MINNESOTA JUDICIAL BRANCH
STATE COURT ADMINISTRATOR'S OFFICE

REQUEST FOR PROPOSALS

IVR/IWR/ACD Telephony System

I. REQUEST FOR PROPOSALS

A. **Defined.** The State of Minnesota – State Court Administrator's Office (SCAO) on behalf of the Minnesota Judicial Branch (MJB) is using a competitive selection process (referred to herein as the "Request for Proposals" or "RFP") to select the vendor responsible for delivering, implementing, and supporting the most appropriate telephony solution for Interactive Voice Response (IVR), Interactive Web Response (IWR), and Automated Call Distribution (ACD) for the Minnesota Court Payment Center, eFile Support Center and Statewide Self Help Center. This is not a bid, but a Request for Proposals that could become the basis for negotiations leading to a contract with a vendor to provide the tool(s), implementation services, post implementation support, service, and maintenance described in this document.

B. **Right to Cancel.** The SCAO is not obligated to respond to any proposal submitted, nor is it legally bound in any manner whatsoever by the submission of a proposal. The SCAO reserves the right to cancel or withdraw the request for proposals at any time if it is considered to be in its best interest. In the event the request for proposals is cancelled or withdrawn for any reason, the SCAO shall not have any liability to any proposer for any costs or expenses incurred in conjunction with this request for proposals or otherwise. The SCAO also reserves the right to reject any or all proposals, or parts of proposals, to waive any informalities therein, and to extend proposal due dates.

II. PROJECT OVERVIEW

A. **Minnesota Judicial Branch.** The MJB has 10 judicial districts with 289 district court judgeships, 19 Court of Appeals judges, and seven Supreme Court justices. The governing body of the MJB is the Judicial Council, which is chaired by Lorie S. Gildea, Chief Justice of the Minnesota Supreme Court. In 2015, there were more than 1.2 million cases filed in district courts in Minnesota. For more information please visit www.mncourts.gov.

B. **State Court Administrator's Office.** The mission of the SCAO is to provide leadership and direction for the effective operations of the MJB through support of the Judicial Council, oversight of all SCAO divisions, and coordination of legislative relations,

ensuring the provision of sound legal advice, and monitoring branch financial practices through the use of regular internal audits.

The SCAO plans for statewide Judicial Branch needs, develops and promotes statewide administrative practices and procedures, oversees the operation of statewide court programs and strategic initiatives, and serves as a liaison with other branches of government.

C. **Background**.

Currently, the Interactive Voice Response (IVR), Interactive Web Response (IWR), and Automated Call Distribution (ACD) systems support the functions of the Minnesota Court Payment Center and the eFile Support Center. A third statewide operation, Statewide Self Help Center provides IVR and ACD solutions and support from the Information Technology Division (MN.IT) of the Minnesota Executive Branch. These systems utilize services, software, and hardware from multiple vendors and seamlessly integrate with Minnesota's statewide internal case management system, MNCIS, as well as the Branch's banking and financial institutions.

The table below provides information and metrics for the three statewide operations that are seeking upgraded features and functionalities.

	CPC	**Statewide Self-Help Center**	**eFile Support Center**
Number of employees			
Number of full time employees	11.0	6.0	1.0
Number of part time employees	3.0	0.5	3
Transaction volume per month			
Average number of calls to IVR	100,000	0	0
Average number of inbound calls routed to ACD	45,000	2,100	1,000
Average call length	3 minutes	3 minutes	3 - 5 minutes
Outbound calls from IVR	59	50	25
Payments information per month			
Average number of payments made through IVR	13,000	N/A	N/A
Average number of payments made through IWR	22,000	N/A	N/A
Average payments from IVR	$1,143,000	N/A	N/A
Average payments from IWR	$2,420,000	N/A	N/A

Table 1

The existing call center telephony system has been in place since 2009. For Payment Card Industry Data Security Standard (PCI DSS) compliance, and additional technical features desired by the organization, the SCAO is seeking a system replacement with updated features and functionality.

III. PROJECT GOAL

Implement the most appropriate, reliable, and scalable telephony solution for Interactive Voice Response (IVR), Interactive Web Response (IWR), and Automated Call Distribution (ACD) for the Minnesota Court Payment Center (CPC), eFile Self-Service Support Center, and the Statewide Self Help Center in the MJB by February 2017. Minimum features expected from the telephony solution for the respective operating entities within the MJB are given below.

A. MN Court Payment Center (CPC)

The Minnesota Court Payment Center (CPC) is a statewide operation in SCAO. The operation is centralized, but the majority of the employee's primary work location is a private residence located throughout Minnesota and western Wisconsin. The majority of the staff are geographically separated from each other, their supervisor, and the Minnesota Judicial Center in St. Paul, Minnesota.

The CPC has three functional units – Citation Entry, Call Center, and Accounting. Successful operations in the call center and accounting units are dependent on the features, ease-of-use functionality, scalability, and reliability of the IVR/ACD/IWR telephony system.

The call center unit currently has 11 full-time (40 hours per week) and 3 individual that work full-time, but only spend a portion of their time staffing the call center, plus a lead worker and a supervisor. The business hours of the call center are Monday through Friday from 8 am central time to 4:15 pm central time. The call center unit is responsible for handling incoming calls related to the minor criminal case type (i.e., payable citations and parking tickets) for all of Minnesota's 87 district courts. Examples of support that an agent may provide to the caller include answering general questions about the citation(s) and/or parking ticket(s) issued to the caller, confirming the amount owing and the due date, forwarding the caller to the IVR so they can submit a payment using a Visa or MasterCard credit or debit card, discussing payment options, scheduling hearing officer appointments, and, when applicable, referring the caller to one of Minnesota's 87 district courts for assistance with a question that the Minnesota Court Payment Center does not have the authority to provide. The current solution includes a dynamic, real-time dashboard of the activity in the ACD, a supervisor feature that permits the supervisor or lead worker to listen to a live call, take over a live call from an agent, or participate in a live call at the agent's request, and tabulates data and metrics related to individual agent and team performance.

Currently the accounting unit of the CPC, located in a courthouse in western Minnesota, processes payments for minor criminal cases. However, the IVR and IWR may be expanded to accept payments for all district court case types in the near future. At this time it is not expected that the staff in the CPC will be responsible for providing telephony support to case types other than minor criminal. The above mentioned

values for the volume of transactions and the dollar amount being processed by the IVR and IWR in Table 1 are expected to rise along with these additions.

- Prompt caller for language preference.
- Continue the call in the selected language.
- Prompt the caller to enter search criteria determined by the CPC, to search for their case(s) such as driver's license number, case number, or citation number and review their case information, submit a payment, or to reach a call center agent for assistance.
- When a caller enters the correct information to find a case, speak the information obtained from the database such as name, citation number, case number, date of birth, fine amount, payment plan options available, etc.
- Retrieve the appropriate information messages, voice prompt or system speech as required by the position of the caller in the application.
- Option to talk to a call center agent at any point during the IVR call flow. If too many errors are made in an attempt to enter information (citation number, driver's license number, date of birth, etc.) transfer the caller to the ACD queue for assistance from a call center agent.
- All calls directed to the call center from all levels of the IVR call flow will be routed to the ACD system and will be put in a queue for the next available agent.
- While in queue the caller shall be provided with an initial estimated wait time (in minutes and seconds), updated estimated wait time (in minutes and seconds) at certain internals, and general informational messages that play on a continuous loop.
- Provide call center agent with the information already entered by the caller in the IVR flow. If not enough information was entered by the caller, the call center agent shall be able to enter additional information and retrieve the case(s) the caller is calling about.
- Call center agents may direct callers to specific points in the IVR call flow and transfer the caller to a supervisor or another agent without loss of captured information in the process.
- Record all inbound and outbound calls made to and from the call center, organize the calls for easy and quick retrieval, and store securely and at such time per the MN Judicial Branch data retention policy and schedule, the calls can be discarded.
- Use language line appropriately for customers with limited English proficiency.
- Use TTY service for the hearing impaired.
- IWR users shall be able to access the IWR via the Minnesota Judicial Branch website, "Pay a Fine" page.
- The items listed in this bullet are not currently in the production environment. However there is general interest in understanding how generally available these features are should the MN Court Payment Center deem it necessary to deploy them.
    1. Chat feature and functionality option available on the website.
    2. "Call Me" feature and functionality option that would permit a CPC call center agent to place an outbound call to an individual when they have selected the "call me" feature.

3. Notify a defendant, via email or text message, when their citation has been initiated and is available in MNCIS.

B. Statewide Self Help Center

The Statewide Self Help Center provides legal information to self-represented litigants located anywhere in Minnesota via phone, email and through the review of court forms. In 2015, the Statewide Self Help Center answered over 21,000 calls and 3,200 emails from self-represented litigants requesting assistance with court forms, process, rules, or other matters.

- Prompt caller for language preference.
- Continue the call in the selected language.
- All callers will hear general information about the Self Help Center's limitations (no legal advice is provided; first please go to Help Topics on Minnesota Judicial Branch public website for assistance).
- Prompt the caller to obtain general information on common questions determined by the Statewide Self Help Center or to reach a call center agent for assistance.
- Option to talk to a call center agent at any point during the IVR call flow.
- All calls directed to the call center any level of the IVR call flow will go through the ACD system and will be put in a queue for the next available agent.
- While in queue provide the caller with an estimated wait time and general informational messages authored by the Statewide Self Help Center.
- Call center agents will also be able to direct customers to specific points in the IVR call flow, transfer the call to another agent, a supervisor, the Court Payment Call Center, the eFS Support Center, etc. without loss of any information in the process.
- Record all calls made to the call center and store securely – subjected to judicial council data retention policy.
- AT & T Language Line may be used to help customers who cannot be assisted in one of the languages spoken by a call center agent.
- Use TTY service for the hearing impaired.
- For assistance, IWR customers can select the chat option found at the Statewide Self Help Center web page that would start a chat session with an available call center agent or select the "Call Me" option that would permit a call center agent to place an outbound call to the user.

C. eFile Support Center

The eFile Support Center unit is responsible for the responding to inbound calls and email messages from lawyers, justice partners, government agencies, that are experiencing difficulty interacting with the application that permits external entity organizations to electronically file or serve court documents i.e., Odyssey eFile and eServe (eFS). When applicable, an eFile Support Center agent may act as a liaison between the customer and Tyler Technologies and/or Minnesota Judicial Branch's Information Technology (ITD) service desk staff.

- The IVR for the Minnesota Court Payment Center is the gateway to a separate ACD for the eFile Support Center. Based on the phone number that the caller dialed, the call is routed to the ACD that has been set-up for the eFile Support Center operation and put in a queue for the next available eFile Support Center agent.
- While in queue the caller is provided with an estimated wait time (in minutes and seconds) and general informational messages that play on a continuous loop.
- Record all inbound and outbound calls made to and from the eFile Support Center, organize the calls for easy and quick retrieval, and store securely until such time, per the MN Judicial Branch data retention policy and schedule, the calls can be discarded.
- Use TTY service for the hearing impaired.
- The official language of the Minnesota Judicial Branch is English so entity organizations that contact the eFile Support Center are generally proficient in conversing in English.
- The inbound telephone numbers (i.e., toll-free and local) for the eFile Support Center includes a menu selection for callers that wish to have their call transferred to the Minnesota Court of Appeals.

IV. PROJECT DELIVERABLES TO BE ADRESSED IN THE PROPOSAL

A. General requirements

1. The current minimum hardware and software requirement for an IVR/ACD system shall be based on 200 inbound call per hour with the volume range that can fluctuate from less than 10 inbound calls per hour to greater than 500 calls per hour. The call average is approximately four minutes per call. The IVR requires additional capacity for individuals that prefer to self-serve. The system shall be able to handle multiple inbound numbers, route to different business units that may located in a different location, and support outbound calls.

2. Provisions for Application Programming Interfaces (APIs) to data share with an enterprise .Net court case management system.

3. Describe other integrated solutions that are either generally available or emerging and specify their availability, such as Interactive Web Response (IWR), smartphone/tablet accessible applications, chat, ‘call me’ options, unified messaging, generating chat/voice scripts, administering payments, and self-service online hearing officer appointment scheduling in calendars that are integrated with Minnesota’s Case Information System (MNCIS) or can be updated off-line and the newly added or changed appointment calendars are instantaneously uploaded to the public facing calendars or schedules - The appointment dates and times reserved by another individual are not visible to others attempting to self-schedule. Include real-time dashboards and/or software included in solution(s) you are proposing.

4. Describe your proposed Voice over Internet Protocol (VoIP) solution including minimum and maximum number of users in total and concurrent, hardware and software recommendations, network requirements, call encryption options and cost, and company references of current customers using the VoIP solution that you are proposing in this response. The company reference shall include the name of company (legal name and DBA, is applicable), the name of the company contact and their title, installation date of the VoIP solution that was installed in to their production environment, total number of users, features and functionality used by customer.

