EXHIBIT C
Information Technology General Terms And Conditions

A. DEFINITIONS

Unless otherwise specified in the Statement of Work, the following terms shall be given the meaning shown, unless context requires otherwise:

1. "Acceptance Tests" means those tests performed during the Performance Period which are intended to determine compliance of Equipment and Software with the specifications, and all other Attachments incorporated herein by reference, and to determine the reliability of the Equipment.

2. "Application Program" means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application Programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by Contractor.

3. "Attachment" means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment which was manufactured by a party other than the original Equipment manufacturer and is not connected by Contractor.

4. “Business Entity” means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability company, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.

5. “Buyer” means Covered California’s authorized contracting official.

6. “Commercial Hardware” means Hardware developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.

7. “Commercial Software” means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.

EXHIBIT C
Information Technology General Terms And Conditions

8. “Contract” means this Contract or Agreement (including any purchase order), by whatever name known or in whatever format used.

9. “Custom Software” means Software that does not meet the definition of Commercial Software.

10. “Contractor” means the Business Entity with whom Covered California enters into this Contract. Contractor shall be synonymous with “supplier”, “vendor” or other similar term.

11. "Data Processing Subsystem" means a complement of Contractor-furnished individual Machines, including the necessary controlling elements (or the functional equivalent), Operating Software and Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor-supplied power and/or signal cables (e.g., direct access controller and drives, a cluster of terminals with their controller, etc.).

12. "Data Processing System (System)" means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors), and Operating Software which are acquired to operate as an integrated group.

13. “Deliverables” means Goods, Software, Information Technology, telecommunications technology, Hardware, and other items (e.g., reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.

14. "Designated CPU(s)" means for each product, if applicable, the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific “Designated CPU(s)” are specified in the Contract, the term shall mean any and all CPUs located at the site specified therein.

15. "Documentation" means manuals and other printed materials necessary or useful to Covered California in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for Covered California hereunder constitute Work Product if such materials are required by the Statement of Work.

16. "Equipment “is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software, if any.

17. "Equipment Failure" is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment’s intended function(s). If microcode or Operating Software residing in the Equipment is

EXHIBIT C
Information Technology General Terms And Conditions

necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment's intended functions shall be deemed to be an Equipment Failure.

18. "Facility Readiness Date" means the date specified in the Statement of Work by which Covered California must have the site prepared and available for Equipment delivery and installation.

19. "Goods" means all types of tangible personal property, including, but not limited to, materials, supplies, computer and telecommunications Equipment, other Equipment, etc.

20. "Hardware" usually refers to computer Equipment and is contrasted with Software. See also "Equipment."

21. "Installation Date" means the date specified in the Statement of Work by which Contractor must have the ordered Equipment ready (certified) for use by Covered California.

22. "Information Technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.

23. "Machine" means an individual unit of a Data Processing System or Subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software (e.g., central processing unit, memory module, tape unit, card reader, etc.).

24. "Machine Alteration" means any change to a Contractor-supplied Machine which is not made by Contractor and results in the Machine deviating from its physical, mechanical, electrical, or electronic design (including microcode), whether or not additional devices or parts are employed in making such change.

25. "Maintenance Diagnostic Routines" means the diagnostic programs customarily used by Contractor to test Equipment for proper functioning and reliability.

26. "Manufacturing Materials" means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.

EXHIBIT C
Information Technology General Terms And Conditions

27. "Mean Time Between Failure (MTBF)" means the average expected or observed time between consecutive failures in a System or component.

28. "Mean Time to Repair (MTTR)" means the average expected or observed time required to repair a System or component and return it to normal operation.

29. "Operating Software" means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.

30. "Operational Use Time" means, for performance measurement purposes, that time during which Equipment is in actual operation by Covered California. For maintenance purposes, Operational Use Time means that time during which Equipment is in actual operation and is not synonymous with power on time.

31. "Period of Maintenance Coverage" means the period of time, as selected by Covered California, during which maintenance services are provided by Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.

32. "Preventive Maintenance" means that maintenance, performed on a scheduled basis by Contractor, which is designed to keep the Equipment in proper operating condition.

33. "Principal Period of Maintenance" means any nine consecutive hours per day, usually between the hours of 7:00 a.m. and 6:00 p.m., as selected by Covered California, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.

34. "Programming Aids" means Contractor-supplied programs and routines executable on Contractor's Equipment which assists a programmer in the development of applications including, but not limited to, language processors, sorts, communications modules, data base management systems, and utility routines (e.g., tape-to-disk routines, disk-to-print routines, etc.).

35. "Program Product" means programs, routines, subroutines, and related items which are proprietary to Contractor and which are licensed to Covered California for its use, usually on the basis of separately stated charges and appropriate contractual provisions.

EXHIBIT C
Information Technology General Terms And Conditions

36. "Remedial Maintenance" means that maintenance performed by Contractor which results from Equipment failure, including Operating Software failure, and which is performed as required, i.e., on an unscheduled basis.

