



REQUEST FOR PROPOSAL

This document is a Request for Proposal (“**RFP**”) for Commercial Real Estate Advisory and Brokerage Services in the San Francisco Bay Area (“**services**”).

The State Bar of California seeks proposals from licensed commercial real estate brokerage firms (“**vendors**” or “**bidders**”) with experience in providing commercial real estate advisory and brokerage services to users on large-scale commercial sale, purchase, and leasing transactions. The selected vendor will be retained to represent the State Bar in the sale of its 208,000 rentable square foot northern California headquarters building located at 180 Howard Street in San Francisco, likely some time in 2022; and in the State Bar’s pursuit of between 65,000 and 80,000 square feet of new office space in the San Francisco Bay Area, which could include either leasing or purchase options. The vendor may also be asked to negotiate a long-term or short-term lease back of space at 180 Howard Street.

As a practical matter the real estate advisory and brokerage services agreement will likely terminate once these particular transactions are completed. For contracting purposes, however, the State Bar will award a contract for an initial term of three years (“**Initial Term**”), with an option to renew, at the State Bar’s sole discretion, for two additional one-year terms (“**Renewal Periods**”). The Initial Term, with Renewal Period(s), if elected, means the **Term**. The State Bar expects to award a contract based on this RFP on or before January 31, 2022, for the Initial Term to commence upon execution of the contract.

Please submit an electronic copy of your proposal by email to Sunly.Yap@calbar.ca.gov no later than 5:00 p.m. on January 14, 2022 (“**Submission Deadline**”). Bidders will receive a confirmation email notifying them of receipt. If bidders do not receive such email, please follow up by email to Sunly Yap.

SECTION I – INTRODUCTION

The State Bar, created in 1927 by the Legislature and adopted as a judicial branch agency by amendment to the California Constitution in 1960, is a public corporation within the judicial branch of state government. The State Bar serves as an administrative adjunct to the California Supreme Court in all matters pertaining to the admission, discipline, and regulation of California lawyers.

The State Bar's mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system. The State Bar is the largest state bar in the country and licenses approximately 250,000 attorneys. More information about the State Bar can be found [online](#). The State Bar's offices are located in San Francisco and Los Angeles.

SECTION II – STATEMENT OF WORK

[A] Bidder Minimum Requirements

The State Bar will accept and evaluate proposals only from bidders that meet all three of the following requirements:

1. **Licensing:** Bidder must have all necessary business licenses, professional certifications, or other credentials to perform the services and, if a corporation, be in good standing and qualified to conduct business in the State of California. All real estate professionals who will be assigned to the State Bar's account must be real estate brokers ("brokers") licensed pursuant to Business and Professions Code section 10130 et seq. and in good standing in the State of California as of December 1, 2021, and throughout the term of the contract.
2. **Bidder Profile:** Bidders must provide real estate brokerage services to San Francisco/Oakland area commercial clients from an office in San Francisco or Oakland and must have a staff of at least 20 brokers in San Francisco or Oakland. Only one submittal will be accepted from each firm, organization, or company; competing "branch" offices or competing teams from the same corporate entity may not submit separate proposals, though the bidder may designate distinct teams to handle the sale, purchase, or lease transactions, within its single proposal. Within the last four (4) years, bidder must have completed a) sale transactions in the greater San Francisco/Oakland area (San Francisco, Alameda, Contra Costa, San Mateo, Santa Clara and Marin Counties) with a total value of at least \$200 million; and b) purchase or tenant-side leasing transactions in the greater San Francisco/Oakland area with a total value of at least \$200 million.
3. **Broker Experience:** The account executive(s) / lead broker(s) who will be assigned to the State Bar's account must each have a minimum of ten (10) years' experience in providing commercial real estate advisory and brokerage services to clients. They must be based in San Francisco or Oakland. Within the last four (4) years, these brokers must have a) represented sellers in at least four (4) completed sale transactions in the greater San Francisco/Oakland area valued at a minimum of \$50 million each; and b) represented tenants/buyers in a minimum of six (6) completed leasing or purchase transactions of at least 10,000 RSF each for Class A commercial office space in the greater San Francisco/Oakland area.

[B] Current Occupancy Information

1. The State Bar conducts its operations in both Northern and Southern California. In Southern California, the State Bar owns 845 South Figueroa Street in downtown Los Angeles. This low-rise office building is approximately 140,000 rentable square feet, with the State Bar occupying 115,000 RSF on the upper four floors, and a single retail tenant occupying 25,000 RSF on the ground floor. This information is provided for reference only; real estate services related to Los Angeles are not included in the scope of this RFP.
2. In San Francisco, the State Bar is the owner and majority occupant of 180 Howard Street, a 13-story office building in the downtown financial district containing approximately 208,000 rentable square feet. The State Bar occupies a total of 121,000 RSF, comprised of 116,000 RSF on seven full office floors and 5,000 RSF of service space on the ground floor. The remaining 87,000 RSF is allocated to tenants – 82,000 RSF on five full office floors, and 5,000 RSF of ground floor retail. Of the total tenant space, 33,000 RSF on two full office floors is currently vacant.
3. Approximately 270 State Bar employees work at 180 Howard Street. Pre-pandemic, on average the office received approximately 50 visitors per day, and also hosted large meetings several times a month. The State Bar does not anticipate any substantial changes to its functions or headcount in the foreseeable future.
4. The State Bar's security procedures are typical of government agencies but are more rigorous than those used by many private sector businesses: all visitors are screened through a metal detector; bags and packages are screened through an x-ray machine; visitors must be escorted from public areas into secured State Bar space; and access to State Bar floors and individual office suites is restricted by electronic key-card. The State Bar uses security staff for check-in/screening at the entrance to the building.

[C] Future Occupancy Information

1. The State Bar estimates that it could reduce its northern California office space requirement from 121,000 RSF to approximately 65,000 to 80,000 RSF, using more current industry space standards, and using more shared rather than dedicated workspace as part of a long-term remote work policy. A workplace planning initiative is currently underway to further refine the future space requirement.
2. Accessibility for the public and State Bar employees – in particular, proximity to a BART line – is a key consideration for future office locations.

