

**Contract Between Idaho Supreme Court and \_\_\_\_\_ for Electronic  
Payment Processing Services**

**This Agreement is made and entered by and between the Idaho Supreme Court (“ISC”) and  
\_\_\_\_\_ (“Contractor”).**

**I. Background**

1. On \_\_\_\_\_, 2022, the ISC published RFP 2022-01 Electronic Payment Processing Services (“RFP”), seeking proposals from qualified vendors to provide over-the-counter credit and debit card processing to enable the collection of court fines, costs, and fees at state court locations throughout Idaho selected by the ISC in its sole discretion (“Services”).
2. On \_\_\_\_\_, 2022, Contractor submitted its Proposal in response to the RFP, representing that it has the expertise, personnel, and resources necessary to provide the ISC with Services in compliance with the requirements and specifications of the RFP.
3. On \_\_\_\_\_, 2022, in reliance on Contractor’s Proposal, and the representations submitted therein, the ISC awarded Contractor the Contract.
4. As a result of ISC awarding Contractor the Contract, the parties now enter this Contract wherein Contractor agrees to provide ISC the Services requested in the RFP and as represented in its Proposal.

**II. Terms and Conditions**

5. DEFINITIONS. Unless the context clearly requires otherwise, the definitions set forth in the Request for Proposals shall apply to terms used in this Contract.
6. SERVICES. Contractor shall provide Services that conform in all respects with the requirements of: (1) the Terms and Conditions for Cloud-Based Services (attached as Exhibit A); (2) the RFP (attached as Exhibit B); and (3) Contractor’s Proposal (attached as Exhibit C). In the event of non-conformity, and without limitation upon any other remedy, ISC shall have no financial obligation in regard to the non-conforming Services, and upon notification by ISC, the Contractor shall pay all costs for the removal of its property and equipment from all ISC-designated locations.
7. COMPENSATION. Contractor’s sole compensation for providing the Services described in Section 6 shall be as set forth in “Attachment 5 – Cost Proposal” of Contractor’s Proposal (attached as Exhibit C), unless otherwise agreed to by the parties in a mutually executed written agreement. All costs and fees not expressly made the responsibility of the ISC in “Attachment 5 – Cost Proposal” of Contractor’s Proposal (attached as Exhibit C) shall be the sole responsibility of Contractor.
8. TERM. The Initial Term of this Agreement is one (1) year from its Effective Date. The Effective Date of this Agreement is the day on which it has been signed by both parties. This Agreement

automatically renews for an additional one (1) year term unless either party gives the other written (including email) notice of non-renewal at least 120 days prior to the expiration of the then current term. This Agreement may be renewed in this manner for up to four (4) annual renewals. The Agreement may thereafter be extended or renewed only upon mutual written agreement executed by both parties.

9. TERMINATION. ISC may terminate the Contract (and/or any order issued pursuant to the Contract) when the Contractor has been provided written notice of default or non-compliance and has failed to cure the default or noncompliance within a reasonable time, not to exceed thirty (30) calendar days. If the Contract is terminated for default or noncompliance, the Contractor will be responsible for any costs resulting from ISC's award of a new contract and any damages incurred by ISC. ISC, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due.
10. RENEWAL OPTIONS. Notwithstanding any other provision in the Contract limiting or providing for renewal of the Contract, upon mutual, written agreement by the parties, the Contract may be extended under the same terms and conditions for the time interval equal to the original contract period, or for such shorter period of time as agreed to by the parties.
11. CHANGES/MODIFICATIONS. Changes of specifications or modification of the Contract in any particular manner can be affected only upon written consent of all parties. In the event that a typographical or other ministerial or clerical error is discovered, ISC may correct such error after providing notice to the Contractor of its intent to make the clerical correction. A copy of the corrected Contract (or that portion of the Contract which contains correction(s)) will be provided electronically to the Contractor immediately after the correction(s) are made. ISC may issue unilateral amendments to the Contract to make administrative changes when necessary.
12. OFFICIAL, AGENT AND EMPLOYEES OF ISC NOT PERSONALLY LIABLE. In no event shall any official, officer, employee or agent of ISC be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with the Contract.
13. CONTRACT RELATIONSHIP: It is distinctly and particularly understood and agreed between the parties to the Contract that ISC is in no way associated or otherwise connected with the performance of any service under the Contract on the part of the Contractor or with the employment of labor or the incurring of expenses by the Contractor. The Contractor is an independent contractor in the performance of each and every part of the Contract, and solely and personally liable for all health insurance, unemployment insurance, worker's compensation, social security contributions, employment-related taxes, other employee benefits, required bonding, expenses, salary, service fees, or other compensation allegedly earned in connection with or due to providing services to ISC, except as specifically stated herein, and for any and all damages in connection with the operation of the Contract, whether it may be for personal or damages of any other kind. The Contractor shall indemnify, defend, and hold harmless ISC, its