37. "Software" is an all-inclusive term which refers to any computer programs, routines or subroutines supplied by Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.

38. "Software Failure" means a malfunction in Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment, including its Operating Software, may still be capable of operating properly. For Operating Software failure, see definition of "Equipment Failure."

39. "Covered California" means the California Health Benefit Exchange, its employees and authorized representatives, including, without limitation, any department, agency, or other unit of the California Health Benefit Exchange.

40. "System" means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.

41. "U.S. Intellectual Property Rights" means intellectual property rights enforceable in the United States of America, including, without limitation, rights in trade secrets, copyrights, and U.S. patents.

B. APPROVAL

This Agreement is of no force or effect until signed by both parties.

C. ASSIGNMENT

This Agreement is not assignable by Contractor, either in whole or in part, without the consent of Covered California in the form of a formal written amendment.

D. AMENDMENT

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.

E. AUDIT

The Contractor agrees that the awarding department ("Covered California") and the Bureau of State Audits, Health and Human Services, or their designated

EXHIBIT C
Information Technology General Terms And Conditions

representatives, shall have the right to review and to copy any records and supporting documentation directly pertaining to the performance of this Agreement. The Contractor agrees to maintain such records for possible audit for a minimum of ten years after final payment, unless a longer period of records retention is stipulated. The Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include the same right of Covered California to audit records and interview staff in any subcontract related to performance of this Agreement (45 C.F.R. § 155.1210, Gov. Code § 8546.7, Pub. Contract Code § 10115 et seq., Cal. Code Regs., Title 2, § 1896).

F. INDEMNIFICATION

1. Contractor agrees to indemnify, defend and save harmless Covered California, its officers, trustees, agents and employees from any and all claims, losses, costs, liabilities, damages or deficiencies, including interest, penalties and attorneys' fees, which:

    a. Arise out of or are due to, or are alleged to arise out of or be due to, a breach by Contractor of any of its representations, warranties, covenants or other obligations, implied or express, contained in this Agreement; or

    b. Are caused by or result from, or are alleged to arise out of or result from, Contractor's acts or omissions constituting bad faith, willful misfeasance, negligence or reckless disregard of its duties under this Agreement; or

    c. Accrue or result, or are alleged to accrue or result, to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement; or

    d. Arise out of or are due to, or are alleged to arise out of or be due to, any claim or allegation of infringement, misappropriation or violation of any patent, copyright, trademark, trade secret, domain name or other intellectual property right comprising or involving any of the subject inventions, prior inventions or other inventions provided in any way by Contractor and used, reproduced or otherwise exploited by Covered California in connection with any of the Agreement programs or any turnover thereof; or

    e. Arise out of or are due to, or are alleged to arise out of or be due to, any violation of applicable security or privacy laws, or any other applicable

EXHIBIT C
Information Technology General Terms And Conditions

laws, by Contractor or any subcontractor or agent under Contractor's control.

If, and to the extent that, Contractor has knowledge of a claim that it believes may develop into an action that would be subject to this Agreement, Contractor shall promptly notify Covered California of the claim.

2. Third Party Obligation

With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to Covered California such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide Covered California with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this paragraph. The provisions of the preceding sentence apply only to third party computer Hardware or Software sold as a distinct unit and accepted by Covered California.

3. Contractor's Obligations Regarding Infringing Deliverables

Should the Deliverables or the operation thereof become, or, in the Contractor's opinion, are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, Covered California shall permit Contractor, at its option and expense, either to procure for Covered California the right to continue using the Deliverables, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Deliverables by Covered California shall be prevented by injunction, Contractor agrees to take back such Deliverables and make every reasonable effort to assist Covered California in procuring substitute Deliverables. If, in the sole opinion of Covered California, the return of such infringing Deliverables makes the retention of other Deliverables acquired from the Contractor under this Agreement impractical, Covered California shall then have the option of terminating such agreements, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such Deliverables and refund any sums Covered California has paid Contractor less any reasonable amount for use or damage.

Contractor shall have no liability to Covered California under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:

EXHIBIT C
Information Technology General Terms And Conditions

a. The combination or utilization of Deliverables furnished hereunder with Equipment, Software or devices not made or furnished by the Contractor; or

b. The operation of Equipment furnished by Contractor under the control of any Operating Software other than, or in addition to, the current version of Contractor-supplied Operating Software; or

c. The modification initiated by Covered California, or a third party at the State's direction, of any Deliverable furnished hereunder; or

d. The combination or utilization of Software furnished hereunder with non-Contractor supplied Software.

Contractor certifies that it has appropriate systems and controls in place to ensure that Covered California funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

4. Right To Tender Or Undertake Defense

If Covered California is named a party in any judicial, administrative, or other proceeding arising out of or in connection with a breach of this Agreement or a matter for which Contractor is obligated to indemnify Covered California under this Agreement, then Covered California will have the option at any time to either:

a. Tender its defense to Contractor, in which case Contractor will provide qualified attorneys, consultants, and other appropriate professionals to represent Covered California's interests at Contractor's expense; or

b. Undertake its own defense, choosing the attorneys, consultants, and other appropriate professionals to represent its interests, in which case the Contractor will be responsible for and shall pay reasonable fees and expenses for such attorneys, consultants, and other appropriate professionals.