[D] Scope of Services to be Provided Under the Contract

1. The selected vendor will provide support to the State Bar's staff and Board in analyzing, negotiating, and closing on the following real estate transactions:
 - a. The sale of 180 Howard Street. Vendor will list 180 Howard Street for sale, market it to prospective buyers, respond to submitted offers, and assist the State Bar in the due diligence and closing processes associated with such a sale transaction.
 - b. The acquisition of between 65,000 and 80,000 square feet of new office space in the San Francisco Bay Area, through either a) the purchase of another building; or b) the leasing of space, either in a different building or in a long-term lease-back at 180 Howard Street. Vendor will identify and qualify potential buildings, conduct due diligence on each building, solicit term sheets from selected buildings, and negotiate the selected real estate transaction to minimize the State Bar's overall occupancy and relocation costs.
 - c. Should the State Bar relocate to another building through either a purchase or a lease, vendor may also be required to negotiate a short-term leaseback at 180 Howard Street for an appropriate transition period, while new space is being renovated.
2. Specific services may include, but are not limited to, the following:
 - a. Analyze the space programming study of State Bar requirements
 - b. Review the State Bar's geographical parameters
 - c. Prepare a comprehensive market study of available space options, along with an interpretation and assessment of relevant market trends
 - d. Conduct due diligence investigation of each potential site's specific suitability for the State Bar's requirements as well as ownership financial strength/liquidity
 - e. Assist client in determining appropriate shortlist of candidate buildings
 - f. Prepare and negotiate landlord lease and/or building purchase agreements for existing location and alternatives
 - g. Analyze initial term sheets received – both financial and non-financial proposed terms, as well as build-out cost and timeframe implications
 - h. Prepare presentations comparing alternatives to client
 - i. Assist client in selecting a primary and fallback locations
 - j. Solicit draft transaction documents from selected landlords and/or sellers
 - k. Assist client and legal counsel with lease and/or purchase negotiation process
 - l. Coordinate execution of all transaction documents, evidence of insurance, Non-Disturbance Agreements, etc.
 - m. Coordinate the valuation, listing, marketing and sale transaction of 180 Howard Street
 - n. Oversee due diligence work either prior to or during the sale
 - o. Evaluate purchase proposals from prospective buyer including total net purchase price, buyer performance probability, and time to close
 - p. Assist client and legal counsel with sale negotiation process

- q. Coordinate and assist in review of all transaction documents
- r. Negotiate and coordinate a short-term or long-term lease back at 180 Howard
- s. Other services as requested by client or recommended by vendor

[E] Contract Pricing

1. Bidders shall provide a cost proposal for all services, including an itemized list of each cost component and a clear and detailed explanation of the proposed cost structure/model for each cost component. It is unlawful for any person engaged in business in California to sell or use any article or product as a “loss leader” as defined in Business and Professions Code section 17030. As the State Bar may award a contract based on the initial offer, a bidder should make its initial offer on the most favorable terms available. The State Bar reserves the right, however, to have discussions with those bidders falling within a competitive range, and to request revised pricing offers from them and to make an award or conduct negotiations thereafter.
2. It is anticipated that compensation for the entire scope of services as indicated in this RFP, including research, financial analysis, marketing, and any additional/specialty support services related to potential sale, purchase, or lease transactions, shall be through commercial real estate brokerage commissions based on sale price, purchase price, or total rental consideration, as applicable. Please note these commission rates and structures (fixed percentage, tiered structure, etc.), as well as any other alternative fee structures, including rebates. Please describe clearly where fees paid by the State Bar will include compensation for brokers representing other parties in the proposed transactions, and where compensation for the State Bar’s selected vendor will be through fees paid by other parties in the proposed transactions. Please clearly indicate where fee structures may differ based on the particular nature of the proposed transaction (e.g., purchasing a building that is actively being marketed for sale v. one that is not). Please provide a fee structure for each of the possible transactions included in the scope of services:
 - a. Sale of 180 Howard Street.
 - b. Purchase of another building.
 - c. (i) Lease of office space in a new building other than 180 Howard Street; (ii) long-term lease back of office space at 180 Howard Street; (iii) short-term lease back at 180 Howard Street for a transition period, while new space is being renovated.
3. Bidder will warrant that brokerage commissions or alternative compensation structures paid by parties as stated above are the only compensation (direct or indirect) that will be received by the individuals/firm from transactions contemplated under this RFP. In the event that no transaction occurs as a result of this engagement, vendor shall not be entitled to compensation or reimbursement.

4. The State Bar recognizes that an 80,000 square foot occupancy by a reputable, stable, and creditworthy organization such as the State Bar is highly valuable in today's office market, and one of its primary goals is to extract the maximum value both in terms of reducing occupancy costs and monetizing its transactional leverage. Please include in your proposal any creative ideas for maximizing the State Bar's financial outcomes.
5. Rebates: Vendor may receive commissions from other Landlords. List rebates of these commissions that the State Bar will receive from vendor.

SECTION III – GENERAL INFORMATION

The submission requirements for this RFP are set forth below. A proposal shall constitute an irrevocable offer for 60 Business Days following the Submission Deadline. Reference to a certain number of days in this RFP shall mean Business Days unless otherwise specified. "Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of California are authorized or required by law or other governmental action to close.

Contact with State Bar personnel in connection with this RFP may not be made other than as specified in this RFP. Unauthorized direct or indirect contact with any State Bar personnel may be cause for rejection of a bid.

[A] Submission Requirements

To be considered responsive, a proposal must contain the following, prefaced by a table of contents, referenced by table number and page number, and in the order below.

1. An executive summary of no more than five pages, providing an overview of the bidder's organizational structure, history, services, market position, unique qualifications, strategic alliances, etc.
2. Confirmation that the bidder has met the minimum qualifications for the RFP as described in Section II.A.
3. Qualifications, background, experience, and resumes of the project director and other key staff proposed to work on the project.
4. A detailed description of the services, techniques, approaches, and methods to be used in completing the project scope described in Section II.D. Please include a timeline/sequencing of critical path items.
5. A detailed cost proposal, including any travel costs and other expenses, as described in Section II.E. If necessary, bidders' travel expenses will be reimbursed in accordance with the State Bar's [Travel and Business-Related Expense Policy](#).

6. At least three references from clients for whom the bidder has performed services similar to those being requested in this RFP. The references should include the name of a contact person, title, physical and email addresses, and telephone numbers. The State Bar may, but is not obligated to, contact these references, or ask the bidder to provide additional references.
7. A description of the history of work previously performed for other State of California agencies or State Judicial Branch Entities, if any.
8. A list and description of any legal actions, lawsuits, arbitrations, or formal protests related to the project scope described in Section II in which the bidder has been involved in the last two (2) years that would have an impact on the bidder's ability to provide the requested services.
9. Written acknowledgement of the acceptance of the Contracting Requirements set forth in Section IV of this RFP, or an explanation of specific concerns or requested changes. Specific terms may be reserved for future negotiation, but must be clearly identified and reasons given for the reservation.
10. The most recent year's annual reports, or comparable document, including detailed current profit and loss, assets and liabilities, and other relevant financial data. Bidders must submit **Attachment A: Vendor History Questionnaire** electronically in native .xls format per instructions below.

[B] Submission Requirements Format

Proposals must be emailed to Sunly.Yap@calbar.ca.gov by the Submission Deadline noted on Page 1 of this RFP. The proposal package must include one electronic copy containing the proposal in PDF (file-to-PDF only, do not print and scan), and Attachment A in Excel format.

