

**AGREEMENT FOR HEALTH AND HUMAN SERVICES
COMPETITIVE PURCHASE OF SERVICES**

THIS AGREEMENT, effective the ____ day of January, 2026, is entered into between the Judiciary, State of Hawai‘i, by its Administrative Director of the Courts (hereinafter called “JUDICIARY”), and Mediation Centers of Hawaii Inc. (hereinafter the “PROVIDER”), a (corporation/partnership/sole proprietorship/other business form) whose business address is: 1301 Young St Honolulu, HI 96814.

RECITALS

A. This Agreement is for a competitive purchase of services (a “Competitive POS”), as defined in Section 103F-402, Hawai‘i Revised Statutes (“HRS”), and the Administrative Rules of the Department of Accounting and General Services.

B. The JUDICIARY needs the health and human services described in this Agreement and its exhibits (the “Required Services”). The PROVIDER is agreeable to providing the Required Services.

C. Money has been appropriated for the purchase of the Required Services by:
in the following amounts:

State: \$2,500,000.00

Federal: \$ _____

D. The JUDICIARY has published a request for proposals (the “RFP”), and has received and reviewed proposals submitted in response to the RFP.

E. The RFP and the selection of the PROVIDER were made in accordance with section

103F-402, HRS, the Administrative Rules of the Department of Accounting and General Services, and applicable procurement directives made by the JUDICIARY.

F. The JUDICIARY has carefully evaluated all the proposals received in response to its RFP, and the PROVIDER's proposal has been determined to be the most advantageous in light of the evaluation criteria contained in the JUDICIARY's RFP.

G. Pursuant to Chapter 103F- 402, HRS, the JUDICIARY is authorized to enter into this Agreement.

H. The undersigned representative of the PROVIDER represents, and the JUDICIARY relies upon such representation, that he or she has authority to sign this Agreement by virtue of (check any or all that apply):

☐ Corporate resolutions of the PROVIDER or other authorizing documents such as partnership resolutions;

☐ Corporate by-laws of the PROVIDER, or other similar operating documents of the PROVIDER, such as a partnership agreement, or a limited liability company operating agreements;

☐ The PROVIDER is a sole proprietor and as such does not require any authorizing documents to sign this Agreement;

☐ Other evidence of signing authority:_____.

I. The PROVIDER has produced a "Certificate of Insurance" to the JUDICIARY that shows to the satisfaction of the JUDICIARY that the PROVIDER has obtained liability insurance which complies with paragraph 1.4 of the General Conditions of this Agreement and with any relevant special conditions of this Agreement.

J. PROVIDER has produced: (1) a Hawaii Compliance Express certificate; or (2) a tax clearance certificate and other documents specified in HRS § 103D-310.

NOW THEREFORE, in consideration of the promises contained in this Agreement, the JUDICIARY and the PROVIDER agree as follows:

1. Scope of Services. The PROVIDER shall, in a proper and satisfactory manner as determined by the JUDICIARY, provide the Required Services as set forth in Exhibit “A” to this Agreement, which is attached, and made a part of this Agreement, and the RFP, and the PROVIDER’s proposal, which are incorporated by reference into this Agreement. In the event that there is a conflict among the terms of this Agreement, and either the Proposal or the RFP, or both, then the terms of this Agreement shall control.

2. Term of Agreement. The PROVIDER shall provide the Required Services from the date of contract execution to June 30, 2027, unless this Agreement is sooner terminated. The JUDICIARY may extend this Agreement for Required Services in accordance with the Term set forth in Exhibit “B”, which is attached, and made part of this Agreement.

3. Compensation. The PROVIDER shall be compensated
- ☐ in a total amount for all required services up to, and not to exceed TWO MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$2,500,000.00), including taxes, at the time and in the manner set forth in Exhibit “C” to this Agreement, which is attached, and made a part of this Agreement.
 - ☐ based upon referrals to the PROVIDER from the JUDICIARY, payment for each such referral shall be made according to Exhibit “C” to this Agreement, which is attached, and made a part of this Agreement. The JUDICIARY shall provide a minimum of _____ Referrals to the PROVIDER.

4. Reporting Requirements. The PROVIDER shall submit to the JUDICIARY written Quarterly Reports on or before the 30th day following the end of each quarter. The PROVIDER shall also submit to the JUDICIARY Year-End Reports on or before the 45th day following the end of each fiscal year and/or the end of the contract term, as applicable. The PROVIDER shall also submit to the JUDICIARY a Final Report no later than the 30th day from the termination of the Program (as defined in the RFP). No amendment to the PROVIDER’s Final

Report shall be considered after 60 days following the close of the contract year or termination of this Agreement.

5. Standards of Conduct Declarations. The Standards of Conduct Declaration of the PROVIDER is attached as Exhibit “D”, and is made a part of this Agreement.

6. Other Terms and Conditions. The General Conditions for Health and Human Services Contracts (“General Conditions”) are attached as Exhibit “E”, and are made a part of this Agreement. If applicable, any Special Conditions are attached as Exhibit “F”, and are made a part of this Agreement. In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control.

7. Notices. Any notice, communication, or information required to be given by any party to this Agreement shall be made in writing, and shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice required to be given to the JUDICIARY shall be sent to the Administrative Director’s Office in Honolulu, Hawai‘i. Notice shall be sent to: Administrative Director of the Courts, 417 South King Street, Room 206A, Honolulu, Hawai‘i 96813. Notice to the PROVIDER shall be sent to the PROVIDER at the PROVIDER’s address as indicated in this Agreement. A notice shall be deemed to have been received three (3) days after mailing or at time of actual receipt, whichever is earlier. The PROVIDER is responsible for notifying the JUDICIARY in writing of any change in address.

IN VIEW OF THE ABOVE, the parties execute this Agreement by their signatures, on the dates below, to be effective as of the date first above written.

THE JUDICIARY, STATE OF HAWAII

By _____
Brandon M. Kimura
Administrative Director of the Courts

Date: _____

PROVIDER:

By _____
Print Name _____
Title _____
Date _____

APPROVED AS TO FORM:

Staff Attorney

PROVIDER'S ACKNOWLEDGMENT

STATE OF HAWAI'I)
) ss.
COUNTY OF _____)

On this _____ day of _____, _____, before me personally
appeared _____, to me known, to be the person(s) described in
and, who, being by me duly sworn, did say that he/she is the _____ of
_____, the PROVIDER named in the foregoing instrument, and
that he/she is authorized to sign said instrument on behalf of the PROVIDER, and acknowledges
that he/she executed said instrument as the free act and deed of the PROVIDER.