5. For the solution that you are proposing, describe the system's ease of use for employees, customers, system administrators and technical staff, and integration of features.

6. For the solution that you are proposing, describe emerging features that the technology offers, the feature's general availability, ownership of the feature, and example benefits for customers that have installed the feature(s) into their production environment.

B. IVR / ACD Solution

1. Describe how your proposed solution will support existing, assigned toll free and other published telephone numbers of the CPC, eFile Support Center, and Statewide Self Help Center.

2. Describe how your proposed IVR solution supports natural language including supported language engine(s) (e.g., Please state why you are calling, state your first name and then spell it, etc.).

3. Describe the provisions in your proposed solution for detecting if a caller is experiencing difficulties entering information in the IVR system at any point in the call flow and automatically route the user to a queue for the next available call center agent.

4. Describe the availability and hourly rate of resources for translating informational messages from English to Spanish and English to Somali. Additionally describe the availability of voice talent(s) and their hourly rate for recording informational messages, system speech, date, numbers, etc. in English, Spanish, and Somali.

5. Describe the provisions in your proposed solution for routing calls to other internal (in MJB) and external telephone numbers for employees working remotely in courthouses throughout Minnesota or in a private residence in Minnesota or western Wisconsin. Describe any limitations or constraints of your proposed solution that would prevent or interfere with staffing the centers with employees outside Minnesota or western Wisconsin.

6. Describe the provisions in your proposed solution for capturing data such as caller ID, the county in Minnesota from which the caller is calling, reason for calling, issue resolved or not, if the caller needed language line or TTY, etc. and to automatically initiate a new call log with each new inbound call, automatically add captured data to the call log, make the call log available to the call center agent so they can preview the data entered by the caller and can add additional data to the call log during the call, then automatically close and save call log at the agent's request.

7. Describe your standard call center agent and supervisor desktop (or pop-up screen) and include screen shots.

8. Describe the supervisor features in your proposed solution including but not limited to real-time view of the queue and agent activities and availability, set thresholds and alerts on queue and agent activity and monitoring capabilities such as joining an active call, in effect, creating a conference call, and taking the call interaction away from the call center agent and handle the call or transfer elsewhere.

9. Describe how the ACD system will enable call center agents to switch between work groups (e.g., an agent working for both the eFile Service Support Center and the CPC call center and their ability to switch between the two ACD work groups easily) and the login/logoff information and productivity metrics on both systems shall be updated to reflect the agent's whereabouts and productivity.

10. Describe limitations and constraints of your proposed ACD such as maximum number of agents, maximum number of concurrent agents logged in to the ACD, maximum number of in-queue prompts, skill-based routing, configuring abilities, etc.

11. Describe how your proposed solution enables and supports designing, developing, and the administration of public facing surveys, such as a customer satisfaction survey. Describe the ease at which technical and business court staff can create, enable, change, add, test, or remove surveys from the production environment. Describe where the data collected from the survey is stored and eventually made available to the business for downloading, analysis, report generation, etc.

12. Describe how your proposed solution customizes workflows (such as IVR call dialog, payment processing, updating case information, and call handling by ACD) by system administrators. Note that the IVR tree will be designed by staff in the Minnesota Judicial Branch and any modification, addition, and deletion would be at the discretion of the courts at no extra cost during the contract period.

C. Reporting

Describe the call accounting reporting solution that you are proposing and provide an overview of the types of reports that can be generated, sample of commonly used reports, how reports can be accessed by end-users, how new or custom reports are created, the ability to import the data to the MJB's data warehouse, etc. SCOA preferred reports and reporting, and reporting requirements, are set forth below.

1. Preferred reports and calculations:
    - 1.1. Number of incoming, successful, dropped, abandoned, calls to the IVR by time period (hour, day of the week including holidays and weekends, and by operating entity (CPC, eFile Support Center, or Self Help Center).
    - 1.2. Number of successful and abandoned calls to the ACD Number of calls per hour per agent and per operating entity (CPC, eFile Support Center or Self-Help Center).
    - 1.3. Call length (in *hh:mm:ss* format)– Compute actual, average, maximum and minimum call length, shortest call to longest call range by day, month, operating entity, call length range/ average excluding outliers.
    - 1.4. Number of calls per day that are completed in the IVR, abandoned in the IVR, routed to the call center entity (i.e., CPC, eFile Support, or Self-Represented Litigant Center), completed in call center, abandoned in ACD queue, abandoned in call center, referred to a county courthouse or another external number, etc.
    - 1.5. Reason for calling – Obtain information, make a payment through IVR, enroll in a payment plan, etc.
    - 1.6. Daily/weekly/monthly IVR traffic level tracking.
    - 1.7. Reports on caller location by county.
    - 1.8. Track and report IVR user interactions – Options selected by the user at each level of the IVR call flow.
    - 1.9. Number of drop offs from the IVR and the where in the call flow level was the call was discontinued.
    - 1.10. Forced hang up/call abandonment reporting.
    - 1.11. Metrics related to soft transfers such as number of transfers, reason for transfer, location transferred to, percentage of transfers, etc.
    - 1.12. Total login/ logoff time per agent throughout the day.
    - 1.13. Call center agent status throughout the day – on call/off call/busy/break/etc.
    - 1.14. Calculate metrics (TBD) based on roles – call center agent, supervisor, etc.
    - 1.15. Statistics on TTY users, Language line users, requests for interpreters/foreign language speaking call center agents.
    - 1.16. Tabulate how new features introduced are used by the callers/call center agents/supervisors.
    - 1.17. Report daily line/data use.

2. Requirements for reporting:
    - 2.1. Eliminate data loss in the event of an IVR/ACD system failure.

2.2. 24 hours a day, 7 days a week reporting capabilities.
2.3. Create reports with the ability to separate supervisor functions (such as a supervisor taking over a call or conferencing with a call canter agent) from call center agent functions.
2.4. Call reporting should be done for the system in its entirety and separately for each of the operating entities CPC, eFile Self Service Support Center, and the Statewide Self Help Center.
2.5. Provide intelligence from the reports for the improvement of the call center operation.
2.6. Automatically correlate the call logs maintained by the call centers and the recorded data.

D. Accessibility

1. Details for Americans with Disability Act (ADA) compliance and elaborate on how you would handle future conformance issues.

2. Detail options for non-English speaking customers within the proposed system.

3. Detail accessibility options including but not limited to voice recognition and provide references for any successful IVR projects that include these features.

E. Payment Solution

1. Recommend a reliable, cost effective and Payment Card Industry (PCI) compliant electronic payment solution for the Court Payment Center IVR and IWR systems. The payment solution shall be compatible with the court's banking and to the extent necessary with the SCAO's accounting system at the Minnesota Executive Branch of government.

2. Provide details of any proposed payment systems including;
   - Related fees
   - Ability to add/change the convenience fee
   - Ability to reflect convenience fees separately in reports for auditing purposes
   - Ability to provide an itemized receipt to the payer including how much the payer paid for each offense charged, additional fees, and the convenience fee for paying electronically using the IVR or IWR.
   - Upon concluding the IWR payment, ask the payer if they would like a receipt. If they indicate "yes", ask for their email address and after the case is settled that night automatically send an itemized receipt, branded with the Minnesota Judicial Branch logo, to the email address that was provided.

- Verbally (if submitting payment via the IVR) or visually (if submitting payment via the IWR) itemize the fines and fees by offense charged, the convenience fee and the total amount due, and total amount being submitted for payment just before the payer submits the payment
- Ability to create unique payment confirmation number after each payment is submitted
- How are foreign billing addresses are validated
- System suspension for payment processing

3. Describe accepted electronic payment types such as Visa, MasterCard, Discover, American Express, eCheck that your proposed solution will accept.

4. Describe accepted mobile payment options such as online wallets - PayPal, Amazon Payments, Google Wallet, Apple Pay, etc. Describe the available reports on the payment system.

5. Detail APIs for payments to another .Net system.

6. Describe how your proposed payment system solution will attain and maintain Payment Card Industry Data Security Standard (PCI DSS) compliance.

F. Reliability / Security

1. For the solution you are proposing, describe the available proactive alerting and monitoring capabilities on the core system, individual components and distributed devices and detail how notifications will be distributed.

2. Provisions to ensure that internal traffic can be rerouted or reconnected in the event of a system, network or major component failure.

3. Ensure Survivability: All IP telephones at the locations designated as survivable in the configuration section shall register with the local survivable gateway during an outage of the primary controller/server or if the WAN connection is lost, and shall have continued access to locally equipped trunks.

4. Describe the failure rate and root cause of the top ten most frequently occurring reasons for system or component failure from past experiences in the last two years.

5. Describe security recommendations to prevent eavesdropping or interception of voice communications.

6. Describe recommendations for optimizing the efficiency and security of data transfers by vendor.

7. Describe environmental requirements for optimal functioning of hardware and software.

8. Describe the recommended core competencies and expertise that technical and business staff at the Minnesota Judicial Branch should have to successfully manage, support, and maintain the equipment, hardware and software on a daily basis as well as during a transition such as a system upgrade, software release, etc.

G. Project Management

1. Project plan including milestones, system design, communication plan, issues list, and risk management during the implementation period with an expected start date of the first quarter of 2016 and an end date of February 2017.

2. Describe the minimum requirements of project personnel that you may assign to this effort should your firm be awarded a contract.

3. Include a proposed service level agreement.

H. Maintenance / Support

1. Provide diagrams/wireframes of information flows for the proposed system.

2. Describe recommended best practices for the SCAO to avoid or minimize the likelihood of system failure, safeguards against system failures, and procedures for quick recovery. Provisions to notify callers of the system failure and recovery time.

3. Describe database type and platform required for warehousing data at the MJB. Plan for supporting Archiving, Retrieving with GUI, and purging of all appropriate data subjected to the data retention policy of the Minnesota Judicial Council.

4. General availability of equipment and recommended type of and minimum quantity of spare parts to keep on hand.

5. Document support needs during the installation phase.

6. Document a service/maintenance agreement and what commences after the initial agreement expires.

7. Determine and document expected software upgrade cycles after installation and communication strategies with installed base.

8. Recommend a quality assurance process based on previous successful (on time and on budget) project experience.

9. Describe the post implementation support plan from your company for the solution you are proposing.

10. If your company is involved in any merger and acquisition activity, describe the impact that this activity would have on the timely and successful implementation of the scope of work described in this RFP.

I. Budget Considerations

1. Provide the itemized unit and extended estimated cost and the annual cost for the system considering all the requirements provided in this RFP.

2. Describe your firm's current and future pricing strategy and model.

3. Describe scalability including costs to accommodate expansion of the system activity volume which may be realized in call volume, individuals self-scheduling a hearing officer appointment, or payment transactions. Provide a list of consumable hardware such as telephones, headsets, etc. including the average shelf-life of the item, item cost, etc.

4. If the solution you are proposing has limited compatibility with certain headsets, articulate the limitations in your response.

J. References

1. Include references for 3 – 5 implementation that occurred within the last three calendar years that are similar in size and scope to this implementation. Include the following information for each reference: the legal name, and DBA, if applicable, of the company, the name of the company contact and their title, installation date, number of agents, the number of payment transactions processed daily, the amount of money processed through the IVR and IWR daily, the number of inbound calls handled by the ACD daily, the number of outbound calls handled daily, etc.

V. TRAINING FOR THE IVR/IWR/ACD SYSTEM

A. Describe your proposed approach for initial and subsequent training including planning, analysis, design, development, delivery, evaluation, and ongoing. The approach shall address training for all systems included in our proposal for the

following audiences: technical, system administration, business administration, and end-user.

VI. SUBMISSION REQUIREMENTS

A. **General Requirements – each response must include the following or it may be excluded from moving through to the next phase of response scoring:**

1. **Certificate of Insurance**. Each proposal shall contain acceptable evidence of compliance with the workers' compensation coverage requirements of Minnesota Statute § 176.181, subd. 2. Vendor's RFP response must include one of the following: (1) a certificate of insurance, or (2) a written order from the Commissioner of Insurance exempting you from insuring your liability for compensation and permitting him to self-insure the liability, or (3) an affidavit certifying that you do not have employees and therefore are exempt pursuant to Minnesota Statutes §§ 176.011, subd. 10; 176.031; and 176.041. *See* Section of the sample SCAO contract in Appendix III for details on additional insurance requirements that must be provided upon request of the SCAO.

2. **Affirmative Action Certification**. If the vendor's proposal exceeds $100,000.00, the RFP response must include a completed Affirmative Action Statement and Certificate of Compliance, which are attached as Appendix I.

3. **Non-Collusion Affirmation**. Vendor must complete the Affidavit of Non-Collusion (Appendix II) and include it with its RFP response.