If specific submission components are particularly large and self-contained they may be included in a separate appendix rather than in the body of the proposal. Submittals should not direct the evaluation team to general brochures, marketing materials or websites to obtain information related to the specific submission requirements; submittals that utilize references to external materials as an answer will be considered nonresponsive.

Proposals should be prepared simply and economically, providing a straightforward and concise description of the bidder's ability to meet the requirements of this RFP. Emphasis should be placed on completeness and clarity of content, and conformity to the State Bar's instructions. Proposals should not include generic promotional materials and graphics that increase page count and PDF file size without addressing substantive content. Brochures and marketing materials may be included as a supplement if desired, in hard copy or a separate PDF file.

[C] Rejection of Proposals

The State Bar reserves the right in its sole discretion to reject any or all proposals in whole or in part, without incurring any cost or liability whatsoever. All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement of the RFP, or if it is incomplete or contains irregularities, the proposal may be rejected. A deviation is material to the extent that a proposal is not in substantial accord with RFP requirements.

Notwithstanding the foregoing, immaterial deviations may cause a bid to be rejected. The State Bar may waive an immaterial deviation or defect in a proposal. The State Bar's waiver of an immaterial deviation or defect will in no way modify the RFP or excuse a bidder from full compliance with the RFP requirements.

Any proposal may be rejected where it is determined to be inaccurate or unreliable, not really competitive, or where the cost is unreasonable.

Proposals that contain false or misleading statements may be rejected if in the State Bar's opinion, the information was intended to mislead the State Bar regarding a requirement of the RFP.

The State Bar may judge a bidder to be materially compliant, even if that bidder is noncompliant to a particular requirement of the RFP.

[D] Evaluation Process and Highest Score Bidder

An evaluation team will review, in detail, all proposals received to determine the Highest Score Bidder ("**HSB**").

The State Bar reserves the right to determine the suitability of a proposal based on that proposal meeting the administrative and technical requirements of this RFP, and the evaluation team's assessment of the quality and performance of the services proposed and the cost of such services.

The following criteria will be used in reviewing and comparing the proposals and in determining the HSB. The weight to be assigned to each criterion appears following each item.

1. Overall responsiveness of the proposal to the submission requirements set forth in this RFP (5 percent).
2. Agreement with the State Bar's contracting requirements (10 percent).
3. The functional and technical ability, capacity, and flexibility of the bidder to perform the contract in a timely manner, on budget, and to the State Bar's standards of professionalism

and customer service, as verified by: the content and quality of the proposal; the content and quality of any demonstration or presentation; client references; demonstrated success in projects with similar requirements; reputation in the marketplace; and any other contracts or experience with the State Bar (55 percent).

4. The total cost of the proposal (30 percent), weighted as follows:

- a. Direct Cost. If the proposal contains alternative pricing options, the State Bar reserves the right to select the model which best fits the State Bar's needs. If the proposal contains itemized rates, per piece pricing, or commission-based pricing, the State Bar reserves the right to calculate the total contracted cost by calculating rates using either previous known usage activity or future projected volume. Costs will be evaluated only if a proposal is determined to be otherwise qualified. Costs should be itemized by type to allow the State Bar to implement the proposal over the term of the contract (20 percent).
- b. Assessment of proposed cost relative to scope of work, implementation factors and other impact to organization, including risk factors and indirect costs. The State Bar reserves the right to assess these factors and calculate costs using the expertise of State Bar staff and consultants (10 percent).

During the evaluation process, the State Bar may require a bidder to answer questions or submit additional information about the proposal; and/or may require a bidder to participate in an oral interview with or make a formal presentation to the evaluation team and/or the State Bar's leadership team. A key element of any oral interview or presentation will be the participation of the specific team members that the bidder intends to work on the State Bar's account.

Following the initial review and screening of the written Proposals, several bidders may be invited to participate in the final selection process, which may include participation in an oral interview and/or submission of any additional information as requested by the State Bar.

The State Bar reserves the right to review the proposals using a tiered evaluation system, with the top candidates advancing as finalists and receiving a full evaluation as outlined above, which may include requests for revised pricing from such bidders.

This RFP does not commit the State Bar to awarding a contract. Bidders shall bear all costs incurred in the preparation of the proposal and participating in the proposal evaluation process.

[E] Award and Execution of Contract

Subject to the State Bar's right to reject any or all proposals, the HSB will be awarded the contract. In the case of a virtual tie (defined as evaluation scores within two points of one

another), the Chief Administrative Officer may determine who will be awarded the contract. Notice will be emailed to the bidders on or before January 31, 2022, of the State Bar's intention to award the contract to the HSB. The evaluation team will select a winning proposal subject to approval by the Board of Trustees. Upon selection, the State Bar and the selected Bidder will enter into good faith negotiations on a contract containing, without limitation, the Statement of Work/Project Scope section above and Contracting Requirements section below.

No contract or agreement, express or implied, shall exist or be binding on the State Bar before the execution of a written contract by both parties. If an agreement on the terms of such a contract cannot be reached after a period deemed reasonable by the State Bar in its sole discretion, the State Bar may enter into negotiations and sign a contract with any other bidder who submitted timely and responsive proposals to this RFP.

If, after the State Bar and the HSB agree to the terms and execute a contract, and that contract is terminated for any reason, the State Bar may, in its sole discretion, either enter into negotiations with the next highest scored bidder, or issue a new RFP and begin the proposal process anew.

Questions regarding the State Bar's award of any business on the basis of proposals submitted in response to the RFP, or on any other matter in connection with the selection process, should be addressed in writing to Sunly Yap, Principal Program Analyst, at Sunly.Yap@calbar.ca.gov.

Where written notice is required in this RFP, the notice will be sent by email.

[F] Errors in the RFP

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the bidder should immediately provide the State Bar with written notice of the problem and request that the RFP be clarified or modified. Without disclosing the source of the request, the State Bar may modify the document prior to the Submission Deadline by issuing an addendum to all potential bidders to whom the RFP was sent.

If prior to the Submission Deadline, a bidder knows of or should have known of an error in the RFP but fails to notify the State Bar of the error, the bidder shall bid at its own risk, and if, awarded the contract, shall not be entitled to additional compensation or time by reason of the error or its later correction.

[G] Questions Regarding the RFP

Questions regarding the RFP may be addressed in writing to Sunly Yap at Sunly.Yap@calbar.ca.gov. All questions must be submitted no later than seven calendar days prior to the Submission Deadline. Questions and answers regarding the RFP may be shared with all bidders known to be interested in submitting a proposal.

If a question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the bidder may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the bidder must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence, subject to the California Public Records Act. If the State Bar does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the bidder will be notified.

A bidder who believes that one or more of the RFP's requirements is onerous or unfair, or unnecessarily precludes less costly or alternative solutions, may submit a written request that the RFP be changed. The request must set forth the recommended change and reason for proposing the change. The State Bar must receive any such request no later than ten (10) calendar days before the Submission Deadline.