If Covered California elects option (b) above, Contractor shall be afforded a reasonable opportunity to participate in the defense and attend the legal proceedings at its own expense. However, Covered California shall have sole control of the defense.

5. Right To Control Resolution

Notwithstanding that Covered California may have tendered its defense to Contractor, neither party shall settle, compromise or resolve any claims, causes of action, liabilities or damages against Covered California without the

EXHIBIT C
Information Technology General Terms And Conditions

consent of the other party, which consent shall not be unreasonably withheld. Any such resolution will not relieve Contractor of its obligation to indemnify Covered California.

G. DISPUTES

Disputes shall be administered in accordance with the procedures outlined in this Section. During any dispute, Contractor shall continue with the responsibilities under this Agreement, unless directed otherwise by Covered California in writing. Disputes do not include the Contractor's failure to perform any requirements under this Agreement, and this Agreement may be terminated by Covered California with or without cause without following the dispute process.

1. The parties shall deal in good faith and attempt to resolve disputes informally. If the dispute cannot be resolved informally, Contractor shall submit a written dispute notice to Covered California's Project Representative within fifteen (15) calendar days after the date of the action causing the dispute or following the failure of informal resolution. The written dispute notice shall contain the following information:

   a. The decision, issue, or actions under dispute;

   b. The reason(s) Contractor believes the decision or position taken by Covered California is in error (if applicable, reference pertinent Contract provisions);

   c. The identification of all documents and substance of all oral communications which support Contractor's position; and

   d. The dollar amount in dispute, if applicable.

2. Within fifteen (15) calendar days after receipt of the dispute notice, Covered California's Project Representative shall issue a written decision regarding the dispute. The written decision shall respond to all relevant points in the dispute notice and include the following information:

   a. A description of the dispute;

   b. A reference to pertinent Contract provisions, if applicable;

   c. A statement of the factual areas of agreement or disagreement; and

   d. A statement of the Project Representative's decision with supporting rationale.

3. If Contractor is not satisfied with the decision of Covered California's Project Representative, Contractor may, within fifteen (15) calendar days of the date

EXHIBIT C
Information Technology General Terms And Conditions

of the Project Representative's decision, submit a written appeal to Covered California's Executive Director. The Executive Director or his/her designee shall issue a final decision on the dispute within thirty (30) calendar days after the date of receipt of Contractor's written appeal. If the Executive Director or his/her designee fails to render a final decision within thirty (30) calendar days after receipt of Contractor's written appeal, it shall be deemed a final decision adverse to Contractor's contentions. The final decision of the Executive Director or his/her designee shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within thirty (30) calendar days following the date of the final decision.

4. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, Contractor agrees to diligently proceed with the performance of this Agreement, including the delivery of goods or providing of services in accordance with Covered California's instructions. The Contractor's failure to diligently proceed in accordance with Covered California's instructions shall be considered a material breach of this Agreement.

H. TERMINATION FOR CAUSE

Covered California may terminate this Agreement and be relieved of any payments should Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided, unless otherwise agreed to by Covered California in writing. Such right of termination shall be without prejudice to any other remedies available to Covered California. Upon receipt of any notice terminating this Agreement, Contractor shall immediately discontinue all activities affected, unless the notice directs otherwise, and Covered California may proceed with the work in any manner deemed proper by Covered California. As directed by Covered California, Contractor shall transfer maintenance and operations of the solution to Covered California as directed in the Notice of Termination. In such event, Covered California shall pay Contractor only the reasonable value of the services rendered, and all costs to Covered California shall be deducted from any sum due Contractor. Covered California may, at its sole discretion, offer an opportunity to cure any breach prior to terminating for default.

I. TERMINATION WITHOUT CAUSE

This Agreement may be terminated without cause by Covered California upon thirty (30) calendar days' written notice to the Contractor. Upon receiving the Notice of Termination, the Contractor shall adhere to the following during the winding down period of the Agreement:

EXHIBIT C
Information Technology General Terms And Conditions

1. Stop work as specified in the Notice of Termination;
2. Place no further subcontracts for materials, services, or facilities, except as necessary to complete any outstanding work as specified in the Notice of Termination; and
3. Terminate all subcontracts to the extent they relate to the work terminated and maintain any subcontracts that are necessary to complete outstanding work during the winding down period.

Should Covered California terminate this Agreement without cause, Contractor shall transfer maintenance and operations of the solution to Covered California as directed in the Notice of Termination.

J. TERMINATION FOR LATE COMMENCEMENT

Notwithstanding any other provision of this Agreement, if Contractor fails to commence performance by the date set forth in this Agreement, unless a later date is mutually agreed upon, Covered California, in its sole discretion, may terminate the Agreement upon five (5) days written notice to Contractor.