officials, officers, employees, and agents, against any and all actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney's fees and costs), arising out of, relating to, or alleging: (i) rights of Contractor's employees, putative employees, agents, or subcontractors to health insurance, unemployment insurance, worker's compensation, social security contributions, employment-related taxes, other employee benefits, required bonding, expenses, salary, service fees, or other compensation allegedly earned in connection with or due to providing services to ISC, or (ii) violations of duties or laws arising out of, relating to, or alleging an employment or contractual relationship between Contractor and its employees, putative employees, agents, or subcontractors.

14. ANTI-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY CLAUSE. The Contractor is bound to the terms and conditions of Section 601, Title VI, Civil Rights Act of 1964, in that "No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." In addition, "No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (Section 504 of the Rehabilitation Act of 1973). Furthermore, for Contracts involving federal funds, the applicable provisions and requirements of Executive Order 11246 as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 701 of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), 29 USC Sections 621, et seq., the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, U.S. Department of Interior regulations at 43 CFR Part 17, and the Americans with Disabilities Act of 1990, are also incorporated into the Contract. The Contractor shall comply with pertinent amendments to such laws made during the term of the Contract and with all federal and state rules and regulations implementing such laws. The Contractor must include this provision in every subcontract relating to the Contract.
15. TAXES. ISC is generally exempt from payment of state sales and use taxes and from personal property tax for property purchased for its use. If the Contractor is required to pay any taxes incurred as a result of doing business with ISC, the Contractor shall be solely responsible for the payment of those taxes. In no event shall ISC be responsible for personal property taxes affecting items subject to the Contract at the time it becomes effective.
16. INDEMNIFICATION.
- A. Contractor shall defend, indemnify and hold harmless ISC, its officials, officers, employees, and agents, against any and all actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney fees and costs), arising out of, relating to, or alleging an injury or loss caused by the act or omission of the Contractor, its employees, agents, or subcontractors. Contractor shall have no indemnification liability for actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney fees and costs) arising solely out of the negligence or misconduct of ISC.

- B. This Subsection 16(B) shall apply to all of Contractor's defense, indemnity, and hold harmless obligations set forth in this Contract (including but not limited to Sections 13, 16(A), 26, and 32(B)) or otherwise provided by law. Contractor will pay all damages, costs, and expenses (including reasonable attorney fees and costs) finally awarded or agreed upon settlement. Contractor's defense and payments are conditioned on the following: (i) that Contractor shall be notified promptly in writing by ISC of any notice of such claim; (ii) that Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, except ISC has the right, not to be exercised unreasonably, to reject any settlement or compromise that requires that it, its officials, officers, employees or agents admit wrongdoing or liability or subject themselves to any ongoing affirmative obligation; and (iii) that ISC shall cooperate with Contractor in a reasonable way to facilitate settlement or defense of any claim or suit. Any legal defense provided by Contractor to ISC must be free of any conflicts of interest, even if retention of separate legal counsel for ISC is necessary.
17. CONTRACTOR RESPONSIBILITY. The Contractor is responsible for furnishing and delivery of all property and equipment necessary to provide the Services, whether or not the Contractor is the manufacturer or producer of such property or equipment. Further, the Contractor will be the sole point of contact on contractual matters, including all warranty issues and payment of charges resulting from the use or purchase of property and equipment.
18. SUBCONTRACTING. Unless otherwise allowed by ISC in the Contract, the Contractor shall not, without written approval from ISC, enter into any subcontract relating to the performance of the Contract or any part thereof. Approval by ISC of Contractor's request to subcontract or acceptance of or payment for subcontracted work by ISC shall not in any way relieve the Contractor of any responsibility under the Contract. The Contractor shall be and remain liable for all damages to ISC caused by negligent performance or non-performance of work under the Contract by Contractor's subcontractor. Subcontractor(s) must maintain the same types and levels of insurance as that required of the Contractor under the Contract; unless the Contractor provides proof to ISC's satisfaction that the subcontractor(s) are fully covered under the Contractor's insurance, or, except as otherwise authorized by ISC.
19. PROPERTY AND EQUIPEMENT STATUS. It is understood and agreed that any property or equipment offered or shipped shall be new and in first class condition and that all containers shall be new and suitable for storage or shipment, unless otherwise indicated by ISC in the RFP. Demonstrators, previously rented, refurbished, or reconditioned items are not considered "new" except as specifically provided in this section. "New" means property or equipment that has not been used previously and that are being actively marketed by the manufacturer or Contractor. The property or equipment may contain minimal amounts of recycled or recovered parts that have been reprocessed to meet the manufacturer's new product standards. The property or equipment must have ISC as their first user and the property or equipment must not have been previously sold, installed, demonstrated, or used in any manner (such as rentals, demonstrators, trial units, etc.). The new property or equipment offered must be provided with a full, unadulterated, and undiminished new property or equipment warranty against defects in workmanship and materials. The warranty is to include replacement, repair, and any labor for

