The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

58. AMERICANS WITH DISABILITIES ACT: The Contractor assures the State that the Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

59. ELECTRONIC WASTE RECYCLING ACT OF 2003: The Contractor certifies that it complies with the applicable requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code. The Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

60. USE TAX COLLECTION: In accordance with PCC Section 10295.1, the Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise the State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.

61. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1 and is eligible to contract with the State.

62. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that the contractor is in compliance with Public Contract Code Section 10295.3.

63. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- a) If for this Contract the Contractor made a commitment to achieve small business participation, then the Department requires the Contractor upon completion of this Contract (or within such other time period as may be specified elsewhere in this Contract) to report the actual percentage of small business participation that was achieved. (Govt. Code § 14841)
- b) If for this Contract the Contractor made a commitment to achieve the disabled veteran business enterprise (DVBE) participation goal, then, pursuant to Mil. & Vets. Code § 999.5(d), upon completion of this Contract, the Department requires the Contractor to certify using the Prime Contractor's Certification – DVBE Subcontracting Report (STD 817), all of the following:
 - i. the total amount the prime Contractor received under the Contract;
 - ii. the name, address, Contract number and certification ID number of the DVBE(s) that participated in the performance of this Contract;
 - iii. the amount and percentage of work the prime Contractor committed to provide to one or more DVBE(s) under the requirements of the Contract and the total payment each DVBE received from the prime Contractor;
 - iv. that all payments under the Contract have been made to the DVBE(s); and
 - v. the actual percentage of DVBE participation that was achieved. Upon request, the prime Contractor shall provide proof of payment for the work.

If for this Contract the Contractor made a commitment to achieve the DVBE participation goal, the Department will withhold \$10,000 from the final payment, or the full final payment if less than \$10,000, until the Contractor complies with the certification requirements above. A Contractor that fails to comply with the certification requirement shall, after written notice, be allowed to cure the defect. Notwithstanding any other law, if, after at least 15 calendar days but not more than 30 calendar days from the date of written notice, the prime contractor refuses to comply with the certification requirements, the Department shall permanently deduct \$10,000 from the final payment, or the full payment if less than \$10,000. (Mil. & Vets. Code § 999.7)

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841)

Contractor agrees to comply with the rules, regulations, ordinances, and statutes that apply to the DVBE program as defined in Section 999 of the Mil. & Vets. Code, including, but not limited to, the requirements of Section 999.5(d). (PCC Code § 10230)

64. LOSS LEADER: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 12104.5(b)).