[H] Addenda

The State Bar may modify the RFP prior to the Submission Deadline by emailing an addendum to the bidders known to be interested in submitting a proposal. If any bidder determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar in writing no later than seven calendar days prior to the Submission Deadline.

[I] Withdrawal and Resubmission/Modification of Proposals

A proposal may be withdrawn at any time prior to the Submission Deadline by notifying the State Bar in writing of its withdrawal. The notice must be signed by the bidder. The bidder may thereafter submit a new or modified proposal, provided that it is received at the State Bar no later than the Submission Deadline. Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed after the evaluation process begins.

[J] Protest Procedure

A bidder may protest the award if it meets any of the following conditions:

1. The State Bar failed to follow the procedures specified in either subdivision (c) of Public Contract Code section 10344.
2. The State Bar failed to correctly apply the standards for reviewing the format requirements or evaluating the proposals as specified in this RFP.
3. The State Bar failed to follow the methods for evaluating and scoring the proposals specified in this RFP.
4. The State Bar is proposing to award the contract to a bidder other than the bidder given the highest score by the evaluation team.

A bidder qualified to protest should contact Sunly Yap, Principal Program Analyst, at Sunly.Yap@calbar.ca.gov, to attempt an informal resolution. If this contact is unable to resolve the protest to the bidder's satisfaction, the bidder must file a written protest prior to the award. Within five calendar days after filing the protest, the protesting bidder shall file a full and complete written statement specifying the grounds for the protest. The written protest must state the facts surrounding the issue and the reasons the bidder believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

The State Bar of California
Attention: Chief Administrative Officer
180 Howard Street
San Francisco, CA 94105-1639

Protests will be reviewed and decided by the State Bar's Award Protest Team within 30 calendar days after the State Bar issues written acknowledgment of the protest. In the event that a protest is filed, the contract award will be postponed pending resolution of the protest.

[K] News Releases

News releases pertaining to the award of a contract may not be made without the prior written approval of the State Bar.

[L] Disposition of Materials

All materials submitted in response to an RFP will become the property of the State Bar and will be returned only at the State Bar's option and at the expense of the bidder. One copy of each proposal will be retained for the State Bar's official files and become a public record pursuant to the California Public Records Act. By submitting a proposal, a bidder agrees to these terms and waives any right to pursue a cause of action for damages incurred as a result of the release of any information contained in a proposal.

SECTION IV – CONTRACTING REQUIREMENTS

Upon selection of a vendor, the terms set forth in this RFP are to be embodied in a definitive agreement ("Agreement") containing such additional covenants and other provisions as may be mutually acceptable.

The State Bar contemplates that, in addition to the terms and conditions described above in this RFP, final agreement between the State Bar and the selected vendor will include, without limitation, the below terms and conditions ("Contracting Requirements"). Submission of a proposal shall constitute agreement to contract on these Contracting Requirements, except for any term specifically reserved in the proposal for future negotiation.

A. TIME OF ESSENCE

Time is of the essence with respect to Vendor's performance of the services and equipment to be provided in the final Agreement.

B. WARRANTIES AND REPRESENTATIONS

1. Vendor warrants that Vendor and its personnel, employees, and subvendors have the education, qualifications, expertise, experience, and ability necessary to perform the Services in a diligent, timely, professional, and workmanlike manner consistent with the highest industry standards for similar services.
2. Vendor's subcontractors, if any, warrants that its subcontractors, if any, will have the same standards of professionalism, ability and expertise as are required of Vendor, and its personnel and employees by the final Agreement
3. Vendor warrants that the Services furnished pursuant to the final Agreement will conform to the requirements of the final Agreement.
4. Vendor warrants that it has or it will obtain in a timely manner, all permits, licenses, registrations, or approvals necessary or applicable to Vendor's delivery of the Services under the final Agreement.
5. (i) Vendor owns all right, title, and interest in, or otherwise has full right and authority to permit the use of any Pre-Existing IP; (ii) to the best of Vendor's knowledge, the P-Existing IP does not infringe the rights of any third party, and use of the Pre-Existing IP as well as any of Vendor's intellectual property rights in connection with the applicable statement of work does not and will not violate the rights of any third parties; (iii) Vendor will comply with the terms and conditions of any licensing agreements which govern the use of third party materials; and (iv) Vendor will comply with all laws and regulations as they relate to the services and deliverables.
6. Vendor warrants that all Work Product is and will be Vendor's original work (except for material in the public domain or provided by the State Bar) and does not and will not violate or infringe upon the intellectual property rights or any other rights of any person, firm, corporation, or other entity.
7. If any deliverable fails to conform to the standard specified above, Vendor, at its sole expense, will promptly correct the defective deliverable. This remedy is cumulative of any and all other remedies to which the State Bar may be entitled pursuant to the final Agreement and applicable law.

8. Vendor warrants that the State Bar will receive good and valid title to all Work Product, free and clear of all encumbrances and liens of any kind.
9. Vendor represents that it has been duly organized, is validly existing and in good standing under the laws of the jurisdiction of its organization, and is duly qualified to do business in and is in good standing in the State of California.
10. Vendor represents that to the knowledge of Vendor no litigation is pending or threatened against or affecting Vendor or any affiliate of Vendor (i.e., entity in which Vendor has a minority stake in the ownership of such entity) that will have a material adverse effect on Vendor's ability to perform the Services.
11. Vaccination Policy
 - A. **Vaccination Required.** Bidder acknowledges and agrees that bidder's employees must be fully vaccinated against COVID-19 prior to performance of any Services onsite at a State Bar facility. Moderna, Pfizer, and Johnson & Johnson vaccines will be accepted by the State Bar. For purposes of the final Agreement, the term "fully vaccinated" means that bidder's employees received the second dose of a two-dose vaccine series (Moderna or Pfizer) or the single dose of the Johnson & Johnson vaccine no later than two weeks prior to the first instance of the performance of any Services onsite at a State Bar facility. Bidder warrants that bidder's employees will provide the State Bar with documentation verifying proof of vaccination status no later than five (5) days prior to the first instance of the performance of any Services onsite at a State Bar facility. Such documentation shall be in the form of (i) a copy of the employees' CDC COVID-19 vaccination card, (ii) documentation of the vaccination from the employees' healthcare provider, or (iii) a screenshot of the employees' digital record from California's digital vaccination record system. Bidder's failure to comply with the terms of this provision shall constitute a material breach of the final Agreement subject to termination, irrespective of whether the State Bar provides written notice of such breach.
 - B. **Medical/Religious Exemptions, Testing.** A Bidder employee may receive an exemption from the mandatory vaccination requirement as a reasonable accommodation if such employee has a medical condition that prevents them from receiving a COVID-19 vaccine, as verified by their medical provider, or can establish a confirmed sincerely held religious belief that prohibits them from receiving a vaccine. If such employee is granted an exemption based on medical or religious grounds, the employee must agree to be tested weekly regardless of whether they are on a regular onsite schedule, unless in the sole discretion of the State Bar, a less frequent testing schedule is appropriate.

