

AGREEMENT NUMBER 5-08-99-03
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME
 Department of General Services
 CONTRACTOR'S NAME
 WEST PUBLISHING CORPORATION dba THOMSON/WEST
- The term of this 07/01/08 through 06/30/11
 Agreement is: **With two one year options to renew by the State**
- The maximum \$ of this Agreement
- The parties agree to comply with the terms and conditions of the following which are by this reference made a part

- Attachment 1, GTC 307 General Terms and Conditions (4 pages)
- Attachment 2, CCC 307 Contractor Certification Clauses (4 pages)
- Attachment 3, Standard 204 Payee Data Record (1 page)
- Attachment 4, Special Provisions (5 pages)
- Attachment 5, California Price Schedule (13 pages)
- Attachment 6, Westlaw Subscriber Agreement for the State of California (4 pages)

Note: In the event of any inconsistency between terms & conditions, attachments or provisions of this contract, the State General Terms and Conditions shall take precedence.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only <input type="checkbox"/> Exempt
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) WEST PUBLISHING CORPORATION dba THOMSON/WEST		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 610 OPPERMAN DRIVE EAGAN MN 55123		
STATE OF CALIFORNIA		
AGENCY NAME DEPARTMENT OF GENERAL SERVICES		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING JIM BUTLER, DEPUTY DIRECTOR		
ADDRESS 707 THIRD STREET, 2 nd FLOOR WEST SACRAMENTO, CA 95605--2811		

EXHIBIT C

GENERAL TERMS AND CONDITIONS

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. AMENDMENT: 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 Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
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 and to copy 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 and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

ATTACHMENT 1

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.

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).

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. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

ATTACHMENT 1

15. 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 Codes 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 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.

16. 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

ATTACHMENT 1

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.”

17. 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.

18. 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 Pub. Contract Code §10353.

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CCC-307

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 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.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or 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 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 the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

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

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's

Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

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ELECTRONIC LIBRARY SERVICES SPECIAL PROVISIONS

Attachment 4

PURPOSE

The Contractor agrees to Provide Electronic Library Services to interested California State, and any Local Governmental Agencies.

While the State of California makes this Master Service Agreement (MSA) available to Local Governmental Agencies, each Local Agency should make its own determination whether using it is consistent with procurement policies and regulations of the local government agency.

A Local Agency is any city, county special district or other governmental body empowered to spend public funds.

The term of this Master Service Agreement (MSA) is three (3) years, with two (2) optional one-year renewals.

CONTRACT ADMINISTRATOR

The contract administrator during the term of this agreement will be:

Steve Lower

707 Third Street, Second Floor

West Sacramento, CA 95605

Phone: 916/375-4539

Fax: 916/375-4663

E-mail: steve.lower@dgs.ca.gov

NOTICE OF NON-GUARANTEED OF ORDERS

The State makes no guarantee of orders through this Master Contract.

CONTRACTOR COLLECTION AND PAYMENT OF THE DGS MANAGEMENT FEE

The current DGS administrative fee is set at 2% of the specified percentage of invoiced sales. The said administrative fee shall be added to the contractor billing and recovered from the participants requesting use of this contract. The Contractor is required to pay to DGS the recovered administrative fee in the form of a check payable to: Department of General Services, Procurement Division, and (Multiple Award Program). The Contractors must pay the assessed administrative fee to the State of California commencing 45 days after contract start date, continual by the 15th day of each proceeding month. This service will be performed by Contractor at no additional charge to DGS or participants.

The checks should be mailed to:

State of California – DGS

Procurement Division 707 Third Street, Second Floor

P.O. Box 989054

West Sacramento, CA 95605

Attn: Steve Lower, Multiple Award Program

ELECTRONIC LIBRARY SERVICES SPECIAL PROVISIONS

Attachment 4

Contractor shall show said administrative fee as a separate line item on each Participant's monthly invoice report. Payment of the administrative fee by Contractor shall be made to DGS irrespective of reimbursement by each Participating State or Local Government Agency. DGS represents that it may at its discretion make separate arrangements with any Participating Subdivision for recovery of a DGS administrative fee on a direct payment method from any said Participants.