Doc. Date: _____ # of Pages: _____

Doc. Description: _____

Circuit

Notary Public, State of Hawai‘i

Print/Type Name

Date

My Commission Expires: _____

SCOPE OF SERVICES

The scope of work encompasses the following tasks and responsibilities:

A. Service Activities

1. The PROVIDER will provide mediation and related dispute resolution services (“Mediation Services”) and administration of Mediation Services for appropriate cases within judicial circuits in the State of Hawai‘i as described below.
 - a. Appropriate cases covered under this contract are Mediation Services in accordance with Act 278, SLH 2025.
 - b. The PROVIDER may determine the appropriateness of cases that are referred to mediation and may decline to provide services in cases that are inappropriate for mediation. Examples of cases that may be inappropriate for mediation include cases in which a potential client claims that there is domestic violence or cases where a potential client is unable to participate in a meaningful way in the mediation process.
 - c. The PROVIDER will establish and maintain effective referral and intake services.
 - d. The PROVIDER will have a sufficient number of trained and qualified mediators.
 - e. The PROVIDER will maintain an active program of outreach and education.
 - f. Performance by the PROVIDER will be evaluated by examining the totality of services provided by the PROVIDER on a quarterly basis. Services include the number of cases for which Mediation Services are provided, mediation sessions held, mediator hours, and clients served on a quarterly basis.
2. The PROVIDER will comply with all applicable case criteria requirements and procedures in providing mediation services contained within Act 278, SLH2025, RELATING TO EVICTION MEDIATION.
3. Mediation Services for qualifying eviction cases will be provided at no cost at the offices of the mediation center located on the island where the tenant resides, via videoconference, and/or at an off-site facility, as agreed by tenant, landlord, and the mediation center on the island where the tenant resides.

B. Management Requirements

1. Personnel

- a. The PROVIDER shall possess and document knowledge, capacity, skills, and experience in working with the targeted population.
- b. The PROVIDER shall conduct a State and Federal fingerprint-based criminal history record check for any person, including, but not limited to any officer, employee, volunteer or subcontractor, who performs work or services which necessitates close proximity to or unsupervised access to vulnerable clients such as children, disabled, and/or the elderly, or other program related vulnerable clients. In addition, the PROVIDER will conduct a search of the State and National Sex Offender Registries, <http://sexoffenders.hawaii.gov> (State Sex Offender Registry) and the www.nsopr.gov (National Sex Offender Public Registry). The minimum record check will be conducted once every four years for each person, and/or at the outset of the contract period if such checks have never been conducted. Further, the PROVIDER will ensure the continued suitability of any officer, employee, volunteer or subcontractor to work or provide services to vulnerable clients. Results of all criminal history record inquiries conducted shall be placed in the employee's or volunteer's personnel file and shall be available to Judiciary for review. The PROVIDER further shall have a written plan for addressing any findings that result from a criminal history record check that may affect the treatment milieu (e.g. actively under the supervision of any criminal justice agency, convicted sex offenders). The PROVIDER shall ensure that any officer, employee, volunteer or subcontractor is suitable to be performing work or services in close proximity to or with unsupervised access to children, disabled, and/or elderly clients will be of reputable and responsible character and will not pose a risk to the health, safety, security, or well-being of clients, staff and the general public.
- c. The PROVIDER shall have on the premises at least one person currently certified in First Aid and CPR.
- d. The staff and volunteers, if used by the PROVIDER, shall be under the supervision of the Program director or their designee and shall be trained in client confidentiality issues and Program quality assurance requirements.

- e. The PROVIDER must have sufficient and relevant training and staff development.

2. Administrative Activities

- a. The PROVIDER shall prepare and manage a system (database, document management system, or similar) to track the information required pursuant to Act 278, SLH 2025, and as further described in section B.4, for the purpose of analyzing data and assisting with the reporting requirements as further described in section B.5.
- b. The PROVIDER shall undertake all necessary steps and secure all resources to carry out the Program as described herein, including but not limited to: training and hiring staff and mediators; all required background checks of all personnel involved with this Program; all data collection and analysis, including all necessary data protection.
- c. The PROVIDER shall be in regular communication with the Judiciary to collaborate on preparing the Program before its official start on February 5, 2026, pursuant to Act 278.
- d. The PROVIDER shall establish and implement policies and procedures that clearly identify the target population for service, the Program content, and methods of service delivery.
- e. The PROVIDER and all its subcontractors, if any, must have the ability to electronically communicate (i.e., e-mail) with the JUDICIARY in order to transmit reports and other correspondence.

3. Quality assurance and evaluation specifications

- a. The PROVIDER shall have a quality assurance plan which identifies the mission of the organization, what services will be provided, how they are delivered, who is qualified to deliver the services, who is eligible to receive the services, and what standards are used to assess or evaluate the quality and utilization of services.
- b. Program evaluation should reflect the documentation of the achievement of the stated goals, using tools and measures consistent with the professional standards of the disciplines involved in the delivery of services.
- c. The PROVIDER shall agree, by contract, to be willing to undergo a Program assessment and audit as designated by the contracting agency. Based on the assessment/audit report, the vendor will develop, in concert

with the contracting agency, an action plan to address areas which need improvement.

- d. The PROVIDER shall implement a process to supervise and monitor all data collection and retention required herein. Timely, complete, and accurate data collection is a substantial and material term of the contract.

4. Output and performance/outcome measures

- a. Output: Applicants shall collect the following data and transmit it to the Judiciary:
 - 1. Number of landlord notices received;
 - 2. Number of mediations scheduled;
 - 3. Total number of mediations that did not result in an agreement;
 - 4. Total number of mediations that result in an agreement;
 - 5. Of all the agreements, the number of agreements that allow the tenant to stay in the unit, including indication of whether such agreement involves a payment plan and the term of such payment plan;
 - 6. Of all the agreements, the number of agreements to vacate units, including the amount of time a tenant has to vacate the unit;
 - 7. Other subcategories of agreements reached, not specifically enumerated herein, as reasonably defined to the Judiciary's satisfaction;
 - 8. Average number of days from initial request of mediation to date that mediation occurs;
 - 9. Average cost of facilitating and conducting each mediation to the PROVIDER;
 - 10. Total cost of the Program to the State of Hawaii;
 - 11. Relevant tenant information including but not limited to:
Monthly rent; amount of back rent a tenant owes; zip or area code of rental unit; number of people occupying the unit; age of tenant opening the case; race of tenant opening the case; gender of tenant opening the case; household income; whether employment was lost in the past year; and whether rental assistance from any source is utilized including the quantum of such rental assistance.

To the extent feasible, the PROVIDER shall also collect the following data and transmit to the Judiciary:

- 12. Total number of agreements where both landlord and tenant met the terms of the agreement;

13. Total number of cases that resulted in agreements, but ultimately led to judgments for summary possession; and
14. Total cost of the Program process to each individual landlord and tenant if mediation is scheduled;
15. If an agreement to vacate is reached between a landlord and tenant, the number of days a tenant is given to vacate their unit;
16. For cases that are not scheduled for mediation, the reason (if any) such cases were not scheduled for mediation (*e.g.*, party not able to be contacted, refusal by party, agreement reached separately through direct negotiation, etc.)

The data shall be recorded in the Applicants' Quarterly Report and Year-End Reports described herein, the substance of which shall be recorded and analyzed in the Applicants' Final Report due at the end of the Program.

- b. Outcome: The PROVIDER shall report on the data collected as well as the effectiveness of the services performed and methods to improve the program and performance.

5. Reporting requirements for program and fiscal data

- a. PROVIDER shall submit written Quarterly and Year-End reports summarizing output and outcome data, performance accomplishments, challenges, and actual expenditures. At the end of the Program, the PROVIDER shall submit a Final Report which shall include documentation of the PROVIDER's overall effort towards meeting the program goals and objectives summarizing the findings of the Quarterly and Year-End Reports, and any other relevant or necessary data or findings not captured by the Quarterly or Year-End Reports alone, including an analysis of the efficacy and need for the continuation of the Program and possible adoption of Act 278 (or elements therein) into law on a permanent basis. Quarterly Reports are due thirty (30) days after the end of each quarter. Year-End Reports are due forty-five (45) days after the end of each fiscal year and/or at the end of the contract period, as applicable. A Final Report is due as soon as practicable after the end of the Program on or about February 4, 2028, and no later than thirty (30) days thereafter. Alternatively, should the contract between the JUDICIARY and the PROVIDER be terminated for any reason, a Final Report is due no later than thirty (30) days from the date of termination and shall be based upon the data collected up until the date of termination.