4. **Contract Terms** – acknowledgment of a and b. The SCAO's proposed contract templates are set forth in Appendix III (contract) and Appendix IV (subcontractor participation agreement) and related Appendices V (Confidentiality and Disclosure of Interest Form) and VI (Tyler Confidentiality Agreement). No work can be started until a contract (and where necessary a subcontractor participation agreement and any other related agreements), in the form approved by the SCAO's Legal Counsel Division, has been signed by all necessary parties in accordance with state court procurement and contract policies. The templates included in the appendices are sample forms and are not to be interpreted as offers.

   a. By submitting a response to this RFP, Vendor accepts the standard terms and conditions and contract set out in Appendices III and IV, respectively, and their related agreements. Much of the language included in the standard terms and conditions and contract reflects requirements of Minnesota law.

b. Vendors requesting additions or exceptions to the standard terms and conditions or contract terms shall submit them with their response to the RFP. A request must be accompanied by an explanation why the exception is being sought and what specific effect it will have on the Vendor's ability to respond to the RFP or perform the contract. The SCAO reserves the right to address nonmaterial requests for exceptions to the standard terms and conditions and contract language with the highest scoring Vendor during contract negotiation.

c. The SCAO shall identify any revisions to the standard terms and conditions and contract language in a written addendum issued for this RFP. The addendum will apply to all Vendors submitting a response to this RFP. The SCAO will determine any changes to the standard terms and conditions and/or contract.

5. **Evidence of Security Measures.** Vendor's RFP must provide evidence of Vendor's security measures as an indicator of Vendor's ability to provide security for judicial branch records. A security questionnaire is included in Appendix VII. MJB rules of public access permits vendors to submit evidence of security measures as trade secret information according to the following:

a. The evidence-of-vendor's-security-measures must qualify as a trade secret under Minn. Statute § 325C.01 or as defined in the common law;

b. The vendor submits the evidence-of-vendor's-security-measures on a separate document (but as part of their complete submission) and marks the document(s) containing only the evidence-of-vendor's-financial-security measures as "confidential";

c. The evidence-of-vendor's-security-measures is not publicly available, already in the possession of the MJB, or known to or ascertainable by the MJB from third parties.

Except for security measures information submitted in accordance with this section and financial stability information submitted in accordance with the following section, do not place any information in your proposal that you do not want revealed to the public. The yes/no/N/A responses in the security questionnaire will be considered publicly accessible. Proposals, once opened, become accessible to the public except for financial stability information and security measures information submitted in accordance with the requirements in this document. Please also note that if a vendor's proposal leads to a contract, the following information will also be accessible to the public: the existence of any resulting contract, the parties

to the contract, and the material terms of the contract, including price, projected term and scope of work

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6. **Evidence of Financial Stability**. Vendor's RFP must provide evidence of Vendor's financial stability as an indicator of Vendor's ability to provide services irrespective of uneven cash flow. Financial Stability-Related Trade Secret. MJB rules of public access permit vendors to submit evidence of financial stability as trade secret information according to the following:

   a. The evidence-of-vendor's-financial-stability must qualify as a trade secret under Minn. Statute § 325C.01 or as defined in the common law;

   b. The vendor submits the evidence-of-vendor's-financial-stability on a separate document (but as part of their complete submission) and marks the document(s) containing only the evidence-of-vendor's-financial-stability as "confidential;"

   c. The evidence-of-vendor's-financial-stability is not publicly available, already in the possession of the MJB, or known to or ascertainable by the MJB from third parties.

   Except for financial stability information submitted in accordance with this section and security measures information submitted in accordance with the previous section, do not place any information in your proposal that you do not want revealed to the public. The yes/no/N/A responses in the security questionnaire will be considered publicly accessible. Proposals, once opened, become accessible to the public except for financial stability information and security measures information submitted in accordance with the requirements in this document. Please also note that if a vendor's proposal leads to a contract, the following information will also be accessible to the public: the existence of any resulting contract, the parties to the contract, and the material terms of the contract, including price, projected term and scope of work.

B. **Project-Related Submission Requirements: each response must include the following or it may be excluded from moving through to the next phase of response scoring:**

1. A cover sheet including vendors' contact information, email address, business address, and phone numbers. Cover sheet should include signature lines and must be signed by, in the case of an individual, by that individual, and in the case of an individual employed by a firm, by the individual and an individual authorized to bind the firm

2. An overview that reflects the vendors' understanding of the efforts described in this Request for Proposals and the project deliverables;

3. A detailed explanation of how the Vendor proposes to meet the Project objectives and requirements set forth above, including descriptions of the methodology that will be used and examples of the deliverables that will be produced;

4. A detailed explanation of the terms of the warranty for new development software, including defect management, and enhancement requirements;

5. Provide a not-to-exceed cost to include identification of the assumptions made and the rationale used to prepare the estimate.

6. A description of completed similar projects that demonstrate the Vendor's experience and area of expertise, including Vendor's ability to provide the stated Deliverables;

7. At least three (3) client references with appropriate contact information that the Vendor has performed work for in the past three (3) years and that can attest to vendor ability to complete work as stated;

8. A written statement acknowledging either no conflict of interest or identifying any conflicts of interest as it relates to this project;

9. Completed Appendices I (Affirmative Action Certificate), II (Non-Collusion Affidavit), and VII (security questionnaire).

C. Pricing, Risk of Loss

1. All prices quoted must be firm and not subject to increase unless otherwise provided for in this RFP. Price reductions must immediately be passed on to the SCAO whenever they become effective. Prices must be quoted in United States currency.

2. Travel, administrative, overhead and other related charges and expenses shall be included in the prices set forth in the proposal.

3. A unit price and a total for the quantity must be stated for each item quoted. In case of an error in the extension or total, the unit price prevails.

4. No more than one unit price may be quoted on any one item unless otherwise provided for in the RFP.

5. DO NOT INCLUDE sales tax in pricing. The SCAO holds Direct Payment Permit 1114 and pays tax directly to the Department of Revenue.

6. The SCAO is relieved of all risks of loss or damage to the equipment during periods of transportation, installation, and during the time the equipment is in possession of the SCAO, unless and until such time as unencumbered title for the goods are vested in the SCAO and the goods are in exclusive possession of the SCAO.

VII. PROPOSAL EVALUATION

A. The SCAO will evaluate all complete proposals received by the deadline. Incomplete proposals, late proposals, or proposals sent to any other address will not be considered. In some instances, an interview or demonstration may be part of the evaluation process.

B. The first part evaluation will be limited strictly to the general submission requirements and project specific requirements as outlined in Section VI.

C. The second part evaluation of all proposals shall be based upon deriving the "Best Value" for the SCAO. Best Value means achieving an appropriate balance between price and other factors that are critical to a particular procurement. A procurement that obtains a low price but does not include other necessary qualities and features of the desired product or service does not meet the Best Value criterion. Factors upon which the proposals will be judged include, but are not limited to, the following:

1. Vendor's industry experience and previous experience in performing similar work;

2. Thoroughness, quality, specificity, robustness, flexibility of Vendor's approach/ methodology;

3. Cost estimate;

4. Vendor's product and/or service delivery methodology;

5. Reliability of product or service;

6. Closeness of fit with technical requirements;

7. Financial stability of the organization; and

8. Vendor's past performance and client references.

A. The SCAO reserves the right to determine, at its sole and absolute discretion, whether any aspect of a proposal satisfactorily meets the criteria established in this RFP.

B. The SCAO reserves the right to request additional information from Vendors during any phase of the proposal evaluation process. During the evaluation and selection process, the SCAO may require the presence of Vendor's representatives at a vendor conference. During a vendor conference, a vendor may be asked to provide a demonstration of the product and/or to answer specific questions. Vendors are required to travel at their own expense to for the demonstration of the product and answer questions. Notification of any such requirements will be given as necessary.

C. The SCAO may elect not to award a contract solely on the basis of this RFP, and will not pay for the information solicited or obtained. The information obtained will be used in determining the alternative that best meets the needs of the SCAO.

VIII. SUBMISSION OF PROPOSALS

A. **Proposal Timeline.**

1. Posting Date on MJB Website www.mncourts.gov: Friday, April 1, 2016, 1:00 pm CST

2. Questions Due: Friday, April 22, 2016, 5:00 pm CST

3. Answers Posted: Friday, April 29, 2016, 5:00 pm CST

4. Proposal Submission Deadline: Friday, May 13, 2016, 5:00 pm CST

5. Vendor conferences will be scheduled if needed.

6. Subsequent selection as soon thereafter as possible.

B. **Amendments.** Any amendments to this RFP will be posted on the MJB website.

C. **Questions.** All questions about this RFP must be submitted in writing via email to the SCAO's sole point of contact identified in this paragraph no later than Friday, April 22, 2016, 5:00 pm CST. Other court personnel are not allowed to discuss the Request for Proposals with anyone, including responders, before the proposal submission deadline.

Todd Lester
Senior Project Manager
State Court Administrator's Office
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155
Todd.Lester@courts.state.mn.us

D. **Answers to Questions.** Timely submitted questions and answers will be posted on the MJB website by the end of the day on Friday, April 29, 2016, and will be accessible to the public and other proposers.

E. **Sealed Proposal and Submittal Address.** Your proposal must be submitted in writing on Friday, May 13, 2016, 5:00 pm CST, in a sealed envelope to:

Todd Lester
Senior Project Manager
State Court Administrator's Office
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

The submission must include both four (4) paper copy and one (1) electronic PDF copy either on disc or flash drive. No facsimile submissions will be accepted. Proposals delivered in person to SCAO should be presented to the First Floor receptionist and date/time stamped by the receptionist.

F. **Signatures.** Your proposal must be signed by, in the case of an individual, by that individual, and in the case of an individual employed by a firm, by the individual and an individual authorized to bind the firm. This can be done on vendor informational cover sheet as stated in Project Related Submission Requirements.

G. **Ink.** Prices and notations must be typed or printed in ink. No erasures are permitted. Mistakes may be crossed out and corrections must be initialed in ink by the person signing the proposal.

H. **Deadline; Opening; Public Access.** Proposals must be received no later than Friday, May 13, 2016, 5:00 pm CST**.** Proposals will be opened the following business day and once opened become accessible to the public (except financial stability information submitted as a trade secret in accordance with the instructions in Section VII(A)(5) of this RFP). With the exception of evidence-of-vendor's-financial-stability trade secret information submitted in accordance with the instructions in Section VI(A)(5) of this RFP, do not place any information in your proposal that you do not want revealed to the public. All documentation shipped with the proposal, including the proposal, will become the property of the SCAO.

I. **Late Proposals.** Late proposals will not be accepted or considered.

J. **Selection Timeline.** Vendor selection will be as soon as possible after the proposal submission deadline.

APPENDIX I

Affirmative Action Statement and Certification of Compliance

(Must be submitted with Response)

STATE OF MINNESOTA - AFFIRMATIVE ACTION STATEMENT

If your response to the RFP is estimated to exceed $100,000, you must complete the information requested:

BOX A:

1. Have you employed more than 40 full-time employees within Minnesota on a single working day during the previous 12 months?

YES ☐ NO ☐

If your answer is **"NO**," proceed to BOX B. If your answer is **"YES,**" **your response will be rejected unless your firm or business has a Certificate of Compliance issued by the State of Minnesota, Commissioner of Human Rights, or has submitted an affirmative action plan** to the Commissioner of Human Rights for approval **by the time the responses are due** for any proposal estimated to exceed $100,000.

2. Please check one of the following statements:

☐ **YE**S, we have a **current** Certificate of Compliance that has been issued by the State of Minnesota, Commissioner of Human Rights. (Include a copy of your certificate with your response.)

☐ **N**O, we **do not have** a Certificate of Compliance; however, **we submitted an affirmative Action plan** to the Commissioner of Human Rights for approval on _____. The plan must be approved by the Commissioner of Human Rights before any designation or agreement can be executed.

☐ **N**O, we **have not submitted** a plan. If your plan is not submitted by the time the responses are due, your response will be rejected.

NOTE: Minnesota designationors must have a certificate issued by the Minnesota Department of Human Rights. Affirmative Action plans approved by the federal government, a county, or a municipality must still be reviewed and approved by the Minnesota Department of Human Rights for a certificate to be issued.

BOX B:

1. Have you employed more than 40 full-time employees on a single working day during the previous 12 months in a state in which you have your primary place of business and that primary place of business is outside of the State of Minnesota, but inside the United States?

YES ☐ NO ☐

If your answer is **"NO**," proceed to BOX C. If your answer is **"YES**," **the state cannot execute a designation with your firm or business unless it is in compliance with the Minnesota Human Rights certification requirements. It is the sole responsibility of the firm or business to apply for and obtain a human rights certification prior to execution of a designation as applicable.** You may achieve compliance with the Human Rights Act by having either a current Certificate of Compliance issued by the State of Minnesota, Commissioner of Human Rights, or by certifying that you are in compliance with federal Affirmative Action requirements.

BOX B (continued):

2. Please check one of the following statements:

☐ **YES,** we have a current Certificate of Compliance issued by the Minnesota Department of Human Rights. (Include a copy of your certificate with your response.)

☐ **YES,** we are in compliance with federal Affirmative Action requirements.