the period of time required by other specifications or for the standard manufacturer or warranty provided by the Contractor, whichever is longer.

20. SHIPPING AND DELIVERY. Unless otherwise required in the Contract, all orders will be shipped directly to the locations directed by ISC, on an F.O.B. Destination freight prepaid and allowed basis with all transportation, unloading, uncrating, drayage, or other associated delivery and handling charges paid by the Contractor. The Contractor shall deliver all orders and complete installation, if required, within the time specified in the Contract. Time for delivery commences at the time the order is received by the Contractor.
21. ACCEPTANCE. Unless otherwise specified in the Contract, acceptance shall occur thirty (30) calendar days after completion of installation of equipment and products and the Services are available to be used by ISC and members of the public.
22. RISK OF LOSS. Risk of loss and responsibility and liability for loss or damage to hardware provided by Contractor remains with the Contractor, and Contractor is fully responsible for addressing any issues with such hardware it provides, to include but not limited to repairs and replacement.
23. INVOICING. Unless otherwise directed by ISC, Contractor will submit invoices to [FinanceOffice@idcourts.net](mailto:FinanceOffice@idcourts.net). The Court will endeavor to pay all undisputed amounts within forty-five (45) days after receipt of the invoice.
24. ASSIGNMENTS. Contractor shall not assign this Contract, or its rights, obligations, or any other interest arising from the Contract, or delegate any of its performance obligations, without the express written consent of ISC. Transfer without such approval shall cause the annulment of the Contract, at the option of ISC. All rights of action, however, for any breach of the Contract are reserved to ISC. Notwithstanding the foregoing, and to the extent required by applicable law (including Idaho Code Section 28-9-406), Contractor may assign its right to payment on an account provided that ISC shall have no obligation to make payment to an assignee until thirty days after Contractor (not the assignee) has provided ISC's Director of Finance & Operations with (a) proof of the assignment, (b) the identity of the specific contract to which the assignment applies, and (c) the name of the assignee and the exact address to which assigned payments should be made. ISC may treat violation of this provision as an event of default.
25. COMPLIANCE WITH LAW, LICENSING AND CERTIFICATIONS. Contractor shall comply with ALL requirements of federal, state and local laws and regulations applicable to Contractor or to the Services provided by Contractor pursuant to the Contract. For the duration of the Contract, the Contractor shall maintain in effect and have in its possession all licenses and certifications required by federal, state and local laws and rules.
26. PATENTS AND COPYRIGHT INDEMNITY.