- b. Quarterly, Year-End, and Final Reports (collectively, “Reports”) shall consist of a statement by the PROVIDER describing the work accomplished during the reporting period, identification of persons served by the PROVIDER during the reporting period, identification of any immediate problems encountered during the reporting period, and any recommendations deemed pertinent by the PROVIDER, as well as a concise statement of what activities are proposed to be accomplished during the next reporting period. The Reports shall be distinct and separate from any other reports required for similar services under other contracts. In addition to the Reports, the PROVIDER, upon request, shall be required to meet with representatives of the JUDICIARY to discuss the progress of the PROVIDER’S required work in carrying out the Program.
- c. The PROVIDER shall furnish any additional reports or information that the JUDICIARY may from time to time require or request.

6. Reevaluation and Possible Modifications

- a. The PROVIDER and the JUDICIARY agree to confer at least quarterly, in August, November, February, and May, regarding the needs of the target population of service, the PROVIDER and the courts, and to discuss and review possible trends and changes in existing caseloads. The PROVIDER and the JUDICIARY also agree to discuss discrepancies and differences in caseloads when they are noted in the monthly invoices or reports.

TERM OF AGREEMENT

The PROVIDER shall provide the Required Services beginning upon contract execution until June 30, 2027. Subject to the availability of funds and satisfactory performance of Required Services by the PROVIDER, the contract may be extended until February 4, 2028. The contract may be further extended for two (2) additional twelve (12) month periods.

COMPENSATION AND PAYMENT SCHEDULE

1. The JUDICIARY shall pay the PROVIDER for qualifying mediation and related dispute resolution services under ACT 278, SLH2025 RELATING TO EVICTION MEDIATION, an amount not to exceed SIX HUNDRED TWENTY-FOUR THOUSAND AND NO/100 DOLLARS (\$624,000.00) in FY2026 and ONE MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$1,250,000.00) in FY2027.
For Administrative Activities, the PROVIDER will be provided a one-time payment of ONE HUNDRED AND FOUR THOUSAND AND NO/100 DOLLARS (\$104,000.00) to cover the PROVIDER's costs and expenses of initiating the Program, including but not limited to, data collection and management system preparations (*e.g.*, database or document management system building), administrative expenses, training, and other related Program startup costs.
For Mediation Services performed in FY2026, payment shall be made in five (5) monthly payments in an amount not to exceed ONE HUNDRED AND FOUR THOUSAND AND NO/100 DOLLARS (\$104,000.00).
For Mediation Services performed in FY2027, payment shall be made in eleven (11) monthly payments in an amount not to exceed ONE HUNDRED AND FOUR THOUSAND AND NO/100 DOLLARS (\$104,000.00), and a final monthly payment in an amount not to exceed ONE HUNDRED AND SIX THOUSAND AND NO/100 DOLLARS (\$106,000.00).
2. Payment shall be made at the beginning of each month for that month upon (a) presentation of a written monthly invoice and (b) regular written quarterly progress reports to the JUDICIARY following the end of each preceding quarter. The reports shall summarize output and outcome data, performance accomplishments, challenges, and actual expenditures. The reports will also ensure that each mediation service provided is verifiable and qualified for service under ACT 278, SLH 2025 RELATING TO EVICTION MEDIATION. In the event the monthly invoice or quarterly report is not promptly submitted to the JUDICIARY, the JUDICIARY is authorized to withhold payment for services performed during the period covered by the invoice or report not filed and any future payments not yet made for services in future periods, until such time the invoice or quarterly report is submitted.
3. Notwithstanding any other provisions in the agreement, payments under this Agreement are subject to appropriations made by the Legislature of the State of Hawaii. Therefore, compensation to the PROVIDER under this Agreement shall be subject to the actual and/or continuing availability of funds received from the Legislature of the State of Hawaii.
4. Pursuant to Section 103-53 HRS, final payment under this Agreement shall be made upon

PROVIDER'S compliance through Hawaii Compliance Express or submittal of a tax clearance certificate, not over two months old, with an original green certified copy stamp, upon completion of the contract.

STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"Employee" means any nominated, appointed, or elected officer or employee of the JUDICIARY, including members of boards, commissions, and committees, and employees under contract to the JUDICIARY or of a constitutional convention, but excluding legislators, delegates to the constitutional convention, justices and judges.

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent.

On behalf of _____, PROVIDER, the undersigned does declare, under penalty of perjury, as follows:

1. PROVIDER (is) (is not) a legislator or an employee or a business in which a legislator or an employee has a controlling interest.*
2. PROVIDER has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Agreement and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of the Agreement, if the legislator or employee had been involved in the development or award of the Agreement.
3. PROVIDER has not been assisted or represented for a fee or other compensation in the award of this Agreement by a JUDICIARY employee or, in the case of the Legislature, by a legislator.
4. PROVIDER has not been represented or assisted personally on matters related to the Agreement by a person who has been an employee of the JUDICIARY within the preceding two (2) years and who participated while in state office or employment on the matter with which the Agreement is directly concerned.
5. PROVIDER has not been represented or assisted on matters related to this Agreement for a fee or other consideration by an individual who, a) within in past twelve (12) months, served as a JUDICIARY employee or in the case of the Legislature, a legislator, and b) participated while an employee or legislator on matters related to this Agreement.

PROVIDER understands that the Agreement to which this document is attached is voidable on behalf of the JUDICIARY if this Agreement was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provision which are the source of the declarations above. Additionally, any fee, compensation, gift,

or profit received by any person as a result of a violation of the Code of Ethics may be recovered by JUDICIARY.

DATED: Honolulu, Hawaii, _____, 20____

PROVIDER

By _____

Title _____

*Reminder: If "is" is circled, JUDICIARY, under section 84-15, Hawaii Revised Statutes, to file with the State Ethics Commission, 10 days before the Agreement is entered into, a written justification as to why the Agreement was not required to be competitively bid.

Form AG-1(4-99 SA)

GENERAL CONDITIONS

GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS

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GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS

1. **Representations and Conditions Precedent**

1.1 Contract Subject to the Availability of State and Federal Funds.

1.1.1 State Funds. This Contract is, at all times, subject to the appropriation and allotment of state funds, and may be terminated without liability to either the PROVIDER or the STATE in the event that state funds are not appropriated or available.

1.1.2 Federal Funds. To the extent that this Contract is funded partly or wholly by federal funds, this Contract is subject to the availability of such federal funds. The portion of this Contract that is to be funded federally shall be deemed severable, and such federally funded portion may be terminated without liability to either the PROVIDER or the STATE in the event that federal funds are not available. In any case, this Contract shall not be construed to obligate the STATE to expend state funds to cover any shortfall created by the unavailability of anticipated federal funds.

1.2 Representations of the PROVIDER. As a necessary condition to the formation of this Contract, the PROVIDER makes the representations contained in this paragraph, and the STATE relies upon such representations as a material inducement to entering into this Contract.

1.2.1 Compliance with Laws. As of the date of this Contract, the PROVIDER complies with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the PROVIDER's performance of this Contract.