☐ **NO,** we do not have a current Certificate of Compliance and we cannot certify that we are in compliance with federal Affirmative Action requirements.

BOX C:

1. If your answers to BOX A (Question 1) and Box B (Question 1) were "NO," you are not subject to the Minnesota Human Rights Act certification requirement. Please, however, check one of the following:

☐ **N**O, we have not employed more than 40 full-time employees within Minnesota on a single working day during the previous 12 months and we have not employed more than 40 full-time employees on a single working day during the previous 12 months in the state in which our primary place of business is located.

☐ We are a business with our primary place of business outside of the United States that has not employed more than 40 full-time employees within Minnesota on a single working day during the previous 12 months.

For further information regarding Minnesota Human Rights requirements, contact the Department of Human Rights, Compliance Services, 190 East 5th Street, Suite 700, St. Paul, MN 55101; Voice: 651.296.5663; Toll Free: 800.657.3704; or TTY: 651.296.1283. For further information regarding federal Affirmative Action requirements, call 800.669.4000 or visit its web site at http://www.eeoc.gov/.

By signing this statement, the Proposer certifies that the information provided is accurate.

NAME OF FIRM:_____

AUTHORIZED SIGNATURE: _____

TITLE: _____

DATE: _____

STATE OF MINNESOTA - AFFIRMATIVE ACTION CERTIFICATION OF COMPLIANCE

The Minnesota Human Rights Act (Minn. Stat. § 363.073) divides the designation compliance program into two categories. Both categories apply to any designations for goods or services in excess of $100,000.

The first category applies to businesses that have had more than 40 full-time employees within Minnesota on a single working day during the previous 12 months. The businesses in this category must have submitted an Affirmative Action plan to the Commissioner of the Department of Human Rights prior to the due date of the response and must have received a Certificate of Compliance prior to the execution of a designation.

The second category applies to businesses that have had more than 40 full-time employees on a single working day in the previous 12 months in the state in which they have their primary place of business. The businesses in this category must have either a current Certificate of Compliance previously issued by the Department of Human Rights or certify to the STATE that they are in compliance with federal Affirmative Action requirements before execution of a designation. For further information, contact the Department of Human Rights, 190 East 5th Street, Suite 700, St. Paul, MN 55101; Voice: 651-296-5663; Toll Free: 800-657-3704; or TTY: 651-296-1283.

Minnesota businesses must have a current Certificate of Compliance or submitted an affirmative action plan by the time proposals are due, or their proposal will be rejected.

The STATE is under no obligation to delay the execution of a designation until a business has completed the Human Rights certification process. It is the sole responsibility of the business to apply for and obtain a Human Rights certificate prior to execution of a designation, as applicable.

APPENDIX II

STATE OF MINNESOTA
AFFIDAVIT OF NON-COLLUSION
(Must be submitted with Response)

I swear (or affirm) under the penalty of perjury:

1. That I am the Proposer (if the Proposer is an individual), a partner in the company (if the Proposer is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Proposer is a corporation);

2. That the attached proposal submitted in response to the _____ Request for Proposals has been arrived at by the Proposer independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Proposer of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;

3. That the contents of the proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or agent (including a partner) of the Proposer and will not be communicated to any such persons prior to the official opening of the proposals; and

4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Proposer's Firm Name: _____

Authorized Signature: _____

Date: _____

APPENDIX III

STATE OF MINNESOTA
PRODUCT AND SERVICES CONTRACT
SAMPLE ONLY; NOT AN OFFER

THIS CONTRACT, and amendments and supplements thereto, is between the State of Minnesota, acting through its State Court Administrator's Office, Information Technology Division, address 145 Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Boulevard, St. Paul, Minnesota 55155 (hereinafter "STATE") and __[insert vendor full legal name and address]___ (hereinafter "CONTRACTOR").

Recitals

The STATE, pursuant to Minnesota Statutes 2011, Section 480.15, subdivision 10b, administers and maintains court information systems. The STATE desires _____[insert general description of services]_____. CONTRACTOR (and, where applicable, CONTRACTOR's STATE approved subcontractor) has experience with the desired services, and CONTRACTOR represents that it is duly qualified and willing to perform the services set forth herein.

Contract

Based on the mutual agreements, promises, and covenants contained in this contract, it is agreed:

I. **DUTIES.** CONTRACTOR, who is not a STATE employee, shall provide professional _____[insert general description of services]_____. Services will be provided based on a _____[insert agreed upon hourly service arrangement]_____hour work week, with meetings and presentations held during core business hours of 9:00 a.m. to 4:00 p.m. Monday through Friday; provided that CONTRACTOR may perform duties outside of core business hours and off-site at CONTRACTOR'S expense (including all necessary off-site equipment, supplies and related costs). All professional services required hereunder shall be furnished exclusively by CONTRACTOR'S [employee __[insert employee's full legal name]]/[subcontractor _[insert subcontractor's full legal name]__, which must first sign a confidentiality, participation and assignment of rights agreement in a form acceptable to the STATE]. CONTRACTOR'S duties include:

A. [___insert specific duties here___];

B. [___insert specific duties here___].

II. **CONSIDERATION AND TERMS OF PAYMENT.**

A. **Consideration.** As consideration for all services performed, transfer of rights, and goods or materials supplied by CONTRACTOR pursuant to this Contract, including all clerical support, phone support, and related expenses, the STATE shall pay to CONTRACTOR ___[insert agreed upon hourly rate here]___ dollars (US $XXX.XX) per hour. The total obligation of the STATE for all compensation and reimbursements to CONTRACTOR shall not exceed _ [insert total cap amount here]__ dollars (US $XXX.XX).

It is understood that no funds are being encumbered under this contract for travel and related expenses, and parking and copying. To the extent that travel or copying is necessary, the STATE will reimburse CONTRACTOR through its regular non-state employee expense reimbursement process, or arrange to pay directly, for pre-approved airfare, lodging, meals, and ground transportation ("travel and subsistence expenses") or pre-approved copying expenses; provided, that CONTRACTOR shall be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the STATE'S current Administrative Policy on Travel and Reimbursement. CONTRACTOR shall not be reimbursed for travel and subsistence expenses or copying expenses unless it has received prior written approval for such expenses from the STATE, and the STATE will separately encumber the necessary funds. The STATE hereby designates Mark Moore as its agents for approval of such expenses.

B. **Terms of Payment.** CONTRACTOR shall submit an invoice on the first and fifteenth day of each month for billable costs incurred by the CONTRACTOR during the immediately preceding one-half month. Payments shall be made by the STATE promptly after CONTRACTOR'S presentation of invoices for services performed and acceptance of such services by the STATE'S authorized agent pursuant to Section VII.

C. **Acceptance**. Upon written notice from CONTRACTOR that the Deliverables are ready for STATE review, the STATE shall have ten (10) business days to review the Deliverables. If the STATE does not notify CONTRACTOR within such ten (10)-business day period that the Deliverables are not acceptable, the Deliverables shall be deemed accepted. If the STATE notifies CONTRACTOR within the ten (10)-business day period that the Deliverables are not accepted, CONTRACTOR shall have ten (10) business days to make corrections and resubmit the Deliverables to the STATE for review by written notice, and the STATE shall again have ten (10) business days to review the Deliverables, and this process shall repeat corresponding ten (10)-business day periods until acceptance has occurred, provided, however, that if through no fault of the STATE acceptance has not occurred by [___insert final acceptance date here___], the STATE may cancel this contract and return all draft Deliverables and shall not be obligated to CONTRACTOR for any amounts hereunder.

III. **TIME REQUIREMENTS.** CONTRACTOR shall comply with all of the time requirements described in this contract.

IV. **CONDITIONS OF PAYMENT.** All services provided by CONTRACTOR pursuant to this contract shall be performed to the satisfaction of the STATE, as determined at the sole discretion of its authorized representative, and in accord with the CONTRACTOR'S duties set forth in Section I of this contract and all applicable federal, state, and local laws, ordinances, rules and regulations. CONTRACTOR shall not receive payment for work found by the STATE to be unsatisfactory, or performed in violation of federal, state or local law, ordinance, rule or regulation.

V. **TERMS OF CONTRACT.** This contract shall not be effective until approved as to form and execution by the STATE's Legal Counsel Division, and upon such approval the effective date shall be deemed to be ___[insert start date here]___. This contract shall remain in effect until __[insert termination date here]__, unless terminated or cancelled as provided herein.

VI. **CANCELLATION.**

A. The STATE may cancel this contract at any time, with or without cause, upon thirty (30) days' written notice to the other party. If the contract is canceled under this clause, CONTRACTOR shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed.

B. The STATE may immediately cancel this contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Cancellation must be by written or facsimile transmission notice to CONTRACTOR. The STATE is not obligated to pay for any services that are provided after notice and effective date of termination. However, CONTRACTOR will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The STATE will not be assessed any penalty if the contract is cancelled because of a decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The STATE must provide CONTRACTOR notice of the lack of funding within a reasonable time of the STATE'S receiving that notice.

VII. **STATE'S AUTHORIZED REPRESENTATIVE.** The STATE'S Authorized Representative for the purposes of administration of this contract is Mark Moore, Director, Information Technology Division, or his successor in office. Such representative shall have final authority for acceptance of CONTRACTOR'S services and if such services are accepted as satisfactory, shall so certify on each invoice submitted pursuant to Section II.B.

VIII. **ASSIGNMENT AND BINDING EFFECT**. Except as expressly authorized in this contract, CONTRACTOR shall neither assign nor transfer any rights or obligations under this contract without the prior written consent of the STATE. This contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, including any corporation or other legal entity into, by or with which CONTRACTOR may be merged, acquired or consolidated or which may purchase all or substantially all of the business assets of CONTRACTOR.

IX. **AMENDMENTS.** Any amendments to this contract shall be in writing and shall be executed by the same parties who executed the original contract, or their successors in office.

X. **LIABILITY.** CONTRACTOR shall indemnify, save, and hold the STATE, its representatives and employees harmless from any and all claims or causes of action, including all attorney's fees incurred by the STATE, arising from the performance of this contract by CONTRACTOR or CONTRACTOR'S agents or employees. This clause shall not be construed to bar any legal remedies CONTRACTOR may have for the STATE'S failure to fulfill its obligations pursuant to this contract. Without limiting the foregoing,

CONTRACTOR's liability includes liability for the direct and verifiable costs to recreate any lost or damaged STATE records that are capable of being recreated using commercially reasonable efforts.

XI. **STATE AUDITS.** The books, records, documents, and accounting procedures and practices of the CONTRACTOR relevant to this contract shall be subject to examination by the contracting department and the Legislative Auditor for a minimum period of six (6) years from the termination of this contract. Records shall be sufficient to reflect all costs incurred in performance of this Contract.

XII. **CONFIDENTIALITY, DISCLOSURE AND USE.**

A. **General.** CONTRACTOR shall not disclose to any third party (except, where applicable, CONTRACTOR's STATE approved subcontractor __[insert subcontractor's full legal name]__, which must first sign a confidentiality, participation and assignment of rights agreement in a form acceptable to the STATE) any information that is both: (1) made available by the STATE to CONTRACTOR in order to permit CONTRACTOR to perform hereunder or is created, gathered, generated or acquired in accordance with this contract; and (2) inaccessible to the public pursuant to the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court, as the same may be amended from time to time. If the CONTRACTOR receives a request to release the information referred to in this Clause, the CONTRACTOR must immediately notify the STATE. The STATE will give the CONTRACTOR instructions concerning the release of the information to the requesting party before the information is released. CONTRACTOR shall not use any information that is made available by the STATE to CONTACTOR in order to permit CONTRACTOR to perform hereunder, or is created, gathered, generated or acquired in accordance with this contract, for any purpose other than performance of this contract.

B. **State Programs, Databases, Marks**. Without limiting paragraph A, above, CONTRACTOR agrees to the following:

1. **State Programs**. The computer application programs made available by the STATE to CONTRACTOR in order to permit CONTRACTOR to perform its obligations hereunder are referred to herein as "State Programs." The STATE is the copyright owner of the State Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the State Programs, and all analysis and design specifications, programming specifications, source code, algorithms, and information contained in technical reference manuals pertaining to the State Programs, are trade secret information of the STATE. The computer operating systems software programs and other third party software licensed by the STATE, and related documentation, made available by the STATE to CONTRACTOR in order to permit CONTRACTOR to perform its obligations hereunder, are subject to claims of trade secret and copyright ownership by the respective licensors and will be treated by CONTRACTOR

in the same manner as trade secret information of the STATE. In addition, CONTRACTOR will familiarize itself with and abide by the terms and conditions of the license agreements applicable to such third party software. Without limiting the foregoing, CONTRACTOR may also be required to sign an appropriate confidentiality agreement with the STATE's software vendor if access to proprietary segments of the MNCIS application are necessary for CONTRACTOR's work hereunder (A sample of the confidentiality agreement is set forth in RFP Appendix VI Tyler Confidentiality Agreement)).

