

Exhibit C –General Terms and Conditions (GTC 307 As Modified)

1. APPROVAL:

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. ENTIRE AGREEMENT; AMENDMENT:

This Agreement constitutes and contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any prior oral or written agreements. Each party acknowledges and agrees that the other has not made any representations, warranties or agreements of any kind or nature, except as expressly set forth herein. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT:

This Agreement is not assignable by the other party, either in whole or in part, without the consent of the other party in the form of a formal written amendment, provided, however, upon notification to DGS Contractor Manager, Contractor can assign any or all of its rights or delegate any or all of its obligations to an affiliate or an entity acquiring all or substantially all of the assets of Contractor.

4. AUDIT:

Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review any records and supporting documentation pertaining to the performance of this Agreement. 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. Contractor agrees to allow the auditor(s) access to such records during normal business hours upon advance notice.

5. INDEMNIFICATION:

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any third party claims arising out of or in connection with Contractor's (its affiliates, employees, agents or representatives) (i) gross negligence or willful misconduct; (ii) breach of this Agreement; or (iii) actual infringement of any

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patent, copyright, trademark, service mark, trade secret or other proprietary right of a third party by the Contractor System or Services, except to the extent such claim is caused by, relates to or arises out of (a) State's failure to use the Contractor System or Services as permitted under this Agreement; or (b) State's use, assembly, configuration, operation, or combination of all or any part of the Contractor System, the Services, or any element, step, component, process, system, or portion of the Contractor System or the Services with all or any part of other software, equipment, services, processes, elements, steps, components, or systems not provided by Contractor or not expressly approved in writing by Contractor's intellectual property counsel and used as expressly approved by Contractor. Contractor will not indemnify State for Claims arising from any errors or omissions in any or non-compliance of information, scripts, Recipient lists, data or instructions State provides to Contractor for use in connection with the Contractor System or Services.

6. DISPUTES:

Contractor and the State shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE: (Stricken in its entirety—See Exhibit D.9)

8. INDEPENDENT CONTRACTOR:

Contractor and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State. Likewise, the State and the agents and employees of the State, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the Contractor.

9. RECYCLING CERTIFICATION:

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 Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. 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 (Pub. Contract Code §12205).

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10. NON-DISCRIMINATION CLAUSE:

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 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 Agreement by reference and made a part hereof as if set forth in full. 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.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES:

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS:

Time is of the essence in this Agreement.

13. ANTITRUST CLAIMS:

The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Code Sections set out below.

- a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public

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agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

- 2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body 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. Sec. 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, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
 - c. If an awarding body or public purchasing body 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 public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
 - d. 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 (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

14. CHILD SUPPORT COMPLIANCE ACT:

For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 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

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- 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.”

15. UNENFORCEABLE PROVISION

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

16. 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 Public Contract Code §10353.

17. GOVERNING LAW; JURISDICTION

This Agreement and all Claims shall be governed by and will be construed and enforced according to the laws of the State of California without regard to internal principles of conflicts of law. Any action by either party will be brought in the appropriate federal or state court located in the County of Sacramento, State of California. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or forum non conveniens.

18. COMPLIANCE WITH LAWS.

Each party will comply with all applicable laws, regulations, and Association rules.