1.2.2 Licensing and Accreditation. As of the date of this Contract, the PROVIDER holds all licenses and accreditations required under applicable federal, state, and county laws, ordinances, codes, rules, and regulations to provide the Required Services under this Contract.

1.3 Compliance with Laws. The PROVIDER shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the PROVIDER's performance of this Contract, including but not limited to the laws specifically enumerated in this paragraph:

1.3.1 Smoking Policy. The PROVIDER shall implement and maintain a written smoking policy as required by Chapter 328K, Hawaii Revised Statutes (HRS), or its successor provision.

1.3.2 Drug Free Workplace. The PROVIDER shall implement and maintain a drug free workplace as required by the Drug Free Workplace Act of 1988.

- 1.3.3 Persons with Disabilities. The PROVIDER shall implement and maintain all practices, policies, and procedures required by federal, state, or county law, including but not limited to the Americans with Disabilities Act (42 U.S.C. §12101, et seq.), and the Rehabilitation Act (29 U.S.C. §701, et seq.).
- 1.3.4 Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
- 1.4 Insurance Requirements. The PROVIDER shall obtain from a company authorized by law to issue such insurance in the State of Hawai'i commercial general liability insurance ("liability insurance") in an amount of at least TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) coverage for bodily injury and property damage resulting from the PROVIDER's performance under this Contract. The PROVIDER shall maintain in effect this liability insurance until the STATE certifies that the PROVIDER's work under the Contract has been completed satisfactorily.
- The liability insurance shall be primary and shall cover the insured for all work to be performed under the Contract, including changes, and all work performed incidental thereto or directly or indirectly connected therewith.
- A certificate of the liability insurance shall be given to the STATE by the PROVIDER. The certificate shall provide that the STATE and its officers and employees are Additional Insureds. The certificate shall provide that the coverages being certified will not be cancelled or materially changed without giving the STATE at least 30 days prior written notice by registered mail.
- Should the "liability insurance" coverages be cancelled before the PROVIDER's work under the Contract is certified by the STATE to have been completed satisfactorily, the PROVIDER shall immediately procure replacement insurance that complies in all respects with the requirements of this section.
- Nothing in the insurance requirements of this Contract shall be construed as limiting the extent of PROVIDER's responsibility for payment of damages resulting from its operations under this Contract, including the PROVIDER's separate and independent duty to defend, indemnify, and hold the STATE and its officers and employees harmless pursuant to other provisions of this Contract.
- 1.5 Notice to Clients. Provided that the term of this Contract is at least one year in duration, within 180 days after the effective date of this Contract, the PROVIDER shall create written procedures for the orderly termination of services to any clients receiving the Required Services under this Contract, and for the transition to services supplied by another provider upon termination of this Contract, regardless of the circumstances of such termination. These procedures shall include, at

the minimum, timely notice to such clients of the termination of this Contract, and appropriate counseling.

- 1.6 Reporting Requirements. The PROVIDER shall submit a Final Project Report to the STATE containing the information specified in this Contract if applicable, or otherwise satisfactory to the STATE, documenting the PROVIDER's overall efforts toward meeting the requirements of this Contract, and listing expenditures actually incurred in the performance of this Contract. The PROVIDER shall return any unexpended funds to the STATE.
- 1.7 Conflicts of Interest. In addition to the Certification provided in the Standards of Conduct Declaration to this Contract, the PROVIDER represents that neither the PROVIDER nor any employee or agent of the PROVIDER, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the PROVIDER's performance under this Contract.

2. Documents and Files

- 2.1 Confidentiality of Material.
 - 2.1.1 Proprietary or Confidential Information. All material given to or made available to the PROVIDER by virtue of this Contract that is identified as proprietary or confidential information shall be safeguarded by the PROVIDER and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - 2.1.2 Uniform Information Practices Act. All information, data, or other material provided by the PROVIDER to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS, and any other applicable law concerning information practices or confidentiality.
- 2.2 Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished that is developed, prepared, assembled, or conceived by the PROVIDER pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the PROVIDER pursuant to this Contract.
- 2.3 Records Retention. The PROVIDER and any subcontractors shall maintain the books and records that relate to the Contract, and any cost or pricing data for three (3) years from the date of final payment under the Contract. In the event that any litigation, claim, investigation, audit, or other action involving the records retained under this provision arises, then such records shall be retained for three (3) years from the date of final payment, or the date of the resolution of the action, whichever occurs later. During the period that records are retained under this section, the

PROVIDER and any subcontractors shall allow the STATE free and unrestricted access to such records.

3. Relationship between Parties

- 3.1 Coordination of Services by the STATE. The STATE shall coordinate the services to be provided by the PROVIDER in order to complete the performance required in the Contract. The PROVIDER shall maintain communications with the STATE at all stages of the PROVIDER's work, and submit to the STATE for resolution any questions which may arise as to the performance of this Contract.
- 3.2 Subcontracts and Assignments. The PROVIDER may assign or subcontract any of the PROVIDER's duties, obligations, or interests under this Contract, but only if (i) the PROVIDER obtains the prior written consent of the STATE and (ii) the PROVIDER's assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state law against the PROVIDER's assignee or subcontractor have been paid. Additionally, no assignment by the PROVIDER of the PROVIDER's right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawai'i, as provided in section 40-58, HRS.
- 3.3 Change of Name. When the PROVIDER asks to change the name in which it holds this Contract, the STATE, shall, upon receipt of a document acceptable or satisfactory to the STATE indicating such change of name such as an amendment to the PROVIDER's articles of incorporation, enter into an amendment to this Contract with the PROVIDER to effect the change of name. Such amendment to this Contract changing the PROVIDER's name shall specifically indicate that no other terms and conditions of this Contract are thereby changed, unless the change of name amendment is incorporated with a modification or amendment to the Contract under paragraph 4.1 of these General Conditions.
- 3.4 Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
- 3.4.1 Independent Contractor. In the performance of services required under this Contract, the PROVIDER is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE's opinion, the services are being performed by the PROVIDER in compliance with this Contract.
- 3.4.2 Contracts with Other Individuals and Entities. Unless otherwise provided by special condition, the STATE shall be free to contract with other individuals and entities to provide services similar to those performed by the Provider under this Contract, and the

PROVIDER shall be free to contract to provide services to other individuals or entities while under contract with the STATE.

- 3.4.3 PROVIDER's Employees and Agents. The PROVIDER and the PROVIDER's employees and agents are not by reason of this Contract, agents or employees of the State for any purpose. The PROVIDER and the PROVIDER's employees and agents shall not be entitled to claim or receive from the STATE any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees. Unless specifically authorized in writing by the STATE, the PROVIDER and the PROVIDER's employees and agents are not authorized to speak on behalf and no statement or admission made by the PROVIDER or the PROVIDER's employees or agents shall be attributed to the STATE, unless specifically adopted by the STATE in writing.
- 3.4.4 PROVIDER's Responsibilities. The PROVIDER shall be responsible for the accuracy, completeness, and adequacy of the PROVIDER's performance under this Contract.

Furthermore, the PROVIDER intentionally, voluntarily, and knowingly assumes the sole and entire liability to the PROVIDER's employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the PROVIDER, or the PROVIDER's employees or agents in the course of their employment.

The PROVIDER shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the PROVIDER by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The PROVIDER also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.

The PROVIDER shall obtain a general excise tax license from the Department of Taxation, State of Hawai'i, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The PROVIDER shall obtain a tax clearance certificate from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state law against the PROVIDER have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The PROVIDER shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under section 103-53, HRS, and these General Conditions.