- A. Contractor shall indemnify, defend, and hold harmless ISC, its officials, officers, employees and agents, against any and all actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney's fees and costs), arising out of arising out of, relating to, or alleging infringement or misappropriation of a third party's patent, copyright, trade secret, trademark, or other intellectual property right as a result of ISC's access to or use of property, equipment, or Services provided under the Contract.
- B. Contractor shall have no liability to ISC, its officials, officers, employees and agents under any provision of this clause with respect to any claim of infringement that is based upon: (i) the combination or utilization of the property, equipment, or Services provided by Contractor with machines or devices not provided by the Contractor other than in accordance with Contractor's previously established specifications unless such combination or utilization was disclosed in the specifications; (ii) the modification of the property, equipment, or Services unless such modification was disclosed in the specifications; or (iii) the use of the property, equipment, or Services not in accordance with Contractor's previously established specifications unless such use was disclosed in the specifications.
- C. Should the property, equipment, or Services become, or in Contractor's opinion be likely to become, the subject of a claim of infringement of a United States' patent, the Contractor shall, at its option and expense, either: (i) procure for ISC the right to continue using the property, equipment, or Services; (ii) replace or modify the property, equipment, or Services so that it becomes non-infringing, provided such replacement or modification is functionally equivalent. In lieu of Subsections 26(C)(i)–(ii), ISC may, in its sole discretion, terminate this Contract without penalty, in which case the Contractor shall grant ISC a full refund for the purchase price (if any) of the property, equipment, or Services and accept its return.
- D. ISC has no obligations to indemnify, defend, or hold harmless Contractor against any claim, suit, or proceeding which arises out of compliance with specifications furnished by ISC.

27. CONFIDENTIAL INFORMATION.

- A. While performing under this Contract, Contractor will collect and receive confidential financial and personal identifying information from individuals or entities that make over-the-counter credit and debit card payments ("Confidential End-User Credit and Debit Card Information"). Contractor shall collect and use Confidential End-User Credit and Debit Card Information solely in the performance of Contractor's Services under the Contract and shall not otherwise disclose Confidential End-User Credit and Debit Card Information to any third party. Upon termination or expiration of the Contract, Contractor shall delete any Confidential End-User Credit and Debit Card Information within sixty (60) days, unless otherwise required by law or court order, or agreed to by ISC in writing .
- B. Contractor may also receive or have access to Non-Public ISC Data ("Confidential Non-Public ISC Data"). Confidential Non-Public ISC Data shall belong solely to ISC. Contractor shall collect and use Confidential Non-Public ISC Data solely in the performance of Contractor's Services under the Contract and shall not otherwise disclose Confidential Non-Public ISC Data to any third party. Upon termination or expiration of the Contract, Contractor shall return to ISC and then

delete all Confidential Non-Public ISC Data within sixty (60) days, unless otherwise required by law or court order, or agreed to by ISC in writing.

- C. Notwithstanding the foregoing, Contractor may disclose Confidential End-User Credit and Debit Card Information and Confidential Non-Public ISC Data to the extent required by law or court order, or as agreed to by ISC in writing. Contractor shall give ISC prompt notice of any such demand for disclosure and reasonably cooperate with ISC in any effort to seek a protective order or otherwise to contest, limit, or protect such required disclosure, at ISC's expense.

- 28. USE OF THE NAMES IDAHO JUDICIAL BRANCH, IDAHO SUPREME COURT, OR ADMINISTRATIVE OFFICE OF THE COURTS. Contractor shall not, prior to, in the course of, or after performance under the Contract, use the names of the Idaho Judicial Branch, Idaho Supreme Court, or Administrative Office of the Courts in any advertising or promotional media, including press releases, as a customer or client of Contractor without the prior written consent of ISC.