12. **Inducement.** The representations and warranties in the final Agreement are essential inducements on which the State Bar relies in awarding and performing under the final Agreement.
13. **Survival of Warranties.** Vendor's representations and warranties under the final Agreement will survive the termination or expiration of the final Agreement and will remain in full force and effect throughout the useful life of the deliverables.

C. INDEPENDENT CONTRACTORS

1. The Parties agree that Vendor is an independent contractor and not an associate, employee, agent, joint venturer, or partner of the State Bar. Nothing in the final Agreement will be interpreted or construed as creating or establishing the relationship of employer and employee between the State Bar and Vendor or any assistant, employee, or agent of Vendor. Neither Vendor nor its employees or agents will perform any act or acts that might lead others to believe that they are representatives of the State Bar, except as to the performance of the Services. Vendor has no authority (and will not hold itself out as having authority) to bind the State Bar and Vendor will not make any agreements or representations on the State Bar's behalf without the State Bar's prior written consent.
2. The State Bar will not control or direct the manner or means by which Vendor, or Vendor's employees or subvendors, perform the Services.
3. The Parties agree that the Services performed are outside the usual course of the State Bar's business.
4. Vendor represents that it is customarily engaged in an independently established trade, occupation, or business of the same nature as the Services performed hereunder.
5. Unless otherwise provided in the final Agreement, Vendor will furnish, at its own expense, all labor, tools, equipment, and materials necessary to perform the Services.
6. Vendor will comply with all rules and procedures communicated to Vendor in writing by the State Bar, including those related to safety, security, and confidentiality.
7. Vendor is not eligible to participate in any vacation benefits, group medical or life insurance, disability benefits, retirement benefits, or any other fringe benefits or benefit plans offered by the State Bar to its employees. The State Bar

will not be responsible for withholding or paying any income, payroll, Social Security, or other federal, state, or local taxes. The State Bar will not be responsible for making any insurance contributions, including for unemployment, disability, or workers' compensation insurance on Vendor's behalf.

8. Vendor may, at Vendor's own expense, retain or employ such assistants, employees, or personnel as Vendor deems necessary to perform the Services and such individuals will be Vendor's employees or subvendors. Vendor assumes full and sole responsibility for the payment of all compensation and expenses of these assistants, employees, or personnel, including workers' compensation coverage as required, all federal, state, and local income taxes, unemployment and disability insurance, Social Security, or other applicable withholdings.

D. INDEMNITY OBLIGATIONS OF VENDOR

1. **Indemnification by Vendor.** Vendor will indemnify and defend and hold harmless the State Bar, including its Board of Trustees, officers, directors, agents, employees, successors, and assigns (as the same may be constituted from time to time, hereinafter referred to as "**State Bar Indemnified Party (or Parties)**") from and against any and all claims, demands, damages, debts, liabilities, losses, obligations, costs, expenses, liens, judgments, awards, penalties, fines, actions, or causes of action (including but not limited to reasonable attorneys' fees, costs, and expenses), whether or not litigation is actually commenced (collectively, "**Losses**"), arising out of or in connection with any actual or alleged direct claim or third-party claim alleging: (i) breach by Vendor of any warranty, representation, term, condition, or obligation under the final Agreement; (ii) any claim or action related to the Work Product, the Services, and the deliverables prepared by or for Vendor in connection with the final Agreement and provided to the State Bar; (iii) any claim or action for personal injury, death, or otherwise involving alleged defects in Vendor's business or any of its products or services prepared or created in connection with the final Agreement, whether or not provided to the State Bar; (iv) any failure by Vendor to comply with any statutory or regulatory obligation in the performance of its obligations under the final Agreement; (v) the actual or alleged infringement by Vendor of any copyright, trademark, or other proprietary right of any person or entity; (vi) breach or potential breach of data or privacy; or (vii) any act or omission of Vendor or its employees, agents, or subvendors.
2. **Indemnification Procedures.**
 - a. If any third-party claim is commenced against any State Bar Indemnified Party entitled to indemnification under this Article, the State Bar will promptly give

written notice thereof to Vendor, and Vendor will immediately assume the defense of such claim with counsel satisfactory to the State Bar. The State Bar's failure to provide a notice to Vendor under this section does not relieve Vendor of any liability that Vendor may have to the State Bar. The State Bar Indemnified Party will cooperate, at the sole cost of Vendor, in all reasonable respects with Vendor and its attorneys in the investigation, trial, and defense of such claim, and in any appeal arising therefrom; provided, however, that the State Bar Indemnified Party may, at its own cost and expense, participate, through its attorneys (including, but not limited to, the State Bar's Office of General Counsel) or otherwise, in such investigation, trial, and defense of such claim, and any appeal arising therefrom. Vendor will coordinate the defense of any third-party claim with the State Bar, including any investigation and trial, and any appeal therefrom. Vendor will not enter into a settlement of any claim that involves a remedy other than the payment of money by Vendor without the prior written consent of the State Bar. If Vendor does not assume an immediate defense of a claim that Vendor is obligated to defend, the State Bar will have the right to defend the claim in such manner as it may deem appropriate, at the sole cost and expense of Vendor.

- b. Notwithstanding anything to the contrary in this Article, the State Bar may select its own legal counsel to represent its interests, and Vendor will:
 - i. reimburse the State Bar for its costs and attorneys' fees immediately upon request as they are incurred; and
 - ii. remain responsible to the State Bar for any Losses indemnified under this section.
- c. If any legal work reasonably necessary to the State Bar's defense as described herein is performed by the Office of General Counsel, the State Bar will determine the value of such work at a reasonable hourly rate for comparable outside counsel and it will be promptly paid by Vendor; provided, however, the Parties hereby confirm that such fees will be recoverable with respect to legal work performed by the Office of General Counsel only to the extent that such work is not duplicative of legal work performed by outside counsel paid for by Vendor and representing the State Bar in such matter.
- d. **Survival.** Vendor's obligations under this indemnity provision will survive the expiration and termination of the final Agreement.
- e. **Enforcement of this Provision.** Vendor will be liable to the State Bar for all costs (including but not limited to reasonable attorneys' fees, costs, and expenses) incurred by the State Bar for the purposes of enforcing this indemnity provision.