The PROVIDER is responsible for securing all employee-related insurance coverage for the PROVIDER and the PROVIDER's employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

3.5 Personnel Requirements.

3.5.1 Personnel. The PROVIDER shall secure, at the PROVIDER's own expense, all personnel required to perform this Contract, unless otherwise provided in this Contract.

3.5.2 Requirements. The PROVIDER shall ensure that the PROVIDER's employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Modification and Termination of Contract

4.1 Modification of Contract.

4.1.1 In Writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the PROVIDER and the STATE.

4.1.2 No Oral Modification. No oral modification, alteration, amendment, change, or extension of any term, provision or condition of this Contract shall be permitted.

4.1.3 Tax Clearance. The STATE may, at its discretion, require the PROVIDER to submit to the STATE, prior to the STATE's approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state and federal law against the PROVIDER have been paid.

4.2 Termination in General. This Contract may be terminated in whole or in part because of a reduction of funds available to pay the PROVIDER, or when, in its sole discretion, the STATE determines (i) that there has been a change in the conditions upon which the need for the Required Services was based, or (ii) that the PROVIDER has failed to provide the Required Services adequately or satisfactorily, or (iii) that other good cause for the whole or partial termination of this Contract exists. Termination under this section shall be made by a written notice sent to the PROVIDER ten (10) working days prior to the termination date that includes a brief statement of the reason for the termination. If the Contract is terminated under this paragraph, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.

- 4.3 Termination for Necessity or Convenience. If the STATE determines, in its sole discretion, that it is necessary or convenient, this Contract may be terminated in whole or in part at the option of the STATE upon ten (10) working days' written notice to the PROVIDER. If the STATE elects to terminate under this paragraph, the PROVIDER shall be entitled to reasonable payment as determined by the STATE for satisfactory services rendered under this Contract up to the time of termination. If the STATE elects to terminate under this section, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.
- 4.4 Termination by PROVIDER. The PROVIDER may withdraw from this Contract after obtaining the written consent of the STATE. The STATE, upon the PROVIDER's withdrawal, shall determine whether payment is due to the PROVIDER, and the amount that is due. If the STATE consents to a termination under this paragraph, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.
- 4.5 STATE's Right of Offset. The STATE may offset against any monies or other obligations that STATE owes to the PROVIDER under this Contract, any amounts owed to the State of Hawai'i by the PROVIDER under this Contract, or any other contract, or pursuant to any law or other obligation owed to the State of Hawai'i by the PROVIDER, including but not limited to the payment of any taxes or levies of any kind or nature. The STATE shall notify the PROVIDER in writing of any exercise of its right of offset and the nature and amount of such offset. For purposes of this paragraph, amounts owed to the State of Hawai'i shall not include debts or obligations which have been liquidated by contract with the PROVIDER, and that are covered by an installment payment or other settlement plan approved by the State of Hawai'i, provided, however, that the PROVIDER shall be entitled to such exclusion only to the extent that the PROVIDER is current, and in compliance with, and not delinquent on, any payments, obligations, or duties owed to the State of Hawai'i under such payment or other settlement plan.

5. Indemnification

- 5.1 Indemnification and Defense. The PROVIDER shall defend, indemnify, and hold harmless the State of Hawai'i, the contracting agency, and their officers, employees, and agents from and against any and all liability, loss, damage, cost, expense, including all attorneys' fees, claims, suits, and demands arising out of or in connection with the acts or omissions of the PROVIDER or the PROVIDER's employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
- 5.2 Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the PROVIDER in connection with this Contract, the PROVIDER shall pay any cost and expense incurred by or imposed on the STATE, including attorneys' fees.

6. **Publicity**

- 6.1 Acknowledgment of State Support. The PROVIDER shall, in all news releases, public statements, announcements, broadcasts, posters, programs, computer postings, and other printed, published, or electronically disseminated materials relating to the PROVIDER's performance under this Contract, acknowledge the support by the State of Hawai'i and the purchasing agency.
- 6.2 PROVIDER's Publicity Not Related to Contract. The PROVIDER shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, or to the services or goods, or both provided under this Contract, in any of the PROVIDER's publicity not related to the PROVIDER's performance under this Contract, including but not limited to commercial advertisements, recruiting materials, and solicitations for charitable donations.

7. **Miscellaneous Provisions**

- 7.1 Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
- 7.2 Paragraph Headings. The paragraph headings appearing in this Contract have been inserted for the purpose of convenience and ready reference. They shall not be used to define, limit, or extend the scope or intent of the sections to which they pertain.
- 7.3 Antitrust Claims. The STATE and the PROVIDER recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the PROVIDER hereby assigns to the STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
- 7.4 Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawai'i. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawai'i.
- 7.5 Conflict between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the Procurement Rules or a Procurement Directive, the Procurement Rules or any Procurement Directive in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
- 7.6 Entire Contract. This Contract sets forth all of the contracts, conditions, understandings, promises, warranties, and representations between the STATE and the PROVIDER relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings,

promises, warranties, and representations, which shall have no further force or effect. There are no contracts, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the PROVIDER other than as set forth or as referred to herein.

- 7.7 Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
- 7.8 Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE's right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the Procurement Rules or one section of the Hawai'i Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE's rights or the PROVIDER's obligations under the Procurement Rules or statutes.
- 7.9 Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one instrument.

8. Confidentiality of Personal Information

8.1 Definitions.

8.1.1 Personal Information. "Personal Information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:

- 1) Social Security number;
- 2) Driver's license number or Hawaii identification card number; or
- 3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

8.1.2 Technological Safeguards. "Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

8.2 Confidentiality of Material.

8.2.1 Safeguarding of Material. All material given to or made available to the PROVIDER by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the PROVIDER and shall not be disclosed without the prior written approval of the STATE.

8.2.2 Retention, Use, or Disclosure. PROVIDER agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.

8.2.3 Implementation of Technological Safeguards. PROVIDER agrees to implement appropriate “technological safeguards” that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.

8.2.4 Reporting of Security Breaches. PROVIDER shall report to the STATE in a prompt and complete manner any security breaches involving personal information.

8.2.5 Mitigation of Harmful Effect. PROVIDER agrees to mitigate, to the extent practicable, any harmful effect that is known to PROVIDER because of a use or disclosure of personal information by PROVIDER in violation of the requirements of this paragraph.

8.2.6 Log of Disclosures. PROVIDER shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by PROVIDER on behalf of the STATE.

8.3 Security Awareness Training and Confidentiality Agreements.

8.3.1 Certification of Completed Training. PROVIDER certifies that all of its employees who will have access to the personal information have completed training on security awareness topics related to protecting personal information.

8.3.2 Certification of Confidentiality Agreements. PROVIDER certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:

- 1) The personal information collected, used, or maintained by the PROVIDER will be treated as confidential;
- 2) Access to the personal information will be allowed only as necessary to perform the Contract; and
- 3) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

8.4 Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by PROVIDER of this paragraph by PROVIDER, the STATE may at its sole discretion:

- 1) Provide an opportunity for the PROVIDER to cure the breach or end the violation; or
- 2) Immediately terminate this Contract.

In either instance, the PROVIDER and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

8.5 Records Retention.

8.5.1 Destruction of Personal Information. Upon any termination of this Contract, PROVIDER shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.

