

## JBCL REQUIRED PROVISIONS

*This document contains the provisions required for compliance with Public Contract Code (“PCC”), part 2.5, enacted under Senate Bill 78 (Stats. 2011, ch. 10), and the Judicial Branch Contracting Manual (“JBCM”) adopted pursuant to that law. In this document, (i) “Order” refers to the purchase order into which this document is incorporated, (ii) “Court” refers to the California court that is a party to the Order, (iii) “Vendor” refers to the person or entity providing goods or services to the Court pursuant to the Order, and (iv) “Consulting Services” refers to those services described in chapter 8, appendix C, section 1 of the JBCM.*

**1. Vendor Certification Clauses.** Vendor certifies that the following representations and warranties are true. Vendor shall cause these representations and warranties to remain true during the term of the Order, and Vendor shall promptly notify the Court if any representation and warranty becomes untrue.

**1.1. National Labor Relations Board.** No more than one, final unappealable finding of contempt of court by a federal court has been issued against Vendor within the immediately preceding two-year period because of Vendor's failure to comply with an order of a federal court requiring Vendor to comply with an order of the National Labor Relations Board. Vendor swears under penalty of perjury that this representation is true.

**1.2. Not an Expatriate Corporation.** Vendor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC 10286.1, and is eligible to contract with the Court.

**1.3. Non-discrimination.** Vendor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California’s Fair Employment and Housing Act (Government Code section 12990 et seq.) and associated regulations (Code of Regulations, title 2, section 7285 et seq.). Vendor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Vendor has notified in writing each labor organization with which Vendor has a collective bargaining or other agreement of Vendor’s obligations of non-discrimination.

**2. Governing Law.** California law, without regard to its choice-of-law provisions, governs this Order.

**3. Provisions Applicable Only to Certain Orders.** The provisions in this section are *applicable only to the types of orders specified in the title of each subsection*. If the Order is not of the type described in the title of a subsection, then that subsection does not apply to the Order.

**3.1. Orders over \$10,000.** This Order is subject to examinations and audit by the State Auditor for a period of three years after final payment.

**3.2. Orders over \$50,000.** No Court funds received under this Order will be used to assist, promote or deter union organizing during the term of this Order (including any extension or renewal term).

**3.3. Orders of \$100,000 or More.** Vendor certifies that it is, and will remain for the term of this Order, in compliance with PCC 10295.3, which places limitations on contracts with vendors who discriminate in the provision of benefits regarding marital or domestic partner status. Vendor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the term of this Order) all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq. Vendor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**3.4. Orders for Services over \$200,000 (Excluding Consulting Services).** Vendor shall give priority consideration in filling vacancies in positions funded by this Order to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.

**3.5. Orders of \$1,000,000 or More.** Vendor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“Iran List”) created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending \$20,000,000 or more in credit to another person, for forty-five (45) days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the Court to enter into this Order pursuant to PCC 2203(c).

**3.6. Orders for the Purchase of Goods.** Vendor shall not sell or use any article or product as a “loss leader” as defined in Business and Professions Code section 17030.

**3.7. Orders for the Purchase of Certain Goods, and Printing, Janitorial, and Building Maintenance Services Orders.** If Vendor will sell to the Court, or use in the performance of this Order, goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), then with respect to those goods: (i) Vendor shall use recycled products in the performance of this Order to the maximum extent doing so is economically feasible, and (ii) upon request, Vendor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.

**3.8. Orders for Furnishing Equipment, Materials, Supplies, or for Laundering Services.** Vendor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the Court under this Order have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Vendor adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and PCC 6108. Vendor agrees to cooperate fully in providing reasonable access to Vendor’s records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Vendor’s compliance with the requirements under this section and shall provide the same rights of access to the Court.

**3.9. Orders for which Vendor Has Committed to Achieve DVBE Participation.** This section is applicable if Vendor received a disabled veteran business enterprise (“DVBE”) incentive in connection with this Order. Vendor’s failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of this Order. If Vendor used DVBE subcontractor(s) in connection with this Order: (i) Vendor must use the DVBE subcontractors identified in its bid or proposal, unless the Court approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Order; and (ii) Vendor must within sixty (60) days of receiving final payment under this Order certify in a report to the Court: (1) the total amount of money Vendor received under the Order; (2) the name and address of each DVBE subcontractor to which Vendor subcontracted work in connection with the Order; (3) the amount each DVBE subcontractor received from Vendor in connection with the Order; and (4) that all payments under the Order have been made to the applicable DVBE subcontractors. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

**3.10. Orders Resulting from Competitive Solicitations.** Vendor shall assign to the Court all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Vendor

for sale to the Court. Such assignment shall be made and become effective at the time the Court tenders final payment to the Vendor. If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Vendor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Court any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Vendor but were not paid by the Court as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by the Vendor, the Court shall, within one year from such demand, reassign the cause of action assigned under this part if the Vendor has been or may have been injured by the violation of law for which the cause of action arose and (a) the Court has not been injured thereby, or (b) the Court declines to file a court action for the cause of action.

**3.11. Orders for Legal Services.** Vendor shall: (i) adhere to legal cost and billing guidelines designated by the Court; (ii) adhere to litigation plans designated by the Court, if applicable; (iii) adhere to case phasing of activities designated by the Court, if applicable; (iv) submit and adhere to legal budgets as designated by the Court; (v) maintain legal malpractice insurance in an amount not less than the amount designated by the Court; and (vi) submit to legal bill audits and law firm audits if so requested by the Court, whether conducted by employees or designees of the Court or by any legal cost-control provider retained by the Court for that purpose. Vendor may be required to submit to a legal cost and utilization review as determined by the Court. If (a) the value of this Order is greater than \$50,000, (b) the legal services are not the legal representation of low- or middle-income persons, in either civil, criminal, or administrative matters, and (c) the legal services are to be performed within California, then Vendor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the Order equal to the lesser of either (A) thirty (30) multiplied by the number of full time attorneys in the firm's offices in California, with the number of hours prorated on an actual day basis for any period of less than a full year or (B) the number of hours equal to ten percent (10%) of the contract amount divided by the average billing rate of the firm. Failure to make a good faith effort may be cause for non-renewal of this Order or another judicial branch or other state contract for legal services, and may be taken into account when determining the award of future contracts with a judicial branch entity for legal services.

**3.12. Orders Allowing for Reimbursement of Vendor's Costs.** Vendor must include with any request for reimbursement from the Court a certification that the Vendor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Vendor incurs costs or makes expenditures to assist, promote or deter union organizing, Vendor will maintain records sufficient to show that no reimbursement from the Court was sought for these costs, and Vendor will provide those records to the Attorney General upon request.

**3.13. Orders Performed in California by Vendors that are Corporations, LLCs, or LPs.** Vendor is, and will remain for the term of the Order, qualified to do business and in good standing in California.

**3.14. Orders relating to small business preference.** This section is applicable if Vendor received a small business preference in connection with this Order. Vendor's failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Order. Vendor must within sixty (60) days of receiving final payment under this Order report to the Court the actual percentage of small/micro business participation that was achieved. If Vendor is a nonprofit veteran service agency ("NVSA"), Vendor must employ veterans receiving services from the NVSA for not less than 75 percent of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Order.