REPORTING REQUIREMENTS

The Contractor(s) shall deliver an invoice report of each Participant(s), "Total Participant Monthly Balance" to the Department of General Services (DGS) - Procurement Division (PD), no later than fifteenth (15) working day of the month following the invoice closing date. Each line of the report should be representing a Std. 213 in services contracting or comparable local government document and the associated invoice(s). The following report information is requested:

- a. The Contractor shall render invoices in triplicate to the name and address contained in the Exhibit B of each Std. 213.
- b. The ordering procedures will be issued after contract award(s).
- c. The Contractor shall deliver to the DGS - PD, Multiple Award Program, no later than the fifteenth (15) working day of the month following the period for which the data is compiled, a management report summarizing information for each agency and each order within the reporting period. Reports are to be provided for monthly services unless otherwise indicated by the DGS - PD. **COPIES OF ANY/ALL ORDERS WHEN REQUESTED BY THE CONTRACT ADMINISTRATOR SHALL BE PROVIDED TO THE STATE OF CALIFORNIA - DGS.**
- d. Contractor shall provide monthly reporting in an electronic file with tab delimited text accessible in Microsoft Word, Excel or Access.
- e. Contractor shall remit a monthly report to the Department of General Services for services performed under this contract. The monthly reports shall be submitted to DGS no later than the 15th Calendar day of the following month, and contain the following information:
 1. Date of each Agency transaction
 2. Customer name (department, agency, etc.)
 3. Customer address, telephone number
 4. Customer contact person (department, agency, etc.)
 5. Invoice number issued by the Contractor's firm
 6. Corresponding customer purchase order number
 7. DGS/Agency customer billing code
 8. Type of Service or Product
 9. Hourly rate
 10. Amount of the invoice
 11. Contractor payment for DGS Administrative fee total

The end of the report shall contain a cumulative summary section which recaps associated order and invoice numbers/amounts by agency.

ELECTRONIC LIBRARY SERVICES SPECIAL PROVISIONS

Attachment 4

CONTRACT RENEWAL

Contractor shall in writing request each one year optional contract extension to the DGS Contract Administrator ninety (90) days prior to the contract term date.

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices. The State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreements and Contractor shall not be obligated to perform any provision of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5 commencing with Section 927.

GENERAL TERMS AND CONDITIONS

PLEASE NOTE: This page will not be included with your final agreement. The General Terms and Conditions (GTC - 307) (Attachment 1) will be included in the agreement by referenced to Internet site: www.dgs.ca.gov/contracts .

CONTRACTOR CERTIFICATION CLAUSES

PLEASE NOTE: This page will not be included with your final agreement. The contractor Certification Clauses (CCC – 307) will be signed and completed as (Attachment 2) and will be included in the agreement by referenced to Internet site: www.dgs.ca.gov/contracts .

ELECTRONIC LIBRARY SERVICES SPECIAL PROVISIONS

Attachment 4

STANDARD 204, PAYEE DATA RECORD

PLEASE NOTE: This page will not be included with your final agreement. The contractor Payee Data Record (STD 204) will be signed and completed as (Attachment 3) and will be included in the agreement by referenced to Internet site:

<http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf>

SETTLEMENT OF DISPUTES

In the event of a dispute, Contractor shall file a "Notice of Dispute" with (Agency Name, Director or Designee Title) within ten (10) days of discovery of the problem.

- a. Except where the State has specifically retained the right in this Agreement to make the final decision on a matter which Contractor must accept as final, any dispute concerning a question of fact arising under the terms of this agreement which is not disposed of within a reasonable period of time by the Contractor and State employees normally responsible for the administration of this contract shall be brought to the attention of the Chief Executive Officer (or designated representative) of each organization for joint resolution. At the request of either party, the State shall provide a forum for discussion of the disputed item(s), at which time the Deputy Director, Procurement Division of the Department of General Services, or a representative, shall be available to assist in the resolution by providing advice to both parties as to the State of California policies and procedures. If agreement cannot be reached through the application of high level management attention, either party may assert its other rights and remedies within this contract or within a court of competent jurisdiction.
- b. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract. Contractor shall continue with the responsibilities under this Agreement during any dispute.

PRODUCT PRICE ESCALATIONS AND DECLINES

1. Price Escalation
Prices quoted shall be a firm fixed price for one (1) year starting July 1, 2008 through June 30, 2009. Prices will escalate by 2% per year starting July 1, 2009, and only one price escalation shall be allowed within any twelve (12) month period after the first year of this MSA.
2. Price Declines
Price declines shall be effective immediately upon any public notification of the decline. Should a price decline be announced by the contractor after contract award, and prior to the State utilizing the services, then the contractor shall pass the savings in total to the State of California. Any interest, finance, or other charges based on the contract price will be recomputed using the original bid rates and the differences will also be passed to the State in total.