8.5.2 Maintenance of Files, Books, Records. The PROVIDER and any subcontractors shall maintain the files, books, and records, that relate to the Contract, including any personal information created or received by the PROVIDER on behalf of the STATE, and any cost or pricing data, for three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall not be disclosed without the prior written approval of the STATE. After the three (3) year retention period has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS.

SPECIAL CONDITIONS

SPECIAL CONDITIONS

1. The PROVIDER shall conduct a State and Federal fingerprint- based criminal history record check for any person, including, but not limited to any officer, employee, volunteer or subcontractor, who performs work or services which necessitates close proximity to or unsupervised access to vulnerable clients such as children, disabled, and/or the elderly , or other program related vulnerable clients . In addition, the PROVIDER will conduct a search of the State and National Sex Offender Registries, <http://sexoffenders.hawaii.gov> (State Sex Offender Registry) and the www.nsopr.gov (National Sex Offender Public Registry). The minimum record check will be conducted once every four years for each person, and/or at the outset of the contract period if such checks have never been conducted. Further, the PROVIDER will ensure the continued suitability of any officer, employee, volunteer or subcontractor to work or provide services to vulnerable clients. Results of all criminal history record inquiries conducted shall be placed in the employee's or volunteer's personnel file and shall be available to the JUDICIARY for review. The PROVIDER further shall have a written plan for addressing any findings that result from a criminal history record check that may affect the treatment milieu (e.g. actively under the supervision of any criminal justice agency, convicted sex offenders). The PROVIDER shall ensure that any officer, employee, volunteer or subcontractor is suitable to be performing work or services in close proximity to or with unsupervised access to children, disabled, and/or elderly clients will be of reputable and responsible character and will not pose a risk to the health, safety, security, or well-being of clients, staff and the general public.
2. Pursuant to Hawaii Revised Statutes (“HRS”) Chapter 321C-3, to ensure compliance with Title VI, PROVIDERS must take reasonable steps to ensure that Limited English Proficient persons have meaningful access to the PROVIDER’s programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.
3. Insurance. In addition to Paragraph 1.4, Insurance, General Conditions, the PROVIDER further agrees to the following:

In order to protect the PROVIDER as well as the JUDICIARY, their officers, and employees covered under the indemnification provision in this Contract, the PROVIDER shall obtain and keep in force throughout the period of this Contract the following automobile insurance:

Automobile liability insurance for automobiles owned or leased by the PROVIDER and used to carry out services specified in this Contract shall be obtained from a company authorized to do business in the State, or meet Section 431:8-301, Hawaii Revised Statutes if utilizing an insurance company not licensed by the State of Hawaii, and complying with the Hawaii No Fault Insurance Law. The combined amount shall be at least ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) with respect to bodily injury and to property damage. The PROVIDER’s policy shall name the JUDICIARY, their officers, and employees as additional insured. Prior to or upon execution of this Contract, the PROVIDER shall furnish the JUDICIARY with a Certificate of Insurance, verifying the

existence of such insurance. The PROVIDER will immediately provide written notice to the contracting department or agency should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

Each insurance policy required by contracts shall contain the following clauses:

1. The JUDICIARY, State of Hawaii, is added as an additional insured as respects to operations performed for the State of Hawaii
2. It is agreed that any insurance maintained by the JUDICIARY, State of Hawaii, will apply in excess of, and not contribute with, insurance provided by this policy

An umbrella policy may be utilized as applicable to the PROVIDER's insurance policy.

If the PROVIDER is authorized by the JUDICIARY to subcontract, subcontractor(s) is not excused from the Indemnification and/or Insurance provisions of this Contract. The PROVIDER agrees to require its subcontractor(s) to obtain insurance in order to indemnify the JUDICIARY.

Failure of the PROVIDER to provide and keep in force such insurance shall be regarded as material default under this Contract, entitling the JUDICIARY to exercise any or all of the remedies provided in this Contract for default of the PROVIDER.

The procuring of such required policy or policies of insurance shall not be construed to limit the PROVIDER's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding said policy or policies of insurance, the PROVIDER shall be obliged for the full and total amount of any damage, injury, or loss caused by the negligent act or omission of the PROVIDER or its authorized representatives.

4. This Agreement is funded, either in part or entirety, by a federal grant. (Check "Yes" or "No.")
_____ Yes X No

If "Yes," PROVIDER shall comply with the following grant requirements: Special Conditions of the Grant, attached hereto.

5. All electronic information technology developed or provided under this contract or procurement shall comply with the applicable requirements of the Hawaii Electronic Information Technology Disability Access Standards (Access Standards).
6. Disputes.
 - a. All questions which may arise as to the performance of this contract, interpretation of any term, condition, or provision of the contract, applicability and interpretation of any law or rule that may affect performance under the contract, and compensation shall be directed to the JUDICIARY, through its Administrative Director of the Courts or designee for resolution. It is the State's policy to try to resolve all controversies by mutual agreement

without litigation. In appropriate circumstances, informal discussions between the parties can aid in the resolution of differences by mutual agreement and are encouraged. When a controversy cannot be resolved by mutual agreement, the Administrative Director shall promptly issue a final written decision pursuant to Hawaii Administrative Rules § 3-126-28. The PROVIDER shall not sue JUDICIARY concerning any disputes arising under this contract until after JUDICIARY rejects PROVIDER's written request seeking informal resolution of the dispute, or until ninety (90) days after JUDICIARY's receipt of the written request, whichever comes first. The PROVIDER shall not suspend performance while JUDICIARY reviews PROVIDER's written request, unless directed to do so in writing by JUDICIARY.

- b. The JUDICIARY's right to file suit for any reason is not limited by any term of this Agreement.

7. Damages / Penalties.

- a. The PROVIDER acknowledges that a breach of contract on its part will cause serious and substantial damage to the JUDICIARY, and that it will be difficult to determine the amount of damages. In the event that the PROVIDER fails to provide the Required Services, or if it fails to perform such services in a satisfactory manner, the parties agree that the PROVIDER shall pay the sum of ONE HUNDRED FIFTY AND NO/100 DOLLARS (\$150.00) per each business day after the PROVIDER receives written notice from the JUDICIARY of the breach of contract. The PROVIDER shall be liable for the damages until it cures its default or until the PROVIDER is terminated for default.
- b. The PROVIDER acknowledges that the submission of legible, complete, and timely financial audits and reports of the PROVIDER and its subcontractors are essential to the JUDICIARY. Accordingly, the parties agree that damages in the sum not to exceed FIFTY AND NO/100 DOLLARS (\$50.00) may be assessed against the PROVIDER per business day following the scheduled date that the PROVIDER fails to submit a complete financial audit pursuant to Section H.2 of Exhibit "E," Special Conditions, or legible, complete, timely and accurate reports as required under this Agreement. The JUDICIARY, in its sole discretion, shall determine whether to assess damages and the amount of damages.
- c. The PROVIDER shall not be liable for damages if it has notified the JUDICIARY in writing of the cause of any delay in the performance of its obligations and the delay arises out of causes such as Acts of God, acts of the public enemy, acts of the State and any other governmental body in its sovereign or contractual capacity, fires, floods, epidemics, strikes or other labor disputes, unusually severe weather or delay due to reasons beyond the PROVIDER's control. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the PROVIDER shall not be deemed to be in default, unless the services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the PROVIDER to meet the contract requirements. The PROVIDER shall remain liable for damages caused other than by delay.
- d. In the event the JUDICIARY considers the PROVIDER in default for nonperformance or unsatisfactory performance of any term or condition of this Agreement, the JUDICIARY

will provide written notice to the PROVIDER.