2. **State Databases.** The computer databases made available by the STATE to CONTRACTOR in order to permit CONTRACTOR to perform its obligations hereunder are referred to herein as "State Databases." The STATE is the copyright owner of the State Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the State Databases and to their structure, sequence and organization are trade secret information of the STATE. All information contained within the State Databases is sensitive, confidential information and will be treated by CONTRACTOR in the same manner as trade secret information of the STATE. Without limiting any of the foregoing, CONTRACTOR understands and agrees that to the extent that any records made available by the STATE to CONTRACTOR hereunder are publicly-accessible, the STATE retains all rights it possesses in and to such records and CONTRACTOR has no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain such records except: (i) as expressly required for CONTRACTOR's compliance with this contract; or (ii) to the extent that it has purchased or obtained the same from the State on the same terms and via the same means and to the same extent as other members of the public.

3. **Marks.** The STATE claims that the marks "MNCIS," "CriMNet," "SJIS," and "MARS" are trademarks and service marks of the STATE. CONTRACTOR shall neither have nor claim any right, title, or interest in or use of any trademark, service mark, or tradename owned or used by the STATE.

4. **Restrictions on Duplication, Disclosure and Use.** CONTRACTOR will not, except as required in the performance of its obligations hereunder, copy any part of the State Programs or State Databases, prepare any translations thereof or derivative works based thereon, use or disclose any trade secret information of the STATE, or use any trademark, service mark, or tradename of the STATE, in any way or for any purpose not specifically and expressly authorized by this contract. As used herein, "trade secret information of the STATE" means any information or compilation of information possessed by the STATE, or developed by CONTRACTOR in the performance of its obligations hereunder, which derives independent economic value, actual or potential, from not being generally known to, and not being readily

ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of the STATE" does not, however, include information which was known to CONTRACTOR prior to CONTRACTOR'S receipt thereof, either directly or indirectly, from the STATE, information which is independently developed by CONTRACTOR without reference to or use of information received from the STATE, or information which would not qualify as trade secret information under Minnesota law. It will not be a violation of this section for CONTRACTOR to disclose any information received from the STATE pursuant to the order of a court or governmental authority of competent jurisdiction if CONTRACTOR notifies the state immediately upon receipt by CONTRACTOR of notice of the issuance of such an order.

5. **Proprietary Notices.** CONTRACTOR will advise its employees and permitted subcontractors who are permitted access to any of the State Programs, State Databases, or trade secret information of the STATE of the restrictions upon duplication, disclosure and use contained in this contract. Without limiting the foregoing, CONTRACTOR shall include in and/or on any copy or translation of, or derivative work based upon, any of the State Programs, the State Databases, or trade secret information of the STATE, or any part thereof, and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to CONTRACTOR by the STATE, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

C. **Inspection and Return of State Property.** All documents, encoded media, and other tangible items made available to CONTRACTOR by the STATE, or prepared, generated or created by CONTRACTOR in the performance of its obligations hereunder, are and will be exclusively the property of the STATE and will be available for inspection by the STATE upon request. Upon completion of CONTRACTOR'S performance of services hereunder, CONTRACTOR will, upon the STATE'S request, promptly deliver to the STATE any or all such documents, encoded media and other items in its possession, including all complete or partial copies, recordings, abstracts, notes or reproductions of any kind made from or about such documents, media, items, or information contained therein. CONTRACTOR and the STATE acknowledge that all computer operating systems software programs and other third party software licensed by the STATE, and related documentation, made available by the STATE to CONTRACTOR in order to permit CONTRACTOR to perform its obligations hereunder, or any translations, compilations, or partial copies thereof are and remain the property of the respective licensors.

D. **Injunctive Relief.** CONTRACTOR acknowledges that the STATE will be irreparably harmed if CONTRACTOR'S obligations under sections XII and XIII of this contract are not specifically enforced and that the STATE would not have an adequate remedy at law in the event of an actual or threatened violation by CONTRACTOR of its obligations. Therefore, CONTRACTOR agrees that the

STATE shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violation or breach by CONTRACTOR without the necessity of the STATE showing actual damages or that monetary damages would not afford an adequate remedy. CONTRACTOR shall be liable to the State for reasonable attorney's fees incurred by the STATE in obtaining any relief pursuant to this section.

E. **Nondisclosure Indemnity.** Without limiting section X, CONTRACTOR agrees to indemnify, defend and save harmless the STATE and its agents, officers and employees from and against any and all claims by Third Parties that are determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted directly and proximately from CONTRACTOR'S violation of the non-disclosure provisions hereof. The STATE shall provide CONTRACTOR with prompt notice of any claim for which indemnification may be sought hereunder and shall cooperate in all reasonable respects with CONTRACTOR in connection with any such claim. CONTRACTOR shall be entitled to control the handling of any such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing.

XIII. **RIGHTS IN AND TO INFORMATION, INVENTIONS, AND MATERIALS.** In consideration of the facts that CONTRACTOR'S performance under this contract will involve access to and development of information which shall be trade secret information of the STATE and may involve the development by CONTRACTOR or CONTRACTOR'S participation in the development of copyrightable and/or patentable subject matter which the parties intend be owned by the STATE:

A. All right, title, and interest in and to any trade secret information of the STATE (as defined in sections XII(B)(1),(2), and (4), above) developed by CONTRACTOR either individually or jointly with others, and which arises out of the performance of this contract, will be the property of the STATE and are by this contract irrevocably transferred, assigned, and conveyed to the STATE free and clear of any liens, claims, or other encumbrances.

B. All copyrightable material which CONTRACTOR shall conceive or originate, either individually or jointly with others, and which arises out of the performance of this contract, shall conclusively be deemed "works made for hire" within the meaning and purview of section 101 of the United States Copyright Act, 17 U.S.C. § 101, to the fullest extent possible, and the STATE shall be the copyright owner thereof and of all elements and components thereof in which copyright protection can subsist. To the extent that any of the foregoing does not qualify as a "work made for hire," CONTRACTOR hereby transfers, assigns and conveys the exclusive copyright ownership thereof to the STATE, free and clear of any liens, claims or other encumbrances.

C. All right, title, and interest in and to any invention which CONTRACTOR first conceives or first reduces to practice either individually or jointly, and which arises out of the performance of this contract, will be the property of the STATE and are by

this contract irrevocably transferred, assigned, and conveyed to the STATE along with ownership of any and all patents on the inventions anywhere in the world, free and clear of any liens, claims or other encumbrances. CONTRACTOR agrees to disclose promptly any such invention to the STATE. This paragraph shall not apply to any invention for which no equipment, supplies, facility or trade secret information of the STATE (as defined in Sections XII(B)(1), (2), and (4), above) was used and which was developed entirely on CONTRACTOR own time, and (a) which does not relate (i) directly to the business of the STATE, or (ii) to the STATE'S actual or demonstrably anticipated research or development; or (b) which does not result from any work performed or materials provided by CONTRACTOR for the STATE.

D. CONTRACTOR will execute all documents and perform all other acts that the STATE may reasonably request in order to assist the STATE in perfecting its rights in and to the trade secret information of the STATE and the copyrightable and patentable subject matter identified herein, in any and all countries.

E. Without limiting section XII or parts A, B, C, and D of section XIII of this agreement, the STATE retains all rights it possesses in and to the State Databases and State Programs made available to CONTRACTOR for purposes of permitting CONTRACTOR to perform hereunder. CONTRACTOR has no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain the State Databases or State Programs except as expressly permitted herein to permit CONTRACTOR to complete its duties hereunder. CONTRACTOR may, however, purchase a copy of publicly-accessible versions of information contained in the State Databases and State Programs from the STATE on the same terms and to the same extent as other members of the public. Except to the extent that CONTRACTOR has purchased such copy, CONTRACTOR shall not sell, resell, disclose, redisclose, recombine, reconfigure or retain the State Databases or State Programs except as otherwise expressly provided herein.

XIV. AFFIRMATIVE ACTION.

A. **Covered Contracts and Contractors**. If this contract exceeds $100,000 and CONTRACTOR employed more than 40 full-time employees on a single working day during the previous twelve months in Minnesota or in the state where it has its principle place of business, then CONTRACTOR must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state that does not have a certificate of compliance must certify that it is in compliance with federal affirmative action requirements.

B. **Minn. Stat. § 363A.36**. Minn. Stat. § 363A.36 requires the contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract

consequences in that event. A contract awarded without a certificate of compliance may be voided.

C. Minn. R. Parts 5000.3400-5000.3600 provide:

1. Minn. R. Parts 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. Parts 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

2. **Disabled Workers**. The contractor must comply with the following affirmative action requirements for disabled workers:

a. The contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

b. The contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

c. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

d. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the contractor's obligation under the law to take affirmative action to employ and advance in

employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

e. The contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

D. **Consequences**. The consequences for a contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the STATE.

E. **Certification**. CONTRACTOR hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600 and is aware of the consequences for non-compliance.

XV. **INSURANCE**. Throughout the term of this contract CONTRACTOR shall maintain the insurance coverage set forth in this section. The CONTRACTOR's policy shall be the primary insurance to any other valid and collectible insurance available to the STATE with respect to any claim arising out of this contract. CONTRACTOR's insurance company waives its right to assert the immunity of the STATE as a defense to any claims made under said insurance. The CONTRACTOR is responsible for payment of insurance deductibles. Insurance companies must have an "AM Best" rating of A- (minus) and a Financial Size Category of VII or better. Required coverage:

A. In accordance with the provisions of Minnesota Statutes, Section 176.182, as enacted, the CONTRACTOR shall provide acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes, Section 176.181, subdivision 2, as enacted, prior to commencement of any duties to be performed under this contract.

B. The Comprehensive Automobile Liability: Minimum Limits of Liability of $1,000,000 Per Occurrence Combined Single Limit Bodily Injury and Property Damage for: Owned Automobile, Non-owned Automobile, and Hired Automobiles.

C. Commercial General Liability: Blanket Contractual Coverage with Minimum Limits of Liability: $1,000,000 Combined Single Limit for Bodily Injury and Property Damage per occurrence, $2,000,000 minimum annual aggregate.

D. Umbrella Liability: Umbrella liability with minimum limits of $5,000,000 per occurrence and aggregate.

E. Employer's Liability: Employer's liability insurance coverage with minimum limits of $1,000,000 each accident.

F. Crime Insurance: Crime insurance coverage with minimum limits of $2,000,000 each occurrence.

G. Lost or Damaged Records: Lost or damaged records insurance coverage for the direct and verifiable costs to recreate any lost or damaged STATE records that are capable of being recreated using commercially reasonable efforts with minimum limits of $1,000,000 each occurrence.

Upon request of the STATE, CONTRACTOR shall be required to promptly provide a Certificate of Insurance evidencing that the above items are in force and effect during the entire term of the contract. The STATE reserves the right to request inspection of a full certified copy of insurance policies at CONTRACTOR's home office facility. All policies and certificates shall provide that the policies shall remain in force and effect throughout the term of the contract. Policies shall include endorsements that name the STATE, its officers and employees as additional insured with respect to General Liability, Automobile Liability, and/or Umbrella Liability coverages only; however, the STATE is not liable to the insurance company for any premiums, costs or assessments in connection with the CONTRACTOR's policy, as a result of being an additional insured. The CONTRACTOR shall provide the STATE with thirty (30) days' advance written notice of cancellations or non-renewals or reduction in limits or coverage or other material change, including the name of the contract, mailed to the STATE as provided in the notice clause of this Agreement. The CONTRACTOR shall maintain the insurance required above to cover claims which may arise from operations under this contract, whether such operations are by CONTRACTOR or a permitted subcontractor or by anyone directly or indirectly employed under this contract. The CONTRACTOR shall require its insurance company(ies) to waive its(their) right to assert the immunity of the STATE as a defense to any claims made under said insurance. The failure of the STATE to obtain a certificate of insurance for the insurance policies required under this contract, or the failure of the insurance company(ies) or CONTRACTOR to notify the STATE of the cancelation, non-renewal or change of the insurance policies required under this contract, shall not constitute a waiver by the STATE to the CONTRACTOR to provide such insurance policies. The STATE reserves the right to cancel this contract, upon fifteen (15) days written notice, if CONTRACTOR is not in compliance with the insurance requirements of this contract and the STATE retains all rights to pursue any legal remedies against CONTRACTOR in the event of such non-compliance.

XVI. **ANTITRUST**. CONTRACTOR hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

XVII. **OTHER PROVISIONS.**

A. **Warranties.**

1. **Original Works.** In performing its obligations hereunder, CONTRACTOR will not use or incorporate any trade secret information or copyrighted works of authorship of CONTRACTOR or of any third party, and except for components already in the public domain (without any license restrictions attached thereto), all software, documentation, information and other materials provided or furnished by CONTRACTOR in performing the duties under this contract will be original and will not violate or infringe upon the rights of any third party.