In the event that Covered California exercises its termination right under this Section due to Contractor's failure to perform, Covered California may procure supplies or services similar to those so terminated. Should that occur, Contractor shall be liable to Covered California for any excess costs for such similar supplies or services, subject to any limitations in law or set forth in this Agreement.

K. INDEPENDENT CONTRACTOR

Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of Covered California except for purposes of Civil Code Section 1798.24.

L. RECYCLE CERTIFICATION

Contractor shall certify in writing under penalty of perjury the minimum, if not exact, percentage of recycled content, both post-consumer waste and secondary waste, as defined in the Public Contract Code Section 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code Section 12209. Contractor may certify that the product contains zero recycled content.

M. NON-DISCRIMINATION CLAUSE

EXHIBIT C
Information Technology General Terms And Conditions

During the performance of this Agreement, Contractor and its subcontractors, as well as their agents and employees, shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including health impairments related to or associated with a diagnosis of cancer for which a person has been rehabilitated or cured), age (over 40), marital status, and use of family and medical care leave pursuant to State or federal law. Contractor and its subcontractors, as well as their agents and employees, shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors, as well as their agents and employees, shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code § 12990(a-f), et seq.) and the applicable regulations promulgated thereunder (Title 2, Cal. Code of Regs. § 7285, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

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

To the extent that this Agreement falls within the scope of Government Code Section 11135, Contractor hereby agrees to respond to and resolve any complaint brought to its attention regarding accessibility of its products or services.

N. CONTRACTOR CERTIFICATION CLAUSES & CALIFORNIA CIVIL RIGHTS LAW CERTIFICATION

The Contractor Certification Clauses and California Civil Rights Law Certification (hereinafter referred to as the "Contractor Certification Form") are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto. Covered California shall provide Contractor with the Contractor Certification Form and Contractor shall execute the Contractor Certification Form before commencing any work under this Agreement. Contractor certifies that it is in compliance and will remain in compliance with all clauses as set forth in the Contractor Certification Form.

O. TAX DELINQUENCY

EXHIBIT C
Information Technology General Terms And Conditions

Contractor acknowledges that prior to executing any contract, Contractor will obtain written verification from the Franchise Tax Board (FTB) and the Board of Equalization (BOE) that Contractor is not identified as tax delinquent. Contractor also acknowledges that the continuation of this Contract is contingent upon maintaining good standing with FTB and BOE. Should the tax status of Contractor change with respect to either of these state agencies, Contractor must notify Covered California immediately.

P. TIMELINESS

Time is of the essence in this Agreement.

Q. COMPENSATION

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

R. GOVERNING LAW

This Agreement shall be administered, construed, and enforced according to the laws of the State of California without regard to any conflict of law provisions to the extent such laws have not been preempted by applicable federal law. Any suit brought hereunder, including any action to compel arbitration or to enforce any award or judgment rendered thereby, shall be brought in the State or federal courts sitting in Sacramento, California, the parties hereby waiving any claim or defense that such forum is not convenient or proper. Each party agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by California law.

S. ANTITRUST CLAIMS

By signing this Agreement, Contractor hereby certifies that if these services or goods are obtained by means of a competitive bid, Contractor shall comply with:

1. The Government Code chapter on antitrust claims containing the following definitions:

    a. "Public purchase" is a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

    b. "Public purchasing body" is the State or the subdivision or agency making a public purchase. (Gov. Code § 4550).

EXHIBIT C
Information Technology General Terms And Conditions

2. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act, Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Bus. & Prof. Code, arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. (Gov. Code § 4552).

3. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (Gov. Code § 4553).

4. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose, and:

   a. The assignee has not been injured thereby; or

   b. The assignee declines to file a court action for the cause of action. (Gov. Code § 4554). Requirements of the Government Code Sections are set out below.

T. CHILD SUPPORT COMPLIANCE ACT

In accordance with the Child Support Compliance Act:

1. Contractor acknowledges the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with § 5200) of Part 5 of Division 9 of the Family Code; and

2. Contractor, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

EXHIBIT C
Information Technology General Terms And Conditions

U. UNENFORCEABLE PROVISIONS

Should one or more provisions of this Contract be held by any court to be invalid, void or unenforceable, the remaining shall nevertheless remain and continue in full force and effect.

V. UNION ORGANIZING

By signing this Agreement, Contractor hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement and agrees to the following:

1. Contractor will not assist, promote or deter union organizing by employees performing work on a State service contract, including a public works contract.
2. No State funds received under this Agreement will be used to assist, promote or deter union organizing.
3. Contractor will not, for any business conducted under this Agreement, use any State property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the State property is equally available to the general public for holding meetings.
4. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from State funds has been sought for these costs, and Contractor shall provide those records to the Attorney General upon request.
5. Contractor will be liable to the State for the amount of any funds expended in violation of the requirements of government.

W. DOMESTIC PARTNERS

Notwithstanding any other provision of law, no State agency may enter into any contract for the acquisition of goods or services in the amount of $100,000 or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between employees with spouses or domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminates between same-sex and different-sex domestic partners of employees or between same-sex and different-sex spouses of employees.