8. Communication of Information. The PROVIDER and the JUDICIARY recognize the need for communication in order to administer this statewide Agreement for Mediation Services. Under this contract, the PROVIDER is responsible for communicating information regarding the performance of services under this Agreement, including performance of its subcontractors, to the Center for Alternative Dispute Resolution (“Center”). Likewise, it is the Center’s responsibility to communicate information regarding the JUDICIARY that may affect this Agreement to the PROVIDER.
9. Compliance. It is the PROVIDER’s responsibility to monitor its subcontractors and ensure that they comply with the terms and conditions of this Agreement. It is the PROVIDER’s responsibility to promptly respond to inquiries and concerns raised by the JUDICIARY about contract performance.
 - a. In the event of JUDICIARY concerns about service under this Agreement, the Center will send to the PROVIDER’s Chair a letter detailing the areas of concern. The PROVIDER will respond to this letter within twenty (20) calendar days of the PROVIDER’s receipt of this letter, or by the date specified in the letter from the Center to the PROVIDER’s Chair, whichever is longer. The letter shall be deemed to have been received three (3) days after mailing or at time of actual receipt, whichever is earlier. The PROVIDER’s reply will (a) include a written statement of findings responding in detail to each concern raised by the JUDICIARY, and (b) contain a plan for corrective action, if any is required, with specific time frames for the corrective action.
 - b. In the event the Center receives a complaint(s) about service provided under this Agreement, the Center will send a letter to the PROVIDER’s Chair with notice of the complaint(s). If requested by the JUDICIARY, the PROVIDER will conduct an independent investigation into the complaint(s) and will respond to the letter within thirty (30) calendar days of the date of the letter, or by the date specified in the letter from the Center to the PROVIDER’s Chair, whichever is longer. The PROVIDER’s reply will (a) include a written statement of findings responding in detail to each concern raised by the JUDICIARY, and (b) contain a plan for corrective action, if any is required, with specific time frames for the corrective action. The investigation will be conducted in a complete and objective manner by a person or persons who are not employed by the subcontractor about which the complaint(s) was made and who are not implicated in the complaint(s).
10. Travel Expenses.
 - a. The PROVIDER must obtain prior approval from the JUDICIARY before charging intra-state travel expenses, in whole or in part, to the JUDICIARY.
 - b. If travel requiring an overnight stay on another island, intra-state, is required for official business relating to the provision of Attachment “1,” Scope of Services, the PROVIDER must obtain prior approval from the JUDICIARY before charging, in whole or in part, to the JUDICIARY reasonable and necessary transportation, per diem or meal allowance costs as outlined in the State of Hawaii, State Procurement Office, Cost Principles on Purchases of Health and Human Services (Chapter 103F, Hawaii Revised Statutes).

- c. A meal allowance may be provided in lieu of per diem for same day travel. The meal allowance shall not exceed the State meal allowance amount.

11. Miscellaneous.

The PROVIDER will:

- a. Adhere to the PROVIDER's statewide standards for community mediation, including the selection and training of mediators.
- b. Submit to the JUDICIARY an independent financial audit for the period of July 1, 2025, through June 30, 2026, by November 30, 2026, and for the period of July 1, 2026, through June 30, 2027, by November 30, 2027. In addition, the PROVIDER shall require each Subcontractor under this Agreement to submit to the JUDICIARY, through the PROVIDER, an independent financial audit for the last full fiscal year before November 30, 2026, by November 30, 2027, and financial statements for the last full fiscal year before November 30, 2027, by November 30, 2027. Subcontractors will submit complete fiscal reports to the PROVIDER on a quarterly and annual basis.
- c. Submit to the JUDICIARY tax clearance certificates, for the PROVIDER and each subcontractor under this Agreement, as required for final payment under HRS §103-53, or its successor provisions, and Attachment 5, General Conditions.
- d. Submit to the JUDICIARY written activity reports, for the PROVIDER and each subcontractor under this Agreement, according to the following schedule.

<u>QUARTERLY ACTIVITY REPORT</u>	<u>DUE DATE</u>
Third Quarter Ending March 31, 2026	May 1, 2026
Fourth Quarter Ending June 30, 2026	August 1, 2026
First Quarter Ending September 30, 2026	November 1, 2026
Second Quarter Ending December 31, 2026	February 1, 2027
Third Quarter Ending March 31, 2027	May 1, 2027
Fourth Quarter Ending June 30, 2027	August 1, 2027

<u>YEAR-END ACTIVITY REPORT</u>	<u>DUE DATE</u>
FY 2025 – 2026 Ending June 30, 2026	August 14, 2026
FY 2026 – 2027 Ending June 30, 2027	August 14, 2027

<u>FINAL ACTIVITY REPORT</u>	<u>DUE DATE</u>
Program Term Ending February 4, 2028	March 5, 2028

- e. Obtain approval from the Center on changes to the fee policy of any subcontractor under this Agreement prior to implementation of such.
- f. Immediately provide written notice to the JUDICIARY should any of the insurance policies evidenced on its, and any subcontractor's, Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

- g. Provide salaries of personnel which are paid in whole or in part by the JUDICIARY upon written request by the JUDICIARY. The request shall state with specificity the salary information requested. The PROVIDER shall have ten (10) business days in which to respond with the requested information.
 - h. Provide information regarding the timeliness of case scheduling upon request by the JUDICIARY. The PROVIDER shall have ten (10) business days in which to respond with the requested information.
12. PROVIDER, its employees and agents, shall comply with the JUDICIARY'S Discrimination Harassment-Free Workplace Policy, attached hereto. Additionally, if any employee or agent of PROVIDER experiences discrimination or harassment by a JUDICIARY officer or employee, PROVIDER'S employee or agent should report the incident pursuant to Section II.C. of the policy.

HAWAII JUDICIARY POLICY DISCRIMINATION/HARASSMENT-FREE WORKPLACE

I. Authority and Background

The Judiciary is committed to promoting and maintaining a productive work environment free of any form of discrimination and harassment. The Judiciary does not tolerate workplace discrimination or harassment. The Judiciary will take appropriate action when discrimination or harassment is based on a person's "protected class." The Judiciary will act to curb protected class discrimination or harassment without regard to its severity or pervasiveness and does not require that discrimination or harassment rise to the level of unlawfulness before taking action.

II. Zero Tolerance Policy

Judiciary employees are expected to avoid behavior that could reasonably be perceived as discrimination or harassment prohibited under this policy. The Judiciary will take appropriate action when discrimination or harassment is based on a person's race, color, sex, including gender identity or expression,¹ sexual orientation, condition of pregnancy, act of breastfeeding or expressing milk, religion, national origin, ancestry, age, disability, genetic information,² marital status, arrest and court record, income assignment for child support, national guard absence, uniformed service, veteran status, citizenship, credit history or credit report unless directly related to a bona fide occupational qualification, or domestic or sexual violence victim status if the domestic or sexual violence victim provides notice to the victim's employer of such status or the employer has actual knowledge of such status (*protected class discrimination*).

¹ "Gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity (including transgender), gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex assigned at birth. "Transgender" refers to a person whose sex assigned at birth is different from their self-identified gender (e.g. a person whose sex assigned at birth is male who identifies as female and/or a person whose sex assigned at birth is female who identifies as male). A transgender person does not have to have undergone medical treatment or surgical procedures to be protected under the Policy. An individual's self-declaration of gender is sufficient to be provided protection under the Policy.