2. **Professional Services; Status; Conflicts of Interest.** CONTRACTOR represents and warrants to the STATE that all professional services required hereunder will be provided exclusively by CONTRACTOR's [employee __[insert employee's full legal name]__]/[subcontractor __[insert subcontractor's full legal name]__, which must first sign a confidentiality, participation and assignment of rights agreement in a form acceptable to the STATE (a sample agreement is set forth in RFP Appendix IV – Confidentiality, Participation and Assignment of Rights Contract)] and that: (a) the [employee]/[subcontractor] has the proper training, skill and background so as to be able to perform all professional services required in this contract in a competent and professional manner, and all such work shall be of quality; (b) the [employees]/[subcontractor's employees] assigned to work on the Project have obtained lawful permanent residence in the United States of America with a right to live and work permanently in the United States of America; and (c) CONTRACTOR has taken reasonable steps to determine if [employees]/[subcontractor's employees] (or their immediate family members) have an interest in any pending or threatened litigation or proceedings in any Minnesota state court, including, without limitation, requiring each employee, before performing any services hereunder or accessing any STATE confidential or trade secret information, to sign a disclosure of interest and confidentiality form in the form set forth as RFP Appendix V –Confidentiality and Disclosure of Interest Form. If CONTRACTOR becomes aware of any [employee's]/[subcontractor's employee's] interest (or that of their immediate family members) in any threatened or pending litigation or proceeding in any Minnesota state court, CONTRACTOR shall immediately notify the STATE of such interest, and CONTRACTOR acknowledges that the STATE may immediately disqualify such [employee]/[subcontractor employee] from performing services hereunder, and CONTRACTOR shall ensure that no such disqualified [employee]/[subcontractor employee] shall have any further access to the confidential information of the STATE.

3. **Mutual Representations and Warranties.** CONTRACTOR and the STATE each represent and warrant to the other that: a) it has the full right, power and authority to enter into this contract and to perform fully all of its obligations hereunder; b) it is free of any obligation or restriction that would

prevent it from entering into this contract or from performing fully any of its obligations hereunder; and c) it has not entered into and will not enter into any contract which would impede the full performance of its obligations hereunder or would in any way limit or restrict the rights of the other under this contract.

4. **Immediate Notice of Loss, Damage or Disclosure**. CONTRACTOR must notify STATE immediately upon any loss or damage to STATE records, including during any shipping of records provided by CONTRACTOR, and upon any disclosures of STATE records in violation of this Agreement. CONTRACTOR understands that immediate notice is crucial to recovery efforts, including but not limited to freeze drying of water damaged records and taking steps to minimize or prevent further improper disclosures.

B. **Patent and Copyright Indemnity.** Without limiting section X, CONTRACTOR shall indemnify the STATE and hold it harmless against any claim that the work performed or material provided hereunder infringes or violates the patent, copyright, or trade secret rights of any third party. CONTRACTOR shall pay any and all resulting costs, expenses (including attorney's fees), damages and/or liabilities associated with or resulting from any such claim.

C. **Relationship of the Parties.** CONTRACTOR is an independent contractor and shall not be deemed for any purpose to be an employee of the STATE. CONTRACTOR understands and agrees that the STATE is not withholding any taxes from the fees paid to CONTRACTOR pursuant to this contract and that CONTRACTOR is solely responsible for any taxes and other amounts to be paid as a result of the fees paid to CONTRACTOR pursuant to this contract. Neither CONTRACTOR nor the STATE shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

D. **Consent to Release of Certain Data.** Under Minn. Stat. § 270C.65 and other applicable law, CONTRACTOR consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the STATE, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring CONTRACTOR to file state tax returns and pay delinquent state tax liabilities, if any.

E. **Publicity.** Any publicity regarding the subject matter of this contract must identify the STATE as the sponsoring agency and must not be released without the prior written approval from the STATE'S Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for CONTRACTOR individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this

contract. Notwithstanding anything in this contract to the contrary, either party may disclose to the public the existence of this contract, the parties to the contract, and the material terms of the contract, including price, projected term, and scope of work.

F. **Endorsement.** CONTRACTOR must not claim that the STATE endorses its products or services.

G. **Non-Exclusivity**. This contract shall not preclude CONTRACTOR from developing materials outside this contract that are competitive, irrespective of their similarity to materials delivered to the STATE under this contract; provided, however, that such materials prepared by CONTRACTOR shall not violate the nondisclosure and intellectual property provisions of this contract. Nothing in this contract shall be construed as precluding or limiting in any way the right of CONTRACTOR to provide computer consulting and programming services or other services of any kind to any person or entity as CONTRACTOR in its sole discretion deems appropriate.

H. **Notices**. Any written notice hereunder shall be deemed to have been received when: (A) personally delivered; (B) sent by confirmed facsimile transmission or telegram; (C) sent by commercial overnight courier with written verification of receipt; or (D) seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at: (1) if to CONTRACTOR, at the CONTRACTOR'S address set forth in the opening paragraph of the contract; (2) if to the STATE, at the STATE'S address set forth in the opening paragraph of the contract, with a copy to Legal Counsel Division, 125 Minnesota Judicial Center, 25 Rev. Martin Luther King Jr., Blvd. St. Paul, MN 55155; or (3) at such other address of which written notice has been given in accordance herewith.

I. **Facilities and Use Conditions**. Without limiting CONTRACTOR's responsibilities under any other section of this contract, to the extent that CONTRACTOR utilizes STATE provided on-site facilities (including, but not limited to, computers, desks, Internet connections, etc.) to perform CONTRACTOR's duties under this contract, CONTRACTOR must comply with all policies of the STATE and the Minnesota Judicial Branch as they relate to the acceptable use or operation of STATE facilities, including, without limitation, the Minnesota State Court System Policies on the Use of the Internet and Other Electronic Communication Tools and Drug Free Workplace as the same may be amended and replaced from time to time.

J. **Miscellaneous.**

1. The provisions of sections VIII, X, XI, XII, XIII, XVI, and XVII shall survive any cancellation or termination of this contract, as shall any other provisions which by their nature would be intended or expected to survive such cancellation or termination.

2. Captions are for convenient reference and do not constitute a part of this contract.

3. The failure by either Party at any time to enforce any of the provisions of this contract or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, right, remedy or option or in any way affect the validity of this contract. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

4. This contract shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States of America and of the State of Minnesota, without regard to Minnesota's choice of law provisions. Any action arising out of or relating to this contract, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. CONTRACTOR hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

5. Every provision of this contract shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this contract so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this contract, and all other provisions shall remain in full force and effect.

6. This contract sets forth the entire agreement and understanding between the Parties regarding the subject matter hereof and supersedes any prior representations, statements, proposals, negotiations, discussions, understandings, or agreements regarding the same subject matter; provided that all terms and conditions of all preexisting contracts or agreements between the parties shall continue in full force and effect except as supplemented or modified by this contract. In the event of any inconsistency or conflict between the terms of this contract and any other agreement between the parties, the terms of this contract shall govern.

[Continued on next page with signature blocks.]

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

1. CONTRACTOR:

CONTRACTOR certifies that the appropriate persons have executed the contract on behalf of CONTRACTOR as required by applicable articles, by-laws, resolutions or ordinances. (If a corporation with more than one individual serving as corporate officer, two corporate officers must execute)
By: SAMPLE ONLY; NOT INTENDED AS OFFER
Title:
Date:
By: SAMPLE ONLY; NOT INTENDED AS OFFER
Title:
Date:

2. STATE:

Person signing certifies that applicable procurement policies have been followed. Where contracts and amendments exceed $50,000, signature of state court administrator or deputy is also required.
By:
Title: Director, Information Technology Division
Date:
By:
Title: State Court Administrator or Deputy
Date:

3. Funds have been encumbered for STATE by:

By:
Title:
Date:
Contract No.:
P.O. No.:

4. Form and execution approved for STATE by:

By:
Title: Legal Counsel Division
Date:

APPENDIX IV

STATE OF MINNESOTA
CONFIDENTIALITY, PARTICIPATION AND ASSIGNMENT OF RIGHTS CONTRACT
SAMPLE ONLY; NOT AN OFFER

THIS CONTRACT, and amendments and supplements thereto, is between State of Minnesota, acting through its State Court Administrator's Office (hereinafter "STATE") and _____[insert subcontractor full legal name and address]_____ (hereinafter "SUBCONTRACTOR").

Recitals

The STATE has entered in to STATE contract with ___[enter general contractor full legal name]____, for _____[insert general description of services]_____services ("the Project"), to be provided by [SUBCONTRACTOR]/[SUBCONTRACTOR's employee ___[insert employee's full legal name]___. SUBCONTRACTOR'S participation in the Project requires, among other things, disclosure to CONTRACTOR of confidential STATE information and authorship by SUBCONTRACTOR of copyrightable subject matter which the STATE and SUBCONTRACTOR intend to be owned by the STATE. The STATE is willing to permit SUBCONTRACTOR to participate in the Project as an independent contractor under contract with ___[enter general contractor full legal name]____pursuant to the terms and conditions set forth in this contract.

Contract

In consideration of the foregoing, of being permitted to participate in the Project under contract with ___[enter general contractor full legal name]____, SUBCONTRACTOR agrees as follows:

I. **SCOPE OF, AND PAYMENT FOR, PARTICIPATION**. ___[enter general contractor full legal name]____ and SUBCONTRACTOR will determine the scope of SUBCONTRACTOR's engagement and the terms of their relationship with one another, and SUBCONTRACTOR will look solely to ___[enter general contractor full legal name]____ for payment under its contract with ___[enter general contractor full legal name]____.

II. **TERM AND TERMINATION.** This contract shall not be effective until approved as to form and execution by the STATE's Legal Counsel Division, and upon such approval the effective date shall be deemed to be [___insert start date here___]. This contract shall continue in force and effect according to its terms. The STATE may terminate this contract at any time without penalty by giving five (5) working days written notice of termination to SUBCONTRACTOR. Unless otherwise terminated as herein provided, this contract shall terminate as of midnight, [___insert termination date here___].

III. **INDEPENDENT OBLIGATIONS**. The obligations of SUBCONTRACTOR under this contract are unconditional and do not depend upon the performance of any agreements, duties, obligations or terms outside this contract.

IV. **ASSIGNMENT AND BINDING EFFECT**. Except as expressly authorized in this contract, SUBCONTRACTOR shall neither assign nor transfer any rights or obligations under this contract without the prior written consent of the STATE. This contract shall be binding upon and inure to

the benefit of the parties hereto and their respective successors and assigns, including any corporation or other legal entity into, by or with which SUBCONTRACTOR may be merged, acquired or consolidated or which may purchase all or substantially all of the business assets of SUBCONTRACTOR.

V. **AMENDMENTS.** Any amendments to this contract shall be in writing and shall be executed by the same parties who executed the original contract, or their successors in office.

VI. **LIABILITY.** SUBCONTRACTOR shall indemnify, save, and hold the STATE, its representatives and employees harmless from any and all claims or causes of action, including all attorney's fees incurred by the STATE, arising from the participation in the Project by SUBCONTRACTOR or SUBCONTRACTOR'S agents or employees. If SUBCONTRACTOR is an entity, SUBCONTRACTOR covenants and agrees that it shall obtain and maintain liability insurance with minimum limits of one million dollars ($1,000,000) per claim, accident or occurrence, whichever is greater, covering injuries or damages caused by the acts or omissions of its employees. This clause shall not be construed to bar any legal remedies SUBCONTRACTOR may have for the STATE'S failure to fulfill its obligations pursuant to this contract.

VII. **STATE AUDITS.** The books, records, documents, and accounting procedures and practices of the SUBCONTRACTOR relevant to this contract shall be subject to examination by the contracting department and the Legislative Auditor for a minimum period of six (6) years from the termination of this contract. Records shall be sufficient to reflect all costs incurred in performance of this Contract.

VIII. **CONFIDENTIALITY; DISCLOSURE AND USE.**

A. **General.** SUBCONTRACTOR shall not disclose to any third party any information that is both: (1) made available by the STATE to SUBCONTRACTOR in order to permit SUBCONTRACTOR to participate in the Project or is created, gathered, generated or acquired in accordance with the Project; and (2) inaccessible to the public pursuant to the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court, as the same may be amended from time to time. If SUBCONTRACTOR receives a request to release the information referred to in this Clause, SUBCONTRACTOR must immediately notify the STATE. The STATE will give SUBCONTRACTOR instructions concerning the release of the information to the requesting party before the information is released. CONTRACTOR shall not use any information that is made available by the STATE to CONTACTOR in order to permit CONTRACTOR to perform hereunder, or is created, gathered, generated or acquired in accordance with this contract, for any purpose other than performance of this contract.