ELECTRONIC LIBRARY SERVICES SPECIAL PROVISIONS

Attachment 4

CANCELLATION/TERMINATION

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

- a. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract.
- b. Contract termination or cancellation shall be effective as of the date indicated in the State's notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.
- c. Notwithstanding any other provision of this contract or of law, if at any time during the operation of this contract the Federal Government adopts or promulgates a policy, law or regulation prohibiting States from entering into the contractual arrangement described in this contract, this contract shall immediately become void and of no further effect, and any sums otherwise due to Contractor under the terms of this contract or by any other remedy of law for services performed under this contract shall be forfeited.
- d. If this contract is terminated by the State or the contractor, the Contractor shall be entitled to receive the agreed-upon fee under this contract for the duration of each approved Task Schedule for new federal revenues directly attributable to services of the Contractor that have been completed by the Contractor prior to termination.

Westlaw® Subscriber Agreement for the State of California



AGREEMENT entered into between **State of California – Department of General Services** (“Subscriber”) and **WEST**, a Thomson business (“West”) regarding Westlaw, its computer assisted legal research service, as follows:

1. License.

a. Grant. Subscriber is granted a non-exclusive, non-transferable, limited license to access Westlaw. Westlaw consists of various West-owned and third party databases, services, functions and remotely-accessed gateways (collectively “Features”) which may change from time to time. Access to certain Features may be restricted. Subscriber is licensed to use data made available on Westlaw (“Data,” which includes “Downloaded Data” as defined below) solely in the regular course of legal and other research and related work. Certain Features are licensed subject to paragraphs 2 through 4 or subject to “Additional Terms” (as defined below), all of which take precedence over the license granted in this paragraph. Except as otherwise provided with respect to certain Data, the license includes the right to download and temporarily store insubstantial portions of Data (“Downloaded Data”) to a storage device under Subscriber’s exclusive control solely (i) to display internally such Downloaded Data and (ii) to quote and excerpt from such Downloaded Data (appropriately cited and credited) by electronic cutting and pasting or other means in memoranda, briefs and similar work product created by Subscriber in the regular course of its research and work. Subscriber may also create printouts of Data for internal use and for distribution to third parties if such third parties agree not to further distribute the printouts. Subscriber may, on an occasional basis and via Westlaw functionality, direct West to transmit individual documents in electronic format to individual internal user(s). Direct transmission of electronic copies by Subscriber is prohibited, except as provided in the electronic brief terms of paragraph 2 herein.

b. Limitations. Subscriber may not copy, download, scrape, store, publish, transmit, retransmit, transfer, distribute, disseminate, broadcast, circulate, sell, resell or otherwise use the Data, or any portion of the Data, in any form or by any means, except (i) as expressly permitted by this Agreement, (ii) with West’s prior written permission, or (iii) if not expressly prohibited by this Agreement or by the “Additional Terms”, as allowed under the fair use provision of the Copyright Act (17 U.S.C.A. § 107). Downloaded Data shall not be stored or used in an archival database or other searchable database except as expressly permitted by this Agreement or as quoted in Subscriber’s work product. Subscriber shall not sell, license or distribute Data (including printouts and Downloaded Data) to third parties or use Data as a component of or as a basis for any material offered for sale, license or distribution.

c. Rights in Data. Except for the license granted in this Agreement, all rights, title and interest in Data, in all languages, formats and media throughout the world, including all copyrights, are and will continue to be the exclusive property of West and other contributors (“Contributors”).

d. Additional Terms. Certain third-party Features are governed by terms and conditions which are different from those set forth in this Agreement (“Additional Terms”). Subscriber will be given an opportunity to review Additional

Terms by receiving notice of such Additional Terms in writing or online. Additional Terms may be modified effective upon West giving Subscriber notice (in writing or online) of the modification. By using Features governed by Additional Terms, Subscriber agrees to, and will be obligated to comply with, all such Additional Terms as well as the terms and conditions in this Agreement. All Additional Terms will be considered part of this Agreement.