² "Genetic information" includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder, or condition of an individual's family members (i.e., an individual's family medical history). Family medical history is included in the definition of "genetic information" because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.

A. Scope of Policy

This policy applies to all employees, justices and judges, volunteers, applicants for employment, and persons or entities providing services to the Judiciary, whether on a contract, per diem, full or part-time basis. This policy covers all interactions with staff, clients, and the public.

All Judiciary employees are responsible for ensuring that work in the courts and court-related programs is conducted in an atmosphere that respects the dignity of every Judiciary employee, and people with whom the Judiciary conducts business.

B. Examples of Prohibited Conduct

1. It is a violation of this policy to engage in protected class discrimination.
2. Discrimination or harassment prohibited under this policy includes, but is not limited to, oral, written, physical or visual behavior, that offends, demeans, or intimidates, or refusing to provide services and/or denying access to Judiciary facilities and/or programs, based on a person's status in a protected class.
3. Protected class characteristics may not be used as a basis for taking employment action or making an employment decision that results in an adverse change in benefits, or terms and conditions of employment.
4. Other harassing or offensive conduct directed at individuals based on protected class characteristics is prohibited under this policy, and includes, but is not limited to:
 - a. Unwanted physical contact, sexually suggestive or offensive touching, patting, hugging, or brushing against a person's clothing or body, pinching, or hitting;
 - b. Sexual advances, requests for sexual favors, repeated and unwanted attempts at a romantic relationship, sexually explicit questions, comments about physical attributes;
 - c. Lewd comments, sexual jokes, pressure for sexual activity, such as repeated requests for dates, and threats for refusing a sexual advance;
 - d. Displays of demeaning, insulting, or sexually suggestive objects, pictures, or photographs;

- e. Demeaning, insulting, intimidating, or sexually suggestive, written, recorded, or electronically transmitted messages (such as e-mail, voicemail, and Internet materials);
 - f. Offensive comments, slurs, jokes, profanity, anecdotes, offensive and/or inappropriate questions or statements to, about or regarding any protected class;
 - g. Refusal to address a person by their preferred name, provided that such name shall not be used when deemed to be inappropriate for a business setting; and
 - h. Disregarding a person's preferences based on his or her self-identified gender. This may include, but is not limited to, failing to address a person by his or her preferred name and/or pronoun, not allowing a person to use the restroom and/or locker room of his or her self-identified gender or limiting a person to using facilities that are an unreasonable distance or travel time from the worksite or Judiciary program location because the individual is transgender, requiring a transgender person to follow procedures that conflict with the person's self-identified gender, refusing to provide services and/or denying access to Judiciary facilities and/or programs based on the person's self-identified gender and/or being transgender.
5. Retaliation: The Judiciary encourages reporting of incidents of discrimination, harassment or retaliation. Retaliation against an individual who makes a complaint, participates in an investigation, or provides information, is prohibited. A person who experiences retaliatory action after taking the following actions should report the matter to the investigator in charge of the complaint or the Equal Employment Opportunity (EEO) Officer:
- a. Making a complaint of harassment or discrimination;
 - b. Making a disability related request for reasonable accommodation;
or
 - c. Participating in a complaint investigation.

C. Reporting Procedures

The Judiciary encourages employees to report discrimination and/or harassment before it becomes severe or pervasive so that steps may be taken to stop the harassment before it rises to the level of unlawful behavior.

Anyone who observes or experiences discrimination or harassment prohibited

under this policy is encouraged, if at all possible, to make it clear to the offender that he or she finds such behavior offensive. The incidents should also be reported to an immediate supervisor, other supervisory personnel, a program or court administrator, or the EEO Officer who after reviewing the complaint will determine the appropriate follow-up. Employees are not required to report a complaint to their immediate supervisor or to make a complaint to the offender.

While this section describes the general procedures for reporting complaints of discrimination, harassment or retaliation in the workplace, more specific procedural information is attached to this policy as Attachment 1 and describes, in detail, how to report a complaint, including how to report a complaint to an external agency. Regardless of how the complaint is made, all complaints will be taken seriously and investigated promptly.

D. Limited Confidentiality

The Judiciary shall, to the extent possible, protect the confidentiality of substantiated and unsubstantiated discrimination, harassment and retaliation reports and investigations. Information regarding reports and investigations shall be shared with appropriate individuals and agencies on a "need to know" basis, with due consideration for safety, security, and other interests.

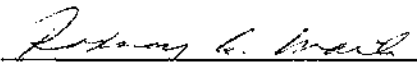
III. Responsibility for Implementing Policy

Judges, chief court administrators and department heads shall ensure that this policy is implemented and enforced within their own courtrooms and programs.

A violation of this policy may result in disciplinary action, up to and including discharge.

IV. Review of Policy

This policy was established in 1998 and amended in 2000, 2007, 2012, and 2017.

Approved: 
Rodney A. Maile
Administrative Director of the Courts

Date: MAY 20 2017

Attachment 1

PROCEDURES FOR REPORTING DISCRIMINATION, HARASSMENT, OR RETALIATION IN THE WORKPLACE

I. Procedures

The Judiciary urges the reporting of any incidents of discrimination, harassment, or retaliation, regardless of the identity of the alleged offender. Anyone who observes or experiences discrimination or harassment prohibited under the Discrimination/Harassment-Free Workplace Policy is encouraged, if at all possible, to make it clear to the offender that he or she finds such behavior offensive. Conduct that violates the Discrimination/Harassment-Free Workplace Policy should also be reported to an immediate supervisor, other supervisory personnel, a program or court administrator, or the Equal Employment Opportunity (EEO) Officer at 539-4336.

Employees are not required to report a complaint to their immediate supervisor or to make a complaint to the offender.

A complaint or report may be made either orally or in writing (a complaint form is available through the EEO Officer). A complaint or report, whether oral or written, should include: name of the alleged offender(s), including position and department, if known, a summary of the offensive acts, with the dates, times and places of the incidents, the names of witnesses to the events, and copies of documents, if any, that support the complaint or report.

II. Limited Confidentiality

The Judiciary shall, to the extent possible, protect the confidentiality of substantiated and unsubstantiated discrimination, harassment and retaliation reports and investigations. Information regarding reports and investigations shall be shared with appropriate individuals and agencies on a "need to know" basis, with due consideration for safety, security, and other interests.

III. Action Taken on Complaints

All complaints will be investigated promptly. The Judiciary may take appropriate interim action while an investigation is pending, including placing the accused person on leave or temporary assignment.

If the Judiciary finds that an employee violated the Discrimination/Harassment-Free Workplace Policy, the Judiciary will take appropriate corrective action, up to and including discharge of the employee. If an investigation shows that a justice or judge violated the Discrimination/Harassment-Free Workplace Policy, the matter shall be referred to the Commission on Judicial Conduct, which has exclusive authority to take disciplinary action against justices and judges. If the person found to have violated the policy is not employed

by the Judiciary, other appropriate action shall be taken, including notice to the employer. If the person found to have violated the policy is a lawyer, the findings shall also be reported to the Office of Disciplinary Counsel.

IV. Referring Complaints to External Agencies

In addition to the procedures described above, complaints about discrimination, harassment, or retaliation in the workplace may also be reported to other appropriate agencies, including but not limited to, the federal Equal Employment Opportunity Commission, the Hawai'i Civil Rights Commission, and labor unions. Conduct by a justice or judge that violates the