B. **State Programs, Databases, Marks**. Without limiting paragraph A, above, SUBCONTRACTOR agrees to the following:

1. **State Programs**. The computer application programs made available by the STATE to SUBCONTRACTOR in order to permit SUBCONTRACTOR to

participate in the Project are referred to herein as "State Programs." The STATE is the copyright owner of the State Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the State Programs, and all analysis and design specifications, programming specifications, source code, algorithms, and information contained in technical reference manuals pertaining to the State Programs, are trade secret information of the STATE. The computer operating systems software programs and other third party software licensed by the STATE, and related documentation, made available by the STATE to SUBCONTRACTOR in order to permit CONTRACTOR to participate in the Project, are subject to claims of trade secret and copyright ownership by the respective licensors and will be treated by SUBCONTRACTOR in the same manner as trade secret information of the STATE. In addition, SUBCONTRACTOR will familiarize itself with and abide by the terms and conditions of the license agreements applicable to such third party software. Without limiting the foregoing, SUBCONTRACTOR may also be required to sign an appropriate confidentiality agreement with the STATE's software vendor if access to proprietary segments of the MNCIS application are necessary for SUBCONTRACTOR's work hereunder.

2. **State Databases.** The computer databases made available by the STATE to SUBCONTRACTOR in order to permit SUBCONTRACTOR to participate in the Project are referred to herein as "State Databases." The STATE is the copyright owner of the State Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the State Databases and to their structure, sequence and organization are trade secret information of the STATE. All information contained within the State Databases is sensitive, confidential information and will be treated by SUBCONTRACTOR in the same manner as trade secret information of the STATE. Without limiting any of the foregoing, SUBCONTRACTOR understands and agrees that to the extent that any records made available by the STATE or CONTRACTOR to SUBCONTRACTOR hereunder are publicly-accessible, the STATE retains all rights it possesses in and to such records and SUBCONTRACTOR has no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain such records except: (i) as expressly required for SUBCONTRACTOR's compliance with this contract; or (ii) to the extent that it has purchased or obtained the same from the STATE on the same terms and via the same means and to the same extent as other members of the public.

3. **Marks.** The STATE claims that the marks "MNCIS," "CriMNet," "SJIS," and "MARS" are trademarks and service marks of the STATE or of other agencies of the state of Minnesota. SUBCONTRACTOR shall neither have nor claim any right, title, or interest in or use of any trademark, service mark, or tradename owned or used by the STATE or other agencies of the state of Minnesota.

4. **Restrictions on Duplication, Disclosure and Use.** SUBCONTRACTOR will not, except as required for SUBCONTRACTOR'S participation in the Project, copy any part of the State Programs or State Databases, prepare any translations thereof or derivative works based thereon, use or disclose any trade secret information of the STATE, or use any trademark, service mark, or tradename of the STATE, in any way or for any purpose not specifically and expressly authorized by this contract. As used herein, "trade secret information of the STATE" means any information or compilation of information possessed by the STATE, or developed by SUBCONTRACTOR in the performance of its obligations hereunder, which derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of the STATE" does not, however, include information which was known to SUBCONTRACTOR prior to SUBCONTRACTOR'S receipt thereof, either directly or indirectly, from the STATE, information which is independently developed by SUBCONTRACTOR without reference to or use of information received from the STATE, or information which would not qualify as trade secret information under Minnesota law. It will not be a violation of this section for SUBCONTRACTOR to disclose any information received from the STATE pursuant to the order of a court or governmental authority of competent jurisdiction if SUBCONTRACTOR notifies the state immediately upon receipt by SUBCONTRACTOR of notice of the issuance of such an order.

5. **Proprietary Notices.** SUBCONTRACTOR will advise its employees and permitted subcontractors who are permitted access to any of the State Programs, State Databases, or trade secret information of the STATE of the restrictions upon duplication, disclosure and use contained in this contract. Without limiting the foregoing, SUBCONTRACTOR shall include in and/or on any copy or translation of, or derivative work based upon, any of the State Programs, the State Databases, or trade secret information of the STATE, or any part thereof, and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to SUBCONTRACTOR by the STATE, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

C. **Inspection and Return of State Property.** All documents, encoded media, and other tangible items made available to CONTRACTOR by the STATE, or prepared, generated or created by SUBCONTRACTOR in SUBCONTRACTOR'S participation in the Project, are and will be exclusively the property of the STATE and will be available for inspection by the STATE upon request. Upon completion of SUBCONTRACTOR'S participation in the Project, SUBCONTRACTOR will, upon the STATE'S request, promptly deliver to the STATE any or all such documents, encoded media and other items in its possession, including all complete or partial copies, recordings, abstracts, notes or reproductions of any kind made from or about such documents, media, items, or information contained therein. SUBCONTRACTOR and the STATE acknowledge that

all computer operating systems software programs and other third party software licensed by the STATE, and related documentation, made available by the STATE to SUBCONTRACTOR in order to permit SUBCONTRACTOR to perform its obligations hereunder, or any translations, compilations, or partial copies thereof are and remain the property of the respective licensors.

D. **Injunctive Relief.** SUBCONTRACTOR acknowledges that the STATE will be irreparably harmed if SUBCONTRACTOR'S obligations under sections VIII and IX of this contract are not specifically enforced and that the STATE would not have an adequate remedy at law in the event of an actual or threatened violation by SUBCONTRACTOR of its obligations. Therefore, SUBCONTRACTOR agrees that the STATE shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violation or breach by SUBCONTRACTOR without the necessity of the STATE showing actual damages or that monetary damages would not afford an adequate remedy. SUBCONTRACTOR shall be liable to the State for reasonable attorney's fees incurred by the STATE in obtaining any relief pursuant to this section.

E. **Nondisclosure Indemnity.** Without limiting section VI, SUBCONTRACTOR agrees to indemnify, defend and save harmless the STATE and its agents, officers and employees from and against any and all claims by Third Parties that are determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted directly and proximately from SUBCONTRACTOR'S violation of the non-disclosure provisions hereof. The STATE shall provide SUBCONTRACTOR with prompt notice of any claim for which indemnification may be sought hereunder and shall cooperate in all reasonable respects with SUBCONTRACTOR in connection with any such claim. SUBCONTRACTOR shall be entitled to control the handling of any such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing.

IX. **RIGHTS IN AND TO INFORMATION, INVENTIONS, AND MATERIALS.** In consideration of the facts that SUBCONTRACTOR'S participation in the Project will involve access to and development of information which shall be trade secret information of the STATE and may involve the development by SUBCONTRACTOR or SUBCONTRACTOR'S participation in the development of copyrightable and/or patentable subject matter which the parties intend be owned by the STATE:

A. All right, title, and interest in and to any trade secret information of the STATE (as defined in sections VIII(B)(1), (2), and (4) above) developed by SUBCONTRACTOR either individually or jointly with others, and which arises out of SUBCONTRACTOR'S participation in the Project, will be the property of the STATE and are by this contract irrevocably transferred, assigned, and conveyed to the STATE free and clear of any liens, claims, or other encumbrances.

B. The STATE shall be the copyright owner of all copyrightable material that SUBCONTRACTOR shall conceive or originate, either individually or jointly with others, and which arises out of the performance of this contract, and of all elements and components thereof in which copyright protection can subsist. To the extent that any of

the foregoing does not qualify as a "work made for hire" within the meaning and purview of section 101 of the United States Copyright Act, 17 U.S.C. § 101, SUBCONTRACTOR hereby transfers, assigns and conveys the exclusive copyright ownership thereof to the STATE, free and clear of any liens, claims or other encumbrances.

C. All right, title, and interest in and to any invention which SUBCONTRACTOR first conceives or first reduces to practice either individually or jointly, and which arises out of SUBCONTRACTOR'S participation in the Project, will be the property of the STATE and are by this contract irrevocably transferred, assigned, and conveyed to the STATE along with ownership of any and all patents on the inventions anywhere in the world, free and clear of any liens, claims or other encumbrances. SUBCONTRACTOR agrees to disclose promptly any such invention to the STATE. This paragraph shall not apply to any invention for which no equipment, supplies, facility or trade secret information of the STATE (as defined in Sections VIII(B)(1), (2), and (4), above) was used and which was developed entirely on SUBCONTRACTOR'S own time, and (a) which does not relate (i) directly to the business of the STATE or (ii) to the STATE'S actual or demonstrably anticipated research or development, or (b) which does not result from any work performed or materials provided by SUBCONTRACTOR for the STATE.

D. SUBCONTRACTOR will execute all documents and perform all other acts that the STATE may reasonably request in order to assist the STATE in perfecting its rights in and to the trade secret information of the STATE and the copyrightable and patentable subject matter identified herein, in any and all countries.

E. Without limiting section VIII or parts A, B, C, and D of section IX of this agreement, the STATE retains all rights it possesses in and to the State Databases and State Programs made available to SUBCONTRACTOR for purposes of permitting SUBCONTRACTOR to perform hereunder. SUBCONTRACTOR has no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain the State Databases or State Programs except as expressly permitted herein to permit SUBCONTRACTOR to complete its duties hereunder. SUBCONTRACTOR may, however, purchase a copy of publicly-accessible versions of information contained in the State Databases and State Programs from the STATE on the same terms and to the same extent as other members of the public. Except to the extent that SUBCONTRACTOR has purchased such copy, SUBCONTRACTOR shall not sell, resell, disclose, redisclose, recombine, reconfigure or retain the State Databases or State Programs except as otherwise expressly provided herein.

X. [RESERVED FOR FUTURE USE]

XI. [RESERVED FOR FUTURE USE]

XII. **ANTITRUST**. SUBCONTRACTOR hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with the Project resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

XIII. **OTHER PROVISIONS.**

A. **Warranties.**

1. **Original Works.** In participating in the Project, SUBCONTRACTOR will not use or incorporate any trade secret information or copyrighted works of authorship of SUBCONTRACTOR or of any third party, and except for components already in the public domain (without any license restrictions attached thereto), all software, documentation, information and other materials provided or furnished by SUBCONTRACTOR in performing the duties under this contract will be original and will not violate or infringe upon the rights of any third party.

2. **Professional Services; Status; Conflicts of Interest.** SUBCONTRACTOR represents and warrants to the STATE that [SUBCONTRACTOR]/[all services related to the Project will be performed exclusively by SUBCONTRACTOR's employee ___[insert employee's full legal name]___ who is and will be acting as an employee of SUBCONTRACTOR within the meaning and purview of the "works made for hire" provision of the Copyright Laws of the United States of America and who:]:

   a. Has the proper training, skill and background so as to be able to perform all professional integration services required for the Project in a competent and professional manner, and all such work shall be of quality;

   b. Has obtained lawful permanent residence in the United States of America with a right to live and work permanently in the United States of America; and

   c. Has no interest in any pending or threatened litigation or proceedings in any Minnesota state court and has no immediate family members who have any such interests.

   If SUBCONTRACTOR becomes aware of any [SUBCONTRACTOR]/[SUBCONTRACTOR employee] interest (or that of [SUBCONTRACTOR's]/[SUBCONTRACTOR's employee's] immediate family members) in any threatened or pending litigation or proceeding in any Minnesota state court, SUBCONTRACTOR shall immediately notify the STATE of such interest, and SUBCONTRACTOR acknowledges that the STATE may immediately disqualify [SUBCONTRACTOR] /[SUBCONTRACTOR's employee] from performing services related to the Project, and [SUBCONTRACTOR]/[SUBCONTRACTOR's employee] shall have no further access to the confidential information of the STATE.

3. **Mutual Representations and Warranties.** SUBCONTRACTOR and the STATE each represent and warrant to the other that: a) it has the full right, power

and authority to enter into this contract and to perform fully all of its obligations hereunder; b) it is free of any obligation or restriction that would prevent it from entering into this contract or from performing fully any of its obligations hereunder; and c) it has not entered into and will not enter into any contract which would impede the full performance of its obligations hereunder or would in any way limit or restrict the rights of the other under this contract.

B. **Patent and Copyright Indemnity.** Without limiting section VI, SUBCONTRACTOR shall indemnify the STATE and hold it harmless against any claim that the work performed or material provided by SUBCONTRACTOR'S participation in the Project infringes or violates the patent, copyright, or trade secret rights of any third party. SUBCONTRACTOR shall pay any and all resulting costs, expenses (including attorney's fees), damages and/or liabilities associated with or resulting from any such claim.

C. **Relationship of the Parties.** SUBCONTRACTOR is an independent contractor. SUBCONTRACTOR and CONTRACTOR'S employees and agents shall not be deemed for any purpose to be an employee of the STATE. Neither SUBCONTRACTOR nor the STATE shall have the right or the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

D. **Publicity.** Any publicity regarding the subject matter of this contract must identify the STATE as the sponsoring agency and must not be released without the prior written approval from the STATE'S Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for SUBCONTRACTOR individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this contract. Notwithstanding anything in this contract to the contrary, either party may disclose to the public the existence of this contract, the parties to the contract, and the material terms of the contract, including price, projected term, and scope of work.