2. West Proprietary Data. Subscriber may, via Westlaw functionality, direct West to transmit West-proprietary documents (i.e., documents not licensed by West from third parties) in electronic format to internal user(s) or to a third party who is an individual if such third party agrees not to further disseminate such documents. Subscriber acknowledges its responsibility in assuring compliance with the foregoing by any third party to whom Subscriber transmits West-proprietary documents pursuant to the preceding sentence. Direct transmission of electronic copies by Subscriber is prohibited, except as provided in the electronic brief terms set forth herein. West further grants a non-exclusive, non-transferable, limited license to individual Westlaw users within Subscriber entities to store and use West-proprietary Downloaded Data (as defined above) in a searchable database maintained in connection with an ongoing project of the user (“Project Database”). Such database must consist preponderantly of users’ work product with access limited to those internal users actively working on the project. The West-proprietary Downloaded Data may be maintained in the Project Database so long as the project remains active or until any termination of this Agreement, whichever occurs first. Retention of Downloaded Data in a Project Database after the project ends, in an archival database as used as a research tool or in a database accessible to external users is prohibited. West further grants to Subscriber a limited, non-exclusive, non-transferable license to include West-proprietary Downloaded Data in briefs prepared for a specific cause of action for a specific court in an electronic format. Distribution or dissemination of such West-proprietary Downloaded Data in connection with or as part of a brief is limited to the court before which the cause of action is to be heard, the parties to the cause of action, or their representatives. Any further distribution is prohibited without written permission of West. West-proprietary Downloaded Data included in such briefs must retain West copyright notices and indicate that use of, distribution and dissemination to the permitted parties is with the permission of West.

3. West Legal Directory™. Subscriber may use Data contained in West Legal Directory (“WLD”) internally in the regular course of Subscriber’s business. Subscriber may also create printouts of insubstantial portions of Data consisting of individual WLD listings or selected names and addresses for its own use. Use of WLD to create mailing or marketing lists for commercial purposes or for distribution to third parties is prohibited.

4. Usage Restrictions. Subscriber shall not use any Data in a manner contrary to or in violation of any applicable federal, state, or local law, rule or regulation. West is not a consumer reporting agency, and Subscriber certifies that it will not use any Data as a factor in establishing a consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes, for employment purposes or for any other purpose authorized under section 1681b of the Fair Credit Reporting Act (15 U.S.C.A. § 1681b). Subscriber acknowledges that access to certain Data available on Westlaw, including but not limited to credit header Data, motor vehicle Data, driver license Data, and voter registration Data is regulated by state or federal laws, such as the Gramm Leach Bliley Act ("GLBA"), the Driver's Privacy Protection Act ("DPPA"), or other state or federal laws and regulations, or is subject to Contributor restrictions. Subscriber agrees not to access such Data for any purpose that is not allowed by the GLBA, by the DPPA, by any other applicable state or federal laws or regulations, or that is contrary to Contributor restrictions. West retains the right to temporarily or permanently block access to certain Data if West, in its sole discretion, believes that the Data may be used for an improper purpose or otherwise in violation of the terms of this Agreement, or that the terms of West's Contributor agreements requires West to block such access. By accessing Data, Subscriber acknowledges that from time to time, West and its Contributors and/or various government entities may require Subscriber to identify a permissible use and may inquire as to Subscriber's compliance with applicable laws or this Agreement. Subscriber agrees to cooperate with any inquiry, subject to any attorney-client confidentiality. Subscriber shall report to West any misuse, abuse, or compromise of Data of which Subscriber becomes aware.

5. Charges and Modification of Charges. Charges payable by Subscriber for access to Westlaw ("Westlaw Charges") will commence on the date West processes Subscriber's order. Westlaw Charges will be as stated in the Schedule A Price Plan elected by Subscriber or as otherwise agreed upon in writing by the parties. Westlaw Charges may be modified upon at least 30 days prior notice to Subscriber in writing or online. Charges are exclusive of sales, use, value added tax (VAT) or equivalent, ad valorem, personal property and other taxes, which are the responsibility of Subscriber. Subscriber will pay all invoices in full within 30 days from date of invoice. If full payment is not made, Subscriber may be charged up to the maximum legal interest on any unpaid balance or as required by the State of California Prompt Payment Act.