X. LEGAL SERVICES REQUIREMENTS

For all contracts that provide legal services:

EXHIBIT C
Information Technology General Terms And Conditions

1. Contractor shall agree to adhere to legal cost and billing guidelines designated by Covered California.
2. Contractor shall adhere to litigation plans designated by Covered California.
3. Contractor shall adhere to case phasing of activities designated by Covered California.
4. Contractor shall submit and adhere to legal budgets as designated by Covered California.
5. Contractor shall maintain legal malpractice insurance in an amount not less than the amount designated by Covered California.
6. Contractor shall submit to legal bill audits and law firm audits if requested by Covered California. The audits may be conducted by employees or designees of Covered California or by any legal cost control providers retained by Covered California for that purpose.

Y. PRIORITY HIRING CONSIDERATIONS FOR RECIPIENTS OF AID

If this Agreement includes services in excess of $200,000, Contractor shall give priority consideration in filling vacancies in positions funded by the Agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Public Contract Code Section 10353. This requirement shall not interfere with or require a violation of a collective bargaining agreement, a federal affirmative action obligation for hiring disabled veterans of the Vietnam era, or nondiscrimination compliance laws of California, and does not require the employment of unqualified recipients of aid.

Z. COMPUTER SOFTWARE COPYRIGHTS

Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

AA. EXECUTIVE COMPENSATION REPORTING

To the extent applicable, pursuant to 2 Code of Federal Regulations Part 170, certain sub-recipients of federal awards that in the previous fiscal year received 80 percent or more of their annual gross revenues from federal procurement contracts and subcontracts and federal financial assistance subject to the Transparency Act, as defined at 2 Code of Federal Regulations Section 170.320 (and sub-awards); and $25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act (and sub-awards); and the public

EXHIBIT C
Information Technology General Terms And Conditions

does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986, the sub-recipient must report the names and total compensation of each of the sub-recipient's five most highly compensated executives for the sub-recipient's preceding completed fiscal year.

BB. SUBCONTRACTORS

Applicable to agreements in which Contractor subcontracts out a portion of the work. Nothing contained in this Agreement or otherwise shall create any contractual relationship between Covered California and any subcontractors, and no subcontractor shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be fully responsible to Covered California for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor. Contractor's obligation to pay its subcontractors is an independent obligation from the obligation of Covered California to make payments to Contractor. As a result, Covered California shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

CC. INSURANCE REQUIREMENTS

When Contractor submits a signed Contract to Covered California, Contractor shall furnish to Covered California a certificate of insurance stating that there is:

1. General liability insurance presently in effect for Contractor of not less than $1,000,000 per occurrence for bodily injury and property damage liability combined;

2. Errors and omissions insurance in force in an amount satisfactory to Covered California, but no less than $1,000,000 per occurrence and $1,000,000 aggregate limit of all claims filed in the policy year and from a carrier satisfactory to Covered California. Contractor shall be noted on the certificate; and

3. Automobile liability, including non-owned auto liability, of not less than $1,000,000 per occurrence for volunteers and paid employees providing services supported by this Agreement. The certificate of insurance will include provisions (a), (b), and (c), below, in their entirety:

    a. That the insurer will not cancel the insured's coverage without thirty (30) calendar days' prior written notice to Covered California.

EXHIBIT C
Information Technology General Terms And Conditions

b. That Covered California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this Agreement are concerned.

c. That Covered California will not be responsible for any premiums or assessment on the policy.

Contractor agrees that the general, errors and omissions, and automobile liability insurance herein provided for shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) calendar days' notice prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one year. New certificates of insurance are subject to the approval of Covered California, and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, Covered California may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

Contractor shall require its subcontractors/vendors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general, errors and omissions, and automobile liability including non-owned auto liability, and, further, Contractor shall require all of its subcontractors/vendors to hold Contractor and Covered California harmless. The subcontractors'/vendors' certificate of insurance shall also have Contractor, not the State, as the certificate holder. Covered California shall be listed as an additional insured on all subcontractors' or vendors' certificates(s) of insurance. Contractor shall maintain certificates of insurance for all its subcontractors/vendors.

Covered California will not provide for nor compensate Contractor for any insurance premiums or costs for any type or amount of insurance.

By signing this Agreement, Contractor hereby warrants that it carries workers' compensation insurance on all of its employees who will be engaged in the performance of this Agreement. If staff provided by Contractor is defined as independent contractors, this clause does not apply.

DD. INTELLECTUAL PROPERTY RIGHTS

1. All deliverables as defined in Exhibit A, originated or prepared by Contractor pursuant to this Agreement, including papers, reports, charts, and other documentation, but not including Contractor's administrative communications and records relating to this Agreement, shall, upon delivery and acceptance

EXHIBIT C
Information Technology General Terms And Conditions

by Covered California, become the exclusive property of Covered California and may be copyrighted by Covered California.