- 29. TERMINATION FOR FISCAL NECESSITY. ISC is a government entity and it is understood and agreed that some of ISC's payments under the Contract may be paid from Idaho State Legislative appropriations, funds granted by the federal government, or both. The Legislature is under no legal obligation to make appropriations to fulfill the Contract. Additionally, the federal government is not legally obligated to provide funds to fulfill the Contract. To the extent ISC's payments under the Contract may be paid from Idaho Legislative appropriations or funds granted by the federal government, the Contract shall in no way or manner be construed so as to bind or obligate ISC beyond the term of any particular appropriation of funds by the Idaho State Legislature, or beyond any federal funds granted to ISC, as may exist from time to time. ISC reserves the right to terminate the Contract in whole or in part (or any order placed under it) if, in its sole judgment, the Legislature of the state of Idaho fails, neglects, or refuses to appropriate sufficient funds as may be required for ISC to continue such payments, or requires any return or "give-back" of funds required for ISC to continue payments, or if the state of Idaho mandates any cuts or holdbacks in spending, or if funds are not budgeted or otherwise available (e.g. through repeal of enabling legislation), or if the state of Idaho or ISC discontinues or makes a material alteration of the program under which funds were provided, or if federal grant funds are discontinued. ISC shall not be required to transfer funds between accounts in the event that funds are reduced or unavailable. All affected future rights and liabilities of the parties shall thereupon cease within ten (10) calendar days after notice to the Contractor. Further, in the event that funds are no longer available to support the Contract, as described herein, ISC shall not be liable for any penalty, expense, or liability, or for general, special, incidental, consequential or other damages resulting therefrom.

In the event of early Contract termination under this section, ISC will collect all Contractor-owned property and equipment distributed under the Contract within thirty (30) calendar days of Contract termination. Property and equipment will be collected at a central (or regional) location(s) designated by ISC. Contractor will be responsible for all costs associated with packaging and removing all Contractor-owned property and equipment from the ISC-designated location(s), which must be completed within thirty (30) calendar days of written notification

from ISC. If Contractor fails to remove its property and equipment within that time period, ISC may charge Contractor for costs associated with storing the property and equipment; and may otherwise dispose of the property and equipment as allowed by applicable law. At Contractor's request, ISC shall promptly provide supplemental documentation as to such Termination for Fiscal Necessity. Nothing in this section shall be construed as ability by ISC to terminate for its convenience.

30. NO PUBLIC FUNDS FOR ABORTION ACT. Employees with contracting authority for the ISC ("Contracting Employees"), are arguably subject to the provisions of Idaho Code § 18-8701 *et seq.* (the "Act"), as of July 1, 2021, for as long as the Act remains in effect. The Act arguably bars Contracting Employees from entering into commercial transactions on behalf of the ISC with any "abortion provider" or "affiliate" of an abortion provider, as defined and set forth in the Act. Contractor shall attest that neither it nor any of its subsidiaries is currently an "abortion provider" or an "affiliate" of an abortion provider as defined and set forth in Idaho Code § 18-8701 *et seq.* If at any time Contractor or any of its subsidiaries becomes an abortion provider or an affiliate of an abortion provider, it must immediately notify the Administrative Office of the Courts, and ISC shall have the right, in accordance with its obligations under Idaho law, to immediately terminate the Contract without penalty to ISC and seek legal relief.
  
31. CERTIFICATE OF COMPLIANCE WITH "ANTI-BOYCOTT OF ISRAEL ACT. Pursuant to Idaho Code section 67-2346, if this Contract has at least a total potential value of one hundred thousand dollars (\$100,000) and Contractor has ten (10) or more employees, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of goods or services from Israel or territories under its control. The terms in this section defined in Idaho Code section 67-2346 shall have the meaning defined therein." If Contractor engages in a boycott of goods or services from Israel or territories under its control, ISC shall have the right, in accordance with its obligations under Idaho law, to immediately terminate the Contract without penalty to ISC and seek legal relief.
  
32. PUBLIC RECORDS.
  - A. Pursuant to Idaho Court Administrative Rule 32 ("ICAR 32"), information or documents received by ISC may be open to public inspection and copying unless the material is exempt from disclosure under the rule or applicable law. The person or entity submitting the material must clearly designate specific information within the document as "exempt," if claiming an exemption; and indicate the basis for such exemption. ISC will not accept the marking of an entire document as exempt; or a legend or statement on one page that all, or substantially all, of the document is exempt from disclosure. Please note that there is no general exemption for trade secrets under ICAR 32. Trade secrets are exempt only to the extent they fall under one of the exemptions expressly listed under ICAR 32.
  - B. Contractor shall indemnify, defend, and hold harmless ISC, its officials, officers, employees, and agents, against any and all actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney fees and costs), arising out of or relating to ISC



honoring such a designation or for the Contractor's failure to designate individual documents or portion of a document as exempt. The Contractor's failure to designate as exempt any document or portion of a document that is released by ISC shall constitute a complete waiver of any and all claims for damages caused by any such release. If ISC receives a request for materials claimed exempt by the Contractor, the Contractor shall provide the legal defense for such claim.