6. Westlaw Software and westlaw.com™.

a. **Westlaw Software.** West may make available to Subscriber, on a subscription basis, software for use in connection with Westlaw. Such software, including new versions and the accompanying user documentation, may be referred to collectively as "Software." All Software will be licensed to Subscriber under a license agreement which will accompany the Software. By using the Software and taking such other action as may be referenced in the Agreement as constituting acceptance, Subscriber agrees to be bound by the terms and conditions of the accompanying license agreement. If Subscriber does not so agree, Subscriber must return any tangible copies of the Software in its possession or control.

b. **westlaw.com.** westlaw.com is an Internet-based service that provides access to Westlaw. West grants Subscriber a non-exclusive, non-transferable, limited license to

use westlaw.com (including all versions and updates). Subscriber may not reverse engineer, decompile, disassemble or otherwise attempt to discern the source code of the components of westlaw.com nor may Subscriber reproduce all or any portion of the components of westlaw.com. Subscriber may use Data cached in Subscriber's local disk drive solely in support of its use of westlaw.com. Certain software used by Subscriber may not be capable of supporting westlaw.com. The performance of westlaw.com varies with the manufacturers' equipment with which it is used.

7. Disclaimer of Warranties and Limitation of Liability. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, ANY SCHEDULE OR LICENSE AGREEMENT, WESTLAW, FEATURES, DATA, SOFTWARE AND WESTLAW.COM ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OMISSIONS, COMPLETENESS, CURRENTNESS AND DELAYS. SUBSCRIBER'S EXCLUSIVE REMEDY AND WEST'S, ITS AFFILIATES AND/OR CONTRIBUTORS' ENTIRE LIABILITY UNDER THIS AGREEMENT, IF ANY, FOR ANY CLAIM(S) FOR DAMAGES RELATING TO WESTLAW, FEATURES, DATA, SOFTWARE OR WESTLAW.COM WHICH ARE MADE AGAINST THEM, INDIVIDUALLY OR JOINTLY, WHETHER BASED IN CONTRACT OR NEGLIGENCE, SHALL BE LIMITED TO THE AGGREGATE AMOUNT OF WESTLAW CHARGES PAID BY SUBSCRIBER RELATIVE TO THE SPECIFIC FEATURE (i.e., DATABASE, SERVICE, FUNCTION OR GATEWAY), THE SOFTWARE OR WESTLAW.COM, AS APPLICABLE, WHICH IS THE BASIS OF THE CLAIM(S) DURING THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL WEST, ITS AFFILIATES AND/OR CONTRIBUTORS BE LIABLE TO SUBSCRIBER FOR ANY CLAIM(S) RELATING IN ANY WAY TO (i) SUBSCRIBER'S INABILITY OR FAILURE TO PERFORM LEGAL OR OTHER RESEARCH OR RELATED WORK OR TO PERFORM SUCH LEGAL OR OTHER RESEARCH OR WORK PROPERLY OR COMPLETELY, EVEN IF ASSISTED BY WEST, ITS AFFILIATES OR CONTRIBUTORS, OR ANY DECISION MADE OR ACTION TAKEN BY SUBSCRIBER IN RELIANCE UPON DATA; (ii) ANY LOST PROFITS OR OTHER CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES RELATING IN WHOLE OR IN PART TO SUBSCRIBER'S RIGHTS UNDER THIS AGREEMENT OR USE OF, OR INABILITY TO USE, WESTLAW, FEATURES, DATA, SOFTWARE OR WESTLAW.COM, EVEN IF WEST, ITS AFFILIATES AND/OR CONTRIBUTORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (iii) THE PROCURING, COMPILING, INTERPRETING, EDITING, WRITING, REPORTING, OR DELIVERING DATA. FURTHER, WEST SHALL HAVE NO LIABILITY WHATSOEVER TO SUBSCRIBER FOR ANY CLAIM(S) RELATING IN ANY WAY TO ANY THIRD PARTY FEATURE. NEITHER WEST NOR CONTRIBUTORS MAKE ANY WARRANTY THAT ACCESS TO WESTLAW WILL BE UNINTERRUPTED, SECURE, COMPLETE OR ERROR FREE. NOR DOES WEST MAKE ANY WARRANTY AS TO THE LIFE OF ANY URL OR THIRD PARTY WEB SERVICE. SUBSCRIBER ACKNOWLEDGES THAT PROVISION OF

WESTLAW ENTAILS THE LIKELIHOOD OF SOME HUMAN AND MACHINE ERRORS, DELAYS, INTERRUPTIONS AND LOSSES, INCLUDING THE INADVERTENT LOSS OF DATA OR DAMAGE TO MEDIA.