2. All inventions, discoveries or improvements of the techniques or programs or materials developed pursuant to this Agreement shall be the property of Covered California.

3. This Agreement shall not preclude Contractor from developing materials outside this Agreement which are competitive, irrespective of their similarity to materials which might be delivered to Covered California pursuant to this Agreement. All pre-existing intellectual property, copyrights, trademarks and products shall be the sole property of their original owner.

EE. CONFIDENTIALITY

Contractor agrees to protect the personal information of all Covered California consumers and employees by following applicable federal and State privacy and security requirements.

Contractor acknowledges that by contracting with Covered California, Contractor waives any reasonable expectation of privacy in the Contract information, name, and signature provided herein.

All financial, statistical, personal, technical, and other data and information related to Covered California's operations that are not publicly available and that become available to Contractor shall be protected by Contractor during or after its relationship with Covered California from unauthorized use and disclosure. Contractor agrees that Contractor shall not use any confidential information for any purpose other than carrying out the provisions of the Agreement.

Confidential information includes, but is not limited to, all non-public information, including proprietary information about Covered California, which includes, without limitation: the deliverables; trade secrets; know-how; concepts; methods; techniques; designs; drawings; specifications; computer programs, including Covered California's software; support materials; information regarding Covered California's business operations and plans; client, customer, or supplier lists; pricing information; marketing plans or information; or other records concerning Covered California's finances, contracts, services, or personnel.

At the conclusion of its relationship with Covered California, Contractor shall return any and all records or copies of records relating to Covered California, or its business, or its confidential information. Contractor shall take such steps as may be reasonably necessary to prevent disclosure of confidential information to others and shall not disclose confidential information to others without the prior written consent of Covered California. Contractor agrees that confidential information disclosed to it under the terms of this Agreement may be disclosed

EXHIBIT C
Information Technology General Terms And Conditions

only to its employees or agents who have a need to know such confidential information.

This provision not to disclose confidential information will continue to apply after termination of this Agreement, and until such time as the confidential information becomes public knowledge through no fault of Contractor. Contractor will report to Covered California any and all unauthorized disclosures of confidential information. Contractor acknowledges that any publication or disclosure of confidential information to others may cause immediate and irreparable harm to Covered California, and if Contractor should publish or disclose confidential information to others, Covered California shall be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without posting a bond.

FF. RESUMES

Resumes of the personnel who Contractor will use to provide services under this Agreement are included as Exhibit C– Attachment 1, and made a part herein by this reference. Contractor understands that the contents of any resume provided shall become public records.

GG. SEVERABILITY

If any provision in this Agreement is invalid or unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to effectuate the purpose and intent of this Agreement, and the invalidity or unenforceability of any provision in this Agreement in any jurisdiction shall not affect the validity or enforceability of any such provision in any other jurisdiction.

HH. WAIVER OF BREACH

The waiver by Covered California of any breach by Contractor of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by Contractor. The rights and remedies of Covered California herein are cumulative and are in addition to any other rights or remedies that Covered California may have at law or in equity.

II. CONTRACTOR LIMITATIONS

Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interest of the State. Thus, Contractor agrees to refrain from any practices, activities or relationships that could reasonably be considered to be in conflict with Contractor fully performing its obligations to the State under the terms of this Agreement. Contractor shall inquire about and require disclosure by its staff and subcontractors of all activities

EXHIBIT C
Information Technology General Terms And Conditions

that may create an appearance of conflict. In the event that Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, Contractor shall submit to Covered California's Project Manager a full disclosure statement setting forth the relevant details of any activity which Contractor reasonably believes may have the appearance of a conflict of interest for Covered California's consideration and direction. Failure to promptly submit a disclosure statement setting forth the relevant details for Covered California's consideration and direction shall be grounds for termination of this Agreement.

JJ. STATEMENT OF ECONOMIC INTERESTS

Contractor understands that Contractor's key staff, defined for purposes of this Section as those individuals who fall within the definition of "consultant" pursuant to 2 CCR § 18700.3(a), who perform work under this Agreement may be designated by Covered California as required to file a Form 700, Statement of Economic Interest with Covered California. If, during the term of this Agreement, any key staff are added to work on this Agreement, such staff must file the Form 700 with Covered California.

Contractor understands that Contractor's key staff performing work under this Agreement may be required to file a Form 700 Statement of Economic Interest with Covered California as follows:

1. Prior to commencing work under the Contract;
2. Annually thereafter while remaining a consultant as defined in the regulations cited above (usually by April 1 of each subsequent year); and
3. Within thirty (30) days of ceasing to be such a consultant to Covered California.

KK. ETHICS TRAINING

Contractor understands that all such consultants/contractor employees shall also complete the California Attorney General's Ethics Training Course for State Officials, unless they have previously taken an equivalent ethics training course through another state agency or the Legislature during the required time period, as follows:

1. Prior to commencing any work under the Contract; and
2. At least once every two (2) calendar years thereafter during which he/she remains a consultant/contractor employee, as defined above, to Covered California.