E. **Endorsement.** SUBCONTRACTOR must not claim that the STATE endorses its products or services.

F. **Non-Exclusivity**. This contract shall not preclude SUBCONTRACTOR from developing materials outside this contract that are competitive, irrespective of their similarity to materials delivered to the STATE under SUBCONRTACTOR'S participation in the Project; provided, however, that such materials prepared by SUBCONTRACTOR shall not violate the nondisclosure and intellectual property provisions of this contract. Nothing in this contract shall be construed as precluding or limiting in any way the right of SUBCONTRACTOR to provide computer consulting and programming services or other services of any kind to any person or entity as SUBCONTRACTOR in its sole discretion deems appropriate.

G. **Notices**. Any written notice hereunder shall be deemed to have been received when: (A) personally delivered; (B) sent by confirmed facsimile transmission or telegram; (C) sent by commercial overnight courier with written verification of receipt; or (D) seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at: (1) the address first set forth herein, if to SUBCONTRACTOR; (2) at 145 Minnesota Judicial Center, St. Paul, MN 55155, if to the STATE, with a copy to Legal Counsel Division, 125 Minnesota Judicial Center, 25 Rev. Martin Luther King Jr., Blvd. St. Paul, MN 55155; or (3) at such other address of which written notice has been given in accordance herewith.

H. **Facilities and Use Conditions**. Without limiting SUBCONTRACTOR's responsibilities under any other section of this contract, to the extent that SUBCONTRACTOR utilizes STATE provided on-site facilities (including, but not limited to, computers, desks, Internet connections, etc.) to perform SUBCONTRACTOR's duties under this contract, SUBCONTRACTOR must comply with all policies of the STATE and the Minnesota Judicial Branch as they relate to the acceptable use or operation of STATE facilities, including, without limitation, the Minnesota State Court System Policies on the Use of the Internet and Other Electronic Communication Tools and Drug Free Workplace as the same may be amended and replaced from time to time.

I. **Miscellaneous.**

1. The provisions of sections III, IV, VI, VII, VIII, IX, XII, and XIII shall survive any cancellation or termination of this contract, as shall any other provisions which by their nature would be intended or expected to survive such cancellation or termination.

2. Captions are for convenient reference and do not constitute a part of this contract.

3. The failure by either Party at any time to enforce any of the provisions of this contract or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, right, remedy or option or in any way affect the validity of this contract. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

4. This contract shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States of America and of the State of Minnesota, without regard to Minnesota's choice of law provisions. Any action arising out of or relating to this contract, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. SUBCONTRACTOR hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

5. Every provision of this contract shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this contract so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this contract, and all other provisions shall remain in full force and effect.

6. This contract sets forth the entire agreement and understanding between the Parties regarding the subject matter hereof and supersedes any prior representations, statements, proposals, negotiations, discussions, understandings, or agreements regarding the same subject matter; provided that all terms and conditions of all preexisting contracts or agreements between the parties shall continue in full force and effect except as supplemented or modified by this contract. In the event of any inconsistency or conflict between the terms of this contract and any other agreement between the parties, the terms of this contract shall govern.

[Continued on next page with signature blocks.]

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

1. SUBCONTRACTOR:
SUBCONTRACTOR certifies that the appropriate persons have executed the contract on behalf of SUBCONTRACTOR as required by applicable articles, by-laws, resolutions or ordinances.
(If a corporation having more than one individual serving as corporate officers, two corporate officers must sign.)

By: SAMPLE ONLY, NOT INTENDED AS OFFER
Title:
Date:

By: SAMPLE ONLY, NOT INTENDED AS OFFER
Title:
Date:

2. STATE:

By:
Title:
Date:

3. Approved as to form and execution by the STATE'S Legal Counsel Division:

By:
Title:
Date:

ACKNOWLEDGMENT

___[enter general contractor full legal name]____ hereby acknowledges and approves the foregoing and agrees that the same shall supersede any inconsistent provisions of any agreement between ___[enter general contractor full legal name]____ and _____[insert subcontractor full legal name]_____.

___[enter general contractor full legal name]____

By: SAMPLE ONLY, NOT INTENDED AS OFFER
Title:
Date:

APPENDIX V

CONFIDENTIALITY AND DISCLOSURE OF INTEREST FORM
SAMPLE ONLY; NOT AN OFFER

I. CONFIDENTIALITY.

I, _____, an employee of CONTRACTOR ("CONTRATOR"), acknowledge that CONTRACTOR has been granted certain access to non-public data and records of the State of Minnesota (the "STATE") pursuant to a [CONTRACT] ("Contract") between CONTRACTOR and the STATE. I further acknowledge that such information has tangible value, contains valuable trade secrets, copyrights and confidential information of the STATE and other parties.

To the extent that I come into possession of any non-public data or records (including, without limitation, non-public data or records as defined in the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court, as the same may be amended from time to time) or any proprietary or confidential information of the STATE or any third party, I will not use any such information for any purpose other than performance of the Contract and will not disclose any such information to any third party without the STATE's consent, except: (a) as may be required by law, regulation, judicial or administrative process; or (b) as required in litigation pertaining to this Agreement, provided the STATE is given advance notice of such intended disclosure in order to permit the STATE the opportunity to seek a protective order; or (c) to the extent such information (i) becomes publicly available (including, without limitation, any information filed with any governmental agency and available to the public) other than as a result of a disclosure by CONTRACTOR in breach of its obligations under the Contract or disclosure by me in breach of this Agreement, (ii) becomes available to CONTRACTOR or to me on a non-confidential basis from a source other than the STATE, which is not prohibited from disclosing such information to CONTRACTOR or to me by obligation to the STATE, (iii) is known by CONTRACTOR or to me prior to its receipt from the STATE without any obligation of confidentiality with respect thereto; or (iv) is developed by CONTRACTOR or by me independently of any disclosures made by the STATE to CONTRACTOR or to me of such information.

In addition, I understand and agree that to the extent that any records made available by the STATE to me are publicly-accessible, the STATE retains all rights it possesses in and to such records, and I have no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain such records except: (i) as expressly required for CONTRACTOR's compliance with the Agreement; or (ii) to the extent that I have purchased or obtained the same from the State on the same terms and via the same means and to the same extent as other members of the public.

In addition, I shall not sell, resell, disclose, redisclose, recombine, reconfigure or retain the Data, Records, Documents, Information, or Information Databases, or Original Documents transmitted to or from the STATE under the Contract except as otherwise expressly provided in the Contract, subject to the exceptions set forth in items (a), (b) and (c) in the preceding paragraph. I agree that my obligations with respect to the confidentiality and security of all information disclosed to me shall survive the termination of any agreement or relationship between the STATE and CONTRACTOR and/or me.

I acknowledge and agree that a breach by me of any of the covenants set forth in this Agreement will cause irreparable injury to the STATE or others for which damages, even if available, will not constitute an adequate remedy. Accordingly, I agree that the STATE, in addition to any other remedy available at law or in equity, shall be entitled to the issuance of injunctive relief (including, without limitation, specific performance) in order to enforce the covenants and agreements contained herein.

If attorneys' fees or other costs are incurred by the STATE to secure performance of any obligations under this Agreement, or to establish damages for the breach thereof or to obtain any other appropriate relief, whether by way of prosecution or defense, and the STATE is the prevailing party, the STATE will be entitled to recover from me reasonable attorneys' fees and costs incurred in connection therewith.

This Agreement shall be interpreted in accordance with the laws of the state of Minnesota. Any action arising out of or relating to this Agreement, its performance, enforcement or breach, will be venued in a state court situated within Ramsey County, Minnesota.

ACKNOWLEDGED AND ACCEPTED:	CONTRACTOR
By: _____ Employee Signature	By: _____
_____ Name (please print)	Name: _____ (please print)
Date: _____	Title: _____
	Date: _____

II. DISCLOSURE OF INTEREST.

I, _____ (Print Name), hereby certify that neither I, nor any member of my immediate family, is a party to any pending or threatened lawsuit or proceeding in any Minnesota state court.

_____ Date: _____
Employee Signature

_____
Name (please print)

APPENDIX VI

TYLER CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (this "Agreement") is entered into as of the _____ day of _____, 20__, by and between the State of Minnesota, State Court Administrator's Office (the "Court"), Contractor name here ("Recipient"), and The Software Group, Inc. doing business as Tyler Technologies, Inc., a Delaware corporation ("Tyler").

Tyler and the Court have entered into that certain Agreement for the License and Development of Case Management Software and for Professional Services dated as of July 1, 2002 (the "CMS Agreement"), pursuant to which the Court has engaged Tyler to, among other things, develop, license, and install its case management software (the "Licensed Software") in the state of Minnesota.

The Court has engaged Recipient for the purpose of assisting the Court with certain projects associated with the license and use of the Licensed Software, which may include the implementation of the Licensed Software into sites within the state of Minnesota as requested by the Court, assisting the Court in its data processing functions, or other duties related to the license and use of the Licensed Software.

In connection with his, her or its duties to the Court, the Court may disclose to Recipient, or Recipient may otherwise receive access to, certain Tyler trade secret information (as defined below). Recipient acknowledges that, prior to receiving access to Tyler trade secret information in connection with Recipient's duties for the Court, the CMS Agreement requires Recipient to enter into this Agreement.

THEREFORE, in consideration of the foregoing and of the mutual representations, covenants, and agreements contained herein, the parties agree as follows:

1. Confidentiality.

(a) Recipient agrees that, except in the course of performing services for the Court, Recipient will not disclose, use, or reproduce, or authorize any third party to disclose, use, or reproduce, any of the Tyler trade secret information, without the prior written approval of Tyler. Notwithstanding the foregoing, Recipient may disclose such trade secret information to employees of Recipient as may be reasonably necessary in order for Recipient to perform its duties for the Court, provided such persons agree in writing to be bound by this Agreement. Recipient will be responsible for any breaches by its employees, agents, or subcontractors.

(b) As used in this Agreement, "Tyler trade secret information" shall mean confidential and proprietary information of Tyler, including, without limitation, software, documentation, release notes, database layouts, algorithms, techniques, processes, and systems designs relating to the Licensed Software; *provided, however*, that "Tyler trade secret information" shall not include (i) any information which was known to or readily ascertainable by proper means by the Court or Recipient before being disclosed to the Court or Recipient by Tyler; (ii) any information which is or becomes available to the general public without fault or

action of the Court or Recipient in violation of this Agreement; (iii) any information which is disclosed to the Court or Recipient by a third party which is not prohibited from disclosing such information to the Court or Recipient by obligation to Tyler; (iv) any information which is developed independently by the Court or Recipient; (v) any information which would not qualify as trade secret information of Tyler under the Uniform Trade Secrets Act; or (vi) information provided by Tyler that is not in tangible form clearly labeled as Tyler confidential information.

(c) Recipient agrees that all documents of any nature that include any Tyler trade secret information are and shall be the exclusive property of Tyler and/or the Court and that all copies thereof shall be surrendered to the respective owner(s) upon request.

2. Injunctive Relief. Recipient acknowledges and agrees that a breach by it or one of its affiliates of any of the covenants set forth in this Agreement will cause irreparable injury to Tyler and its business for which damages, even if available, will not constitute an adequate remedy. Accordingly, Recipient, for itself and its affiliates, agrees that Tyler, in addition to any other remedy available at law or in equity, shall be entitled to the issuance of injunctive relief (including, without limitation, specific performance) in order to enforce the covenants and agreements contained herein.

3. Attorneys' Fees and Costs. If attorneys' fees or other costs are incurred by Tyler to secure performance of any obligations under this Agreement, or to establish damages for the breach thereof or to obtain any other appropriate relief, whether by way of prosecution or defense, and Tyler is the prevailing party, Tyler will be entitled to recover from Recipient reasonable attorneys' fees and costs incurred in connection therewith.

4. Assignment. No party shall assign this Agreement or any rights or obligations hereof without the prior written consent of the other parties, and any attempted assignment without such consent shall be null, void, and of no effect.

5. Waiver. No failure on the part of any party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein are cumulative and not exclusive of any remedies provided by law or equity.

6. Governing Law and Venue of Disputes. The terms of this Agreement and all matters relating to this Agreement (whether in contract, statute, tort, or otherwise), will be governed by, and construed in accordance with, the laws of the state of Minnesota (without giving effect to the choice of law principles thereof). Any action arising out of or relating to this Agreement, its performance, enforcement or breach, will be venued in a state court situated within Ramsey County, Minnesota.

7. Entire Agreement. This Agreement constitutes the entire agreement and understanding among the parties and supersedes all prior discussions and agreements between the parties relating generally to the same subject matter. This Agreement shall supersede any inconsistent provisions of any agreement between the Court and Recipient to which Tyler is not a party.

8. Binding Agreement. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives, and permitted assigns.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by a duly authorized representative as of the date first written above.

THE SOFTWARE GROUP, INC. d/b/a
TYLER TECHNOLOGIES, INC.

By: _____
Name: _____
Title: _____

THE STATE OF MINNESOTA,
STATE COURT ADMNISTRATOR'S OFFICE

By: _____
Name: _____
Title: _____

Contractor Name (Recipient)

By: _____
Name: _____
Title: _____