33. NOTICES. Any notice which may be or is required to be given pursuant to the provisions of the Contract shall be in writing and shall be hand delivered, sent by email, prepaid overnight courier or United States' mail as follows:
- A. For notice to ISC, the address and phone number are: Administrative Director of the Courts, Idaho Supreme Court, 451 W. State Street, Boise, ID 83720-0101, (208) 334-2246. Additionally, for notice to ISC, the email address to use is [FinanceOffice@idcourts.net](mailto:FinanceOffice@idcourts.net).
  - B. For notice to the Contractor, the address or email address shall be that contained on the Contractor's Proposal.

Notice shall be deemed delivered immediately upon personal service, email (with printout confirming sent), the day after deposit for overnight courier, or forty-eight (48) hours after deposit in the United States' mail. Either party may change its address or email address by giving written notice of the change to the other party.

34. NON-WAIVER. The failure of any party, at any time, to enforce a provision of the Contract shall in no way constitute a waiver of that provision, nor in any way affect the validity of the Contract, any part hereof, or the right of such party thereafter to enforce each and every provision hereof.
35. ATTORNEY FEES. In the event suit is brought or an attorney is retained by any party to the Contract to enforce the terms of the Contract or to collect any moneys due hereunder, the prevailing party shall be entitled to recover reimbursement for reasonable attorney fees, court costs, costs of investigation and other related expenses incurred in connection therewith in addition to any other available remedies; however, ISC's liability is limited to that which is identified in the Idaho Tort Claims Act, Idaho Code Title 6, Chapter 9.
36. RESTRICTIONS AND WARRANTIES ON ILLEGAL ALIENS. Contractor warrants that it does not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; it takes steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and shall be cause for the imposition of monetary penalties up to five percent (5%) of the contract price, per violation, and/or termination of this Contract without penalty to the ISC.
37. FORCE MAJEURE. Neither party shall be liable or deemed to be in default for any Force Majeure delay in shipment or performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of either party, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, or unusually severe weather, provided that in all cases the Contractor shall notify ISC promptly in writing of any cause for delay and ISC concurs that the delay was beyond the control and

without the fault or negligence of the Contractor. The period for the performance shall be extended for a period equivalent to the period of the Force Majeure delay.

38. PRIORITY OF DOCUMENTS. The Contract consists of, and precedence is established by the order of, the following documents: 1. this Contract; 2. Terms and Conditions for Cloud-Based Services (attached as Exhibit A); 3. the RFP (attached as Exhibit B); 4. Contractor's Proposal as accepted by ISC (attached as Exhibit C); and any other document accepted by ISC attached as an exhibit hereto. Each of these documents is incorporated into the Contract by this reference. The parties intend to include all items necessary for the proper completion of the Contract's requirements. The documents set forth above are complementary and what is required by one shall be binding as if required by all. However, in the case of any conflict or inconsistency arising under the documents, a lower numbered document shall supersede a higher numbered document to the extent necessary to resolve any such conflict or inconsistency. Provided, however, that in the event an issue is addressed in one of the above-mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur. Where terms and conditions specified in the Contractor's Proposal differ from the terms in the RFP, the terms and conditions in the RFP shall apply. Where terms and conditions specified in the Contractor's Proposal supplement the terms and conditions in the RFP, the supplemental terms and conditions shall apply only if specifically accepted by ISC in writing.
39. ENTIRE AGREEMENT. The Contract is the entire agreement between the parties with respect to the subject matter hereof.
40. GOVERNING LAW AND SEVERABILITY. The Contract shall be construed in accordance with and governed by the laws of the state of Idaho. Any action to enforce the provisions of the Contract shall be brought in state district court in Ada County, Boise, Idaho. In the event any term of the Contract is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining terms of the Contract will remain in force.
41. INSURANCE. Contractor shall maintain, and require its subcontractors to maintain, insurance coverages as set forth herein throughout the term of this Contract. Insurers must be licensed and admitted in the State of Idaho and have an AM Best rating of A-VIII or better.