8. Responsibility for Certain Matters. Subscriber may access Westlaw from additional Subscriber locations upon prior notice of such location. Subscriber is responsible for notifying West in writing of persons to whom Westlaw passwords are to be issued or from whom passwords are to be revoked. Subscriber is solely responsible for maintaining security of Westlaw passwords. Subscriber is also responsible for all access to and use of Westlaw, including Features, Software and westlaw.com by Subscriber's personnel or Westlaw passwords, whether or not Subscriber has knowledge of or authorizes such access and use.

9. Limitation of Claims. Except for claims relating to Westlaw Charges or improper use of Westlaw, Features, Software or westlaw.com, no claim, regardless of form, which in any way arises out of this Agreement, may be made, nor such claim brought, under this Agreement more than one year after the basis for the claim becomes known to the party desiring to assert it.

10. Term and Termination. This Agreement will become effective on July 1, 2008, and will continue in force until terminated by either party upon at least 30 days prior written notice of termination to the other party; provided, however, that this Agreement may not be terminated prior to one year after the date Subscriber first accesses Westlaw unless otherwise provided in a Special Offer Amendment to the Westlaw Subscriber Agreement. Notwithstanding the foregoing, (i) West may terminate this Agreement immediately upon giving written notice of termination to Subscriber if Subscriber commits a material breach of any obligation to West under any other agreement between the parties; (ii) West may terminate this Agreement immediately upon giving written notice of termination to Subscriber if West reasonably believes that Subscriber's use of Data violates any applicable law or regulation, this Agreement or may result in a risk to public safety, including but not limited to the safety of private individuals; (iii) Subscriber may terminate this Agreement immediately upon giving written notice of termination to West after receiving notice of an amendment (as permitted under paragraphs 1(d) and 11) which contains new terms that materially alter the terms of this Agreement and are unacceptable to Subscriber; and (iv) either party may terminate this Agreement immediately upon giving written notice of termination to the other party if the other party commits a material breach of this Agreement.

11. Effect of Agreement. This Agreement (which includes all current and future Schedules, Additional Terms and license agreements and the like) embodies the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes any and all prior understandings and agreements, oral or written, relating to the subject matter. Except as otherwise provided in this Agreement, West may amend the terms and conditions of this Agreement by giving Subscriber at least 30 days prior written or online notice. Any other amendment must be in writing and signed by both parties.

12. Force Majeure. West's performance under this Agreement is subject to interruption and delay due to causes beyond its reasonable control, such as acts of God, acts of any government, war or other hostility, civil disorder, the elements, fire, explosion, power failure, equipment failure, industrial or labor dispute, inability to obtain necessary supplies and the like.

13. Notices. Except as otherwise provided herein, all notices must be in writing to West at 610 Opperman Drive, P.O. Box 64833, St. Paul, Minnesota 55164-1803, Attention: Customer Service, and to Subscriber at the address set forth below.

14. General Provisions. This Agreement will be governed by and construed under the law of the state of California, U.S.A. without regard to conflicts of law provisions. The parties agree that the state and federal courts sitting in California will have exclusive jurisdiction over any claim arising out of this Agreement and each party consents to the exclusive jurisdiction of such courts. Neither this Agreement nor any part or portion may be assigned, sublicensed or otherwise transferred by Subscriber without West's prior written consent. Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions will not be affected thereby. Failure of any party to enforce any provision of this Agreement will not constitute or be construed as a waiver of such provision or of the right to enforce such provision. The headings and captions contained in this Agreement are inserted for convenience only and do not constitute a part of this Agreement. West, as used herein, applies to West Publishing Corporation, Thomson Legal & Regulatory Applications Inc., West Services, Inc. and their affiliates.

15. Ideas and Concepts. Any and all title, ownership rights, and intellectual property rights concerning any ideas, concepts, suggestions, materials and the like that Subscriber provides to West regarding Westlaw, westlaw.com or Westlaw Software shall become the exclusive property of West and may be used for its business purposes in its sole discretion without any payment, accounting, remuneration or attribution to Subscriber.

SUBSCRIBER

Signature _____

Name (please print) _____

Title _____

Date _____

Firm Name _____

Address _____

Contact _____

Telephone _____

Sales Representative _____

Westlaw PASSWORDS (optional) – Attach list for additional names.

NAME	PASSWORD ATTORNEY		
Please Print (last, first)	ISSUE	YES	NO

Contact: _____

E-mail for password delivery: _____

If Subscriber is a non-Westlaw Special Offer subscriber, the applicable Schedule A Price Plan _____ (*must be completed*) is attached hereto.