E. RIGHTS IN WORK PRODUCT

1. **Intellectual Property Rights Defined.** For purposes of the final Agreement, the term “Intellectual Property Rights” means know-how, inventions, patents, patent rights, and registrations and applications, renewals, continuations and extensions thereof, works of authorship and art, copyrightable materials and copyrights (including, but not limited to, titles, computer code, designs, themes, concepts, artwork, graphics and visual elements, and methods of operation, and any related documentation), copyright registrations and applications, renewals and extensions thereof, mask works, industrial rights, trademarks, service marks, trade names, logos, trademark registrations and applications, renewals and extensions thereof, derivative works, trade secrets, rights in trade dress and packaging, publicity, personality and privacy rights, rights of attribution, authorship, integrity and other similarly afforded “moral” rights, and all other forms of intellectual property and proprietary rights recognized by the U.S. laws, and other applicable foreign and international laws, treaties and conventions.
2. **Work Product.** Vendor recognizes and agrees that all right, title, and interest, including all Intellectual Property Rights, which may be prepared, procured, or produced in whole or in part in, or resulting from, the Services rendered by Vendor pursuant to the final Agreement, including, without limitation, any and all deliverables, research, proposals, materials, reports, plans, other writings, and other work product (collectively referred to as “**Work Product**”) will be owned by the State Bar. To ensure that the Work Product becomes the sole property of the State Bar, in consideration of the mutual promises contained in the final Agreement, Vendor hereby agrees to transfer, in perpetuity, to the State Bar all of the right, title, and interest in the Work Product, in the United States of America and throughout the world, and hereby assigns any and all renewals and extensions of each such copyright that may be secured under the laws now or hereafter. Vendor will execute, at the State Bar’s request and expense, during and after the Term, all further actions including execution and delivery of documents reasonably required to perfect the foregoing rights in the State Bar. In the event Vendor fails to execute any documents, Vendor appoints the State Bar as its attorney-in-fact to execute such documents on Vendor’s behalf. Vendor hereby waives or transfers any and all moral rights, including without limitation any right to attribution, identification, integrity, disclosure, authorship or any other rights that may be known as “moral rights,” or limitation on a subsequent modification that Vendor (or its employees, agents, or subvendors) has or may have in the Work Product or any part thereof.
3. **No Transfer of Title in and to Vendor’s Pre-Existing IP.** Notwithstanding the foregoing, the State Bar acknowledges that independent of the final Agreement, Vendor has created, acquired, or otherwise has rights in and may, in connection with the performance of the final Agreement, employ certain intellectual

property, including, without limitation, various concepts, ideas, methods, methodologies, procedures, processes, know-how, or techniques (collectively, “**Pre-Existing IP**”). The State Bar and Vendor intend that Vendor’s interests in or title to such Pre-Existing IP will remain vested in Vendor; provided, however, that to the extent that Work Product incorporates any Pre-Existing IP, Vendor hereby grants to the State Bar a worldwide, perpetual, nonexclusive, fully paid-up, royalty-free, irrevocable right and license to use such Pre-Existing IP as incorporated into such Work Product to enable the State Bar to have full use of such Work Product as contemplated by the final Agreement, including, without limitation, the right to run, execute, copy, modify, create derivative works, display, distribute, and sublicense such rights. Vendor represents that its rights to any Pre-Existing IP are sufficiently broad to meet the requirements of this section.

4. **No Transfer of Title in and to State Bar’s Pre-Existing IP.** As between Vendor and the State Bar, the State Bar is, and will remain, the sole and exclusive owner of all right, title, and interest in and to any documents, specifications, data, know-how, methodologies, software, Confidential Information and other materials provided to Vendor by the State Bar (“State Bar Materials”), including all Intellectual Property Rights therein. Vendor has no right or license to reproduce or use any State Bar Materials except solely during the Term to the extent necessary to perform Vendor’s obligations under the final Agreement. All other rights in and to the State Bar Materials are expressly reserved by the State Bar. Vendor has no right or license to use the State Bar’s trademarks, service marks, trade names, logos, symbols, or brand names.
5. **Third Party Materials.** As used in the final Agreement, “Third Party Materials” means proprietary third-party materials which are incorporated into the Deliverables. All Third-Party Materials are the exclusive property of their respective owners. Vendor must inform the State Bar of all Third-Party Materials that may be required to perform the Services or otherwise integrated into the Deliverables. Under such circumstances, Vendor will inform the State Bar of any need to license and unless otherwise provided for by the State Bar, Vendor will obtain the license(s) necessary to permit the State Bar’s use of the Third-Party Materials consistent with the usage rights granted herein. In the event Vendor fails to properly secure or otherwise arrange for any necessary licenses or instructs the use of Third-Party Materials, Vendor hereby indemnifies, saves and holds harmless the State Bar from any and all damages, liabilities, costs, losses or expenses (including reasonable attorney’s fees and costs) arising out of any claim, demand, or action by a third party arising out of Vendor’s failure to obtain copyright, trademark, publicity, privacy, defamation or other releases or permissions with respect to materials included in the Deliverables.

F. INSURANCE OBLIGATIONS OF VENDOR

1. Without in any way limiting Vendor's liability pursuant to the "Indemnification" Section of the final Agreement, during the Term of the final Agreement, Vendor will maintain and keep in full force and effect at Vendor's own cost and expense, the below insurance policies for the joint benefit of Vendor and the State Bar.
 - (i) **Commercial General Liability Insurance** coverage having a combined single limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage liability, Two Million Dollars (\$2,000,000) annual aggregate, and One Million Dollars (\$1,000,000) for products/completed operations. Such commercial general liability insurance will name the State Bar and its Board of Trustees, directors, officers, and employees as additional insured. Such commercial general liability insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A:X.
 - (ii) **Workers' Compensation** coverage if Vendor has one or more employees as defined by the State of California, coverage as required by applicable California state law and federal statutes covering liability for injuries to all persons employed by the insured in the conduct of its operations, together with employer's liability insurance in the amount of One Million Dollars (\$1,000,000) for each accident and One Million Dollars (\$1,000,000) policy limit for bodily injury by disease. Such workers' compensation insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A:X.
 - (iii) **Comprehensive Automobile Liability Insurance** coverage if vehicle or mobile equipment are used to perform the Services under the final Agreement, having a combined single limit of not less than One Million (\$1,000,000) per occurrence and insuring against liability for claims arising out of the ownership, maintenance, or use of any owned, hired or nonowned vehicles. Such comprehensive automobile liability insurance will name the State Bar and its Board of Trustees, directors, officers, and employees as additional insured. Such comprehensive automobile liability insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A:X.
 - (iv) **Professional Liability Insurance** coverage with the minimum limit of Two Million Dollars (\$2,000,000). Such professional liability insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A-VII.
 - (v) **Privacy Security Liability/Cyber Insurance** coverage for a minimum limit of One Million Dollars (\$1,000,000) per claim and annual aggregate. Such privacy security liability/cyber insurance will be with an insurance carrier with an A.M. Best rating of not less than A:X.