Contractor shall maintain commercial general liability insurance, in which ISC shall be named an additional insured in the minimum amount of \$2,000,000, per occurrence. The limits of insurance shall not be deemed a limitation of the covenants to indemnify and save and hold harmless ISC. Contractor shall provide ISC with a Certificate of Insurance, or other proof of insurance evidencing Contractor's compliance with the requirements of this paragraph and file such proof of insurance with ISC. In the event the insurance minimums are changed, Contractor shall immediately submit proof of compliance with the changed limits.

Contractor shall maintain commercial automobile insurance with a limit of no less than \$1,000,000 combined single limit each accident for bodily injury and property damage including coverage for all owned, hired, and non-owned automobiles. Where applicable, coverage should

include personal injury protection. Where applicable, ISC shall be named as an additional insured.

If the contracted professional is licensed or certified (i.e., architect, consultant, paramedic, attorney, engineer, etc.) or if the information developed by the professional will be used in a decision making process within the institution that could create a liability (i.e., clinical trials, building construction, etc.), consultant shall maintain Professional Liability insurance (errors and omissions) with minimum limits of \$1,000,000 per claim and \$2,000,000 million in the aggregate, on an occurrence form.

Contractor will maintain Information Security Cyber Liability Insurance with minimum limits of up to \$3,000,000 for each occurrence. ISC will be named as the Certificate Holder and Additional Insured on the Cyber Liability Insurance Policy. Contractor will also maintain Network Security/Privacy Liability Insurance with minimum limits of up to \$3,000,000 per occurrence. The Breach Response/Notification Sublimit shall be a minimum of 50% of the policy aggregate. In the event that the selected Contractor supplies IT consulting services, the Contractor shall also maintain Technology Professional E&O insurance in the amount of \$3,000,000.

Additionally, the Contractor shall have and maintain during the life of this Contract, Workers Compensation coverage, regardless of the number of employees, or lack thereof, to be engaged in work on the project under this Contract in the statutory limits as required by law, and Employer's Liability Insurance covering all of Contractor's employees acting within the course and scope of their employment. In case any such work is subcontracted, the Contractor shall require the subcontractor to provide Workers Compensation Insurance and Employer's Liability Insurance for the subcontractor and any/all of its employees. It is mutually agreed and understood by the parties that the Contractor and the Contractor's employees, agents, servants, guests and business invitees, are acting as independent Contractors and are in no way employees of ISC.

All policies must include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against the ISC, State of Idaho, and Idaho's agencies, institutions, organizations, officials, officers, employees and agents.

Coverage required by this Contract shall be primary over any insurance, self-insurance, or risk management program carried by the State of Idaho.

ISC does not represent that coverage and limits will necessarily be adequate to protect Contractor or its subcontractors, and such coverage limits shall not be deemed as a limitation on liability. ISC in no way warrants that the above-required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.

The policies must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract is a material breach of the Contract.

Certificates for each policy must be received by the ISC before work commences. Failure of ISC to demand a certificate or identify a deficiency on a certificate shall not be construed as a waiver of Contractor's obligation to maintain the required insurance.

ISC reserves the right to require, at any time throughout the life of this Contract, proof from Contractor that its subcontractors have the required coverage.

All policies shall include provisions preventing material changes to the policies, or suspension, cancellation, expiration, or non-renewal of the policies, without at least 30 days prior notice to Contractor. If Contractor receives such notice, Contractor will notify ISC regarding receipt of such notice within two (2) business days of receipt.

Proof of all insurance shall be submitted to [FinanceOffice@idcourts.net](mailto:FinanceOffice@idcourts.net).

42. SIGNATURE AUTHORITY. By signing this Contract, the person(s) signing on behalf of the Contractor certifies that they are authorized to do so and acknowledge that the ISC is relying on said certification.

**[CONTRACTOR NAME]**

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
[Insert name and title]

**IDAHO SUPREME COURT**

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Sara Omundson, Administrative Director

**EXHIBIT A**

Terms and Conditions for Cloud-Based Services

**EXHIBIT B**

RFP 2022-01 Electronic Payment Processing Services

**EXHIBIT C**

Contractor's Proposal