LL. COMPLETE INTEGRATION

EXHIBIT C
Information Technology General Terms And Conditions

This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.

MM. DELIVERY

Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, Covered California shall not be required to make any payment for the excess Deliverables, and may return them to Contractor at Contractor's expense or utilize any other rights available to Covered California at law or in equity.

NN. SUBSTITUTIONS

Substitution of Deliverables may not be tendered without advance written consent of Covered California. Contractor shall not use any specification in lieu of those contained in the Contract without written consent of Covered California.

OO. WARRANTY

1. Unless otherwise specified in Exhibit A, the warranties in this Subsection begin upon delivery of the goods or services in question and end one (1) year thereafter. Contractor warrants that:

   a. Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including, without limitation, all descriptions, specifications, and drawings identified in Exhibit A);

   b. Deliverables will be free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Scope of Work directly or by reference, Contractor will warrant that its Deliverables provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, the Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. Covered California's approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty; and

   c. Services shall be performed in a professional manner, with high quality, and using industry best practices, including but not limited to those practices

EXHIBIT C
Information Technology General Terms And Conditions

established by the following: American National Standards Institute (ANSI), International Standards Organization (ISO), or Project Management Institute (PMI) standards. Services shall be performed in accordance with the standards of the manufacturers of applicable systems' components.

2. The Contractor warrants that Deliverables furnished hereunder:

   a. Will be free, at the time of delivery, of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and

   b. Will not infringe upon or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if Covered California believes that harmful code may be present in any Commercial Software delivered hereunder, the Contractor will, upon Covered California's request, provide a new or clean install of the Software.

3. Unless otherwise specified in the Scope of Work:

   a. Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.

   b. Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from:

      i. A modification made by Covered California, unless such modification is approved or directed by Contractor;

      ii. Use of Software in combination with or on products other than as specified by Contractor; or

      iii. Misuse by Covered California.

   c. Where Contractor resells Commercial Hardware or Commercial Software it purchased from a third party, Contractor, to the extent it is legally able to do so, will pass through any such third party warranties to Covered California and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve Contractor from its warranty obligations set forth above.

4. All warranties, including special warranties specified elsewhere herein, shall inure to Covered California, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.

5. Except as may be specifically provided in the Scope of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section,

EXHIBIT C
Information Technology General Terms And Conditions

Covered California's exclusive remedy and Contractor's sole obligation will be limited to:

a. Prompt re-performance, repair, or replacement of the non-conforming Deliverable (including, without limitation, an infringing Deliverable) or service; or

b. Should Covered California, in its sole discretion, consent, a refund of all amounts paid by Covered California for the non-conforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or services of equivalent capacity, function, and performance.

6. Except for the express warranties specified in this Section, Contractor makes no warranties, either express or implied, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

PP. RIGHTS AND REMEDIES OF COVERED CALIFORNIA FOR DEFAULT

1. In the event any Deliverables furnished or services provided by Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by Contractor, Covered California may reject the same pursuant to Section J of Exhibit A, and it shall become the duty of Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to Covered California, and immediately replace all such rejected items with others conforming to the Contract.

2. In addition to any other rights and remedies Covered California may have, Covered California may require Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of Contractor.

3. In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by Contractor, any loss or damage sustained by Covered California in procuring any items which Contractor agreed to supply shall be borne and paid for by Contractor.

4. Covered California reserves the right to offset the reasonable cost of all damages caused to Covered California against any outstanding invoices or amounts owed to Contractor or to make a claim against Contractor therefore.

QQ. LIMITATION OF LIABILITY

EXHIBIT C
Information Technology General Terms And Conditions

1. Except as otherwise specified in this Agreement, Contractor's liability for damages to Covered California for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price. For purposes of this Subsection, "Purchase Price" will mean the aggregate Contract price; except that, with respect to a contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that Contractor will have a separate limitation of liability for each purchase order.

2. The foregoing limitation of liability shall not apply to the following:

   a. Any liability set forth in Section E (Indemnification) of this Agreement;

   b. Claims arising under provisions herein calling for indemnification for third party claims against Covered California for death, bodily injury to persons, or damage to real or tangible personal property caused by Contractor's negligence or misconduct; or

   c. Costs or attorneys' fees that Covered California becomes entitled to recover as a prevailing party in any action.

3. Covered California's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in Subsection (1) above. Nothing herein shall be construed to waive or limit Covered California's sovereign immunity or any other immunity from suit provided by law.

4. In no event will either Contractor or Covered California be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except:

   a. To the extent that Contractor's liability for such damages is specifically set forth in the Statement of Work; or

   b. To the extent that Contractor's liability for such damages arises out of Subsections (2)(a) and (2)(c) above.

RR. DOCUMENTATION

1. Contractor agrees to provide to Covered California, at no charge, all Documentation as described within the Statement of Work, and updated versions thereof, which are necessary or useful to Covered California in its use of the Equipment or Software provided hereunder. Contractor agrees to

EXHIBIT C
Information Technology General Terms And Conditions

provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.