- (vi) **Umbrella Liability Insurance** coverage with a general aggregate limit of Five Million Dollars (\$5,000,000.00) and a per occurrence limit of at least Five Million Dollars (\$5,000,000.00). Such umbrella liability insurance will name the State Bar and its Board of Trustees, directors, officers, and employees as additional insured. Such umbrella liability insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A:X.
- 2. If **Blanket Fidelity/Commercial Blanket Bond** is required, the State Bar, its Board of Trustee, directors, officers, and employees will be named as additional loss payees ("**Additional Loss Payees**"). In addition, all insurance policies will: (i) be primary and noncontributing with respect to any other insurance available to the Additional Insureds, with respect to any claims arising out of the final Agreement; (ii) apply separately to each insured against whom a claim is made or suit is brought; (iii) include a waiver of subrogation provision or endorsement in favor of the State Bar; and (iv) be with insurance carrier(s) that are authorized to do business in the State of California, and are satisfactory to the State Bar.
- 3. Within 15 calendar days of the Effective Date, Vendor will deliver to the State Bar offices at:

The State Bar of California
Attention: Risk Management
845 S. Figueroa Street
Los Angeles, CA 90017

Please include certificates of insurance evidencing compliance with the requirements in this Article. Each certificate will provide that the issuing company (the insurer) will mail written notice to the State Bar 30 calendar days prior to any cancellation of the policies or reduction in coverage or amount. In addition, Vendor will also provide prompt written notice to the State Bar if there are any cancellations or lapses, reductions in coverage or coverage limit, or other material changes to the insurance policies. Failure to maintain insurance will constitute a material breach of the final Agreement. If Vendor fails to secure and maintain the required insurance policies as set forth in this Section, the State Bar may, but is not required to, purchase the required insurance coverage and Vendor will reimburse the State Bar for all the associated costs. Should any required insurance lapse during the term of the final Agreement, requests for payments originating after such lapse will not be processed until the State Bar receives satisfactory evidence of reinstated coverage as required by the final Agreement, effective as of the lapse date. If Vendor assigns, subcontracts, or delegates any portion of the duties, Vendor will ensure that each such assignee, subvendor, or delegee purchases and maintains insurance coverage required by the final Agreement.

4. Should any of the required insurance be provided under a claims-made form, Vendor will maintain such coverage continuously throughout the term of the final Agreement and, without lapse, for a period of three years beyond the expiration of the final Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the final Agreement, such claims will be covered by such claims-made policies.
5. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit will be double the occurrence or claims limits specified above.

G. TERMINATION

1. The State Bar may terminate the final Agreement, in its sole discretion, with or without cause and for any reason upon 30 calendar days written notice to Vendor. Vendor's sole compensation will be for that portion of the Services performed by Vendor to the date of termination, together with reimbursable expenses, if any, then due pursuant to the final Agreement; provided, however, that Vendor will not be paid for any services or reimbursable expenses associated with any work or service which was not authorized by the State Bar pursuant to the final Agreement.
2. The final Agreement will terminate automatically in the event of the bankruptcy or insolvency of either Party.
3. If the Term of the final Agreement extends into fiscal year(s) subsequent to that in which it is signed, it is understood that the continuation of the final Agreement is subject to an authorization of sufficient funding for such purpose by the California State Legislature and the Governor of the State of California. If sufficient funds are not so authorized, the Parties mutually agree that the final Agreement may be terminated or amended as appropriate in response to such occurrence. If the final Agreement is terminated, Vendor agrees to relieve the State Bar of any further obligations, except for the State Bar's obligation to pay for the Services already performed or reimbursable expenses already incurred up to the date of termination pursuant to the final Agreement.
4. No Party will be liable or responsible to the other Party, nor be deemed to have defaulted under or breached the final Agreement, for any failure or delay in fulfilling or performing any terms of the final Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected Party's

("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, other specific potential disasters or catastrophes, such as epidemics, pandemics, or quarantines, or explosions; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of the final Agreement; (f) action by any governmental authority; (g) national, regional, or local emergency; (h) strikes, labor stoppages or slowdowns, or other industrial disturbances; or (i) shortage of adequate power or transportation facilities. The Impacted Party will give notice within seven (7) days of the Force Majeure Event to the other Party, stating the period of time the Force Majeure Event is expected to continue, and describing the impact on performance of the Services and other obligations under the final Agreement. Notwithstanding the preceding sentence, if either Party's performance is affected by any Force Majeure Event, either Party may terminate the final Agreement by written notice to the other Party, without any penalty, liability, or any other costs or damages, whatsoever.

5. Upon expiration, cancellation, or termination of the final Agreement, or at any other time upon the State Bar's written request, Vendor will, within seven calendar days after such expiration, cancellation, termination, or written request:
 - a. deliver to the State Bar all deliverables (whether complete or incomplete), Work Product and all materials, equipment, and other property provided for Vendor's use by the State Bar;
 - b. deliver to the State Bar all tangible documents and other media, including any copies, containing, reflecting, incorporating, or based on the Confidential Information;
 - c. permanently erase all the Confidential Information from Vendor's computer and phone systems; and
 - d. certify in writing to the State Bar that Vendor has complied with the requirements of this Section.

H. CONFIDENTIALITY AND PUBLICITY

1. **Confidentiality Obligations.** Vendor agrees to maintain in strictest confidence any nonpublic, proprietary, or confidential information, or material disclosed or provided by the State Bar to Vendor or its employees, consultants, vendors, subvendors, and agents (collectively, "**Vendor's Representatives**"), either orally, in writing, electronically or in any other form or medium, or that Vendor or

Vendor's Representatives may otherwise receive access to in connection with the Services, concerning any aspect of the affairs of the State Bar, including by way of example and without limitation any information or material pertaining to the State Bar's operations, processes, plans, policies, procedures, Board of Trustees, leadership, management, employees, personnel, vendors, volunteers, legal and regulatory affairs, financial data, licensees (former and current), applicants, and relationships with third-parties ("**Confidential Information**"). Confidential Information also includes any notes, analyses, compilations, studies or other material, Work Product, deliverables or documents prepared by Vendor and Vendor's Representatives which contain, reflect, or are based, in whole or in part, on the Confidential Information. Confidential Information also includes any confidential or proprietary information of any third-party who may disclose such information to the State Bar in the course of the State Bar's affairs. Confidential Information will also include the existence and terms of the final Agreement. Confidential Information does not include information that: (a) is or becomes a part of the public domain through no act or omission of Vendor or Vendor's Representatives; (b) is lawfully disclosed to Vendor or Vendor's Representatives by a third-party without restrictions on disclosure; or (c) was in Vendor or Vendor's Representative's lawful possession, as established by documentary evidence, prior to the disclosure by the State Bar.