2. If Contractor is unable to perform maintenance, or if Covered California desires to perform its own maintenance on Equipment purchased under this Contract, then upon written notice by Covered California, Contractor will provide, at its then-current rates and fees, adequate and reasonable assistance, including relevant Documentation, to allow Covered California to maintain the Equipment based on Contractor's methodology. Contractor agrees that Covered California may reproduce such Documentation for its own use in maintaining the Equipment. If Contractor is unable to perform maintenance, Contractor agrees to license, at no cost to Covered California, any other contractor that Covered California may have hired to maintain the Equipment and to use the above noted Documentation. Covered California agrees to include Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by Contractor.

SS. PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA

1. Covered California agrees that all material appropriately marked or identified in writing as proprietary, and furnished hereunder, are provided for Covered California's exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of Contractor. Covered California agrees to take all reasonable steps to ensure that such proprietary data are not disclosed to others, without prior written consent of Contractor, subject to the California Public Records Act.

2. Covered California will ensure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed.

3. Covered California agrees that it will take appropriate action by instruction, agreement, or otherwise with its employees or other persons permitted access to licensed software and other proprietary data to satisfy its obligations in this Contract with respect to use, copying, modification, protection and security of proprietary software and other proprietary data

TT. FUTURE RELEASES

Unless otherwise specifically provided in this Contract, or the Scope of Work, if improved versions, e.g., patches, bug fixes, updates or new releases, of any Software Product are developed by Contractor, and are made available to other licensees, they will be made available to Covered California at no additional cost only if such are made available to other licensees at no additional cost. If

EXHIBIT C
Information Technology General Terms And Conditions

Contractor offers new versions or upgrades to the Software Product, they shall be made available to Covered California at Covered California's option at a price no greater than the Contract price plus a price increase proportionate to the increase from the list price of the original version to that of the new version, if any. If the Software Product has no list price, such price increase will be proportionate to the increase in average price from the original to the new version, if any, as estimated by Contractor in good faith.

UU. ENCRYPTION/CPU ID AUTHORIZATION CODES

1. When Encryption/CPU Identification (ID) authorization codes are required to operate the Software Products, Contractor will provide all codes to Covered California with delivery of the software.

2. In case of an inoperative CPU, Contractor will provide a temporary encryption/CPU ID authorization code to Covered California for use on a temporarily authorized CPU until the designated CPU is returned to operation.

3. When changes in designated CPUs occur, Covered California will notify Contractor via telephone and/or facsimile/e-mail of such change. Upon receipt of such notice, Contractor will issue via telephone and/or facsimile/e-mail to Covered California within 24 hours, a temporary encryption ID authorization code for use on the newly designated CPU until such time as permanent code is assigned.

VV. STOP WORK

1. Covered California may, at any time, by written Stop Work Order to Contractor, require Contractor to stop all, or any part, of the work called for by this Contract for a period up to 45 days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Unless otherwise specified in the Stop Work Order, Covered California shall issue a cancellation of the Stop Work Order prior to its expiration date. If necessary, Covered California may opt to terminate the Contract pursuant to Sections G or H (whichever may apply) of this Exhibit.

2. If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume work. Covered California shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:

EXHIBIT C
Information Technology General Terms And Conditions

a. The Stop Work Order results in an increase in the time required for, or an increase in Contractor's cost properly allocable to, the performance of any part of this Contract; and

b. Contractor asserts its right to an equitable adjustment within sixty (60) days after the end of the period of work stoppage; provided that Covered California decides the facts justify the action, Covered California may receive and act upon a proposal submitted at any time before final payment under this Contract.

3. If a Stop Work Order is not cancelled and the Agreement is terminated pursuant to Sections G or H of this Exhibit, Covered California may allow reasonable costs resulting from the Stop Work Order.

4. Covered California shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this clause.

WW. FOLLOW-ON CONTRACTS

1. If Contractor or its affiliates provides Technical Consulting and Direction (as defined below), Contractor and its affiliates:

   a. Will not be awarded a subsequent contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction; and

   b. Will not act as consultant to any person or entity that does receive a contract described in Subsection (a) above. This prohibition will continue for one (1) year after termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.

2. "Technical Consulting and Direction" means services for which Contractor received compensation from Covered California and includes:

   a. Development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;

   b. Development or design of test requirements;

   c. Evaluation of test data;

   d. Direction of or evaluation of another contractor;

   e. Provision of formal recommendations regarding the acquisition of Information Technology products or services; or

EXHIBIT C
Information Technology General Terms And Conditions

f. Provisions of formal recommendations regarding any of the above. For purposes of this Section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.

3. To the extent permissible by law, Covered California may waive the restrictions set forth in this Section by written notice to Contractor if Covered California determines their application would not be in the State's best interest. Except as prohibited by law, the restrictions of this Section will not apply:

   a. To follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or

   b. Where the State has entered into a master agreement for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.

4. The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

XX. COVENANT AGAINST GRATUITIES

Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, Covered California shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by Covered California in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of Covered California provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.