2. Vendor will safeguard such Confidential Information and will take all necessary steps to protect such Confidential Information. Vendor will only use and disclose Confidential Information to Vendor's Representatives requiring such Confidential Information to perform the Services pursuant to the final Agreement. Vendor will require each of Vendor's Representatives to execute a written agreement containing obligations of confidentiality substantially similar to those in the final Agreement. All Confidential Information furnished to Vendor by the State Bar is the sole and exclusive property of the State Bar or, where applicable, other third-parties. Vendor will notify the State Bar immediately of any unauthorized use, access, or disclosure of Confidential Information and take all commercially reasonable steps to prevent further use, access, or disclosure.
3. Vendor will not disclose Confidential Information or permit it to be disclosed, in whole or part, to any third-party without the prior written consent of the State Bar in each instance. If any person or entity requests by a subpoena or court order any information or materials relating to the final Agreement which is within the possession, custody, or control of Vendor (or the possession, custody, or control of personnel, employees, agents, or representatives of Vendor), Vendor will promptly inform the State Bar of such request and cooperate with the State Bar to the extent the State Bar objects or moves to quash such request or subpoena. Notwithstanding any contrary provision contained herein, Vendor may disclose Confidential Information to the extent that such disclosure is required by law or regulation, or is pursuant to a valid order of a court of

competent jurisdiction or an authorized governmental authority; provided that Vendor: (a) immediately notifies the State Bar in writing of the disclosure request and to the extent not prevented from doing so by an applicable government authority, provides the State Bar a copy of the order by the applicable court or governmental authority so the State Bar may seek a protective order or another appropriate remedy; (b) cooperates with the State Bar if it seeks a protective order or other appropriate remedy preventing or limiting disclosure; and (c) seeks confidential treatment of any Confidential Information required to be disclosed before disclosure. If the State Bar cannot obtain a protective order, another appropriate remedy, or otherwise fails to quash the legal process requiring disclosure, Vendor will work with the State Bar to disclose the requested Confidential Information only to the extent required by such law, regulation, or order.

4. **Injunctive Relief.** Vendor acknowledges that irreparable harm can result to the State Bar and to third parties by disclosure or threatened disclosure of Confidential Information that cannot be adequately relieved by money damages alone. Accordingly, the State Bar may seek equitable remedies including a temporary or permanent injunction or other equitable relief from any court of competent jurisdiction, without the necessity of showing actual damages and without the necessity of posting any bond or other security. The equitable relief will be in addition to, not in lieu of, legal remedies, monetary damages, or other available forms of relief. If the State Bar incurs any loss or liability arising out of disclosure or use of any Confidential Information by any one or more of Vendor's Representatives other than as authorized herein, that disclosure or use will be deemed to have been by Vendor for purposes of determining whether Vendor breached any of its obligations under the final Agreement.
5. **No Publicity.** Vendor will not issue any public announcements or statements related to the final Agreement or the Services performed for the State Bar, or engage in any publicity or advertising related to the same without obtaining the prior written consent of the State Bar.

I. COMPLIANCE WITH LAWS

Vendor, and its personnel, employees, and subvendors will comply with all applicable laws, ordinances, and regulations adopted or established by federal, state, or local governmental bodies or agencies, including but not limited to the provisions of the Fair Employment and Housing Act (California Government Code, section 12900 et seq.) and any applicable regulations promulgated thereunder (California Code of Regulations, Title 2, section 7285.0 et seq.), ADA/ADAAA, and section 508 of the Rehabilitation Act. Vendor will include the nondiscrimination and compliance provisions of this Section in all subcontracts that will perform work under the final Agreement.

J. STAFFING

1. **No Assignment, Subcontracting, Delegation or Transfer.**
 - a. Vendor will not assign, subcontract, delegate, or otherwise transfer any of the rights, duties, or obligations set forth in the final Agreement to any third-party without the prior written consent of the State Bar.
 - b. **Conditions Precedent for Vendor to Subcontract the Services.** Vendor may retain independent subvendors to furnish Services and access Confidential Information (as defined in Section IV, subsection H) only in accordance with this section (hereinafter referred to as "Subvendors"). All Subvendors must be approved in advance in writing by the State Bar, such approval to be granted in the State Bar's sole discretion. In advance of providing any Services or receiving any Confidential Information, all Subvendors will execute a written agreement reasonably satisfactory to the State Bar: (i) sufficient to secure compliance by such Subvendors with the obligations of confidentiality concerning Confidential Information as set forth in Section IV, subsection H; (ii) in accordance with Section IV, subsection E.2. (Rights in Work Product), acknowledging Subvendor's obligation to transfer and/or assign any rights, title, and interest to all materials and Work Product in connection with performance hereunder; and (iii) effecting assignments of all Intellectual Property Rights concerning the Work Product, including the Deliverables to the State Bar as specified in Section IV, subsection E. The State Bar, upon request, may review such agreements at any time before or after execution by such Subvendors to ensure compliance with the final Agreement.
 - c. **Assignment of Personnel.** Vendor must have control of its employees and Subvendors (if any) (individually and collectively, "Personnel") it assigns to the work of the Project; provided, however, that if the State Bar becomes dissatisfied with the performance of any of Vendor's Personnel providing Services, the State Bar may notify Vendor of the details of the unsatisfactory performance and the parties will cooperate to remedy the problem as soon as reasonably possible. If the State Bar makes such a request, Vendor will use its best efforts to reassign any Personnel who are the subject of the State Bar's dissatisfaction and instead attempt to provide Services through replacement Personnel. Services performed under the terms of the final Agreement will be performed at the State Bar's offices or Vendor's offices.
 - d. **Vendor's Project Liaison.** Vendor must designate an employee of sufficient management rank to act as its representative in dealing with the State Bar ("Vendor's Project Liaison"). Vendor's Project Liaison must represent Vendor and have responsibility for ensuring that Vendor performs its obligations under the final Agreement and for communicating with the State Bar regarding Project status and

issues. Vendor must use reasonable efforts to minimize changing the person who is serving as Vendor's Project Liaison during the Term.

K. GENERAL PROVISIONS

1. **Jurisdiction.** The final Agreement is deemed to have been made and entered into by the parties at San Francisco, California and will be construed according to the laws of the State of California. Any litigation arising out of or in connection with the final Agreement will be filed in the appropriate court in San Francisco, California.
2. **Audit.** The State Bar reserves the right to have an independent audit conducted of Vendor's compliance with the terms of the final Agreement, if the State Bar reasonably believes such audit is necessary to ensure confidentiality, or financial or program accountability or integrity. Vendor will retain all records associates with the Services performed for a period of four years from the expiration, cancellation, or termination of the final Agreement. Accordingly, Vendor agrees that the State Bar or its designated representative will have the right to review and to copy any records and supporting documentation pertaining to the performance of the final Agreement. Vendor agrees to allow interviews of any Personnel who might reasonably have information related to such records. Further, Vendor agrees to include a similar right of the State Bar to audit in any subcontract related to the performance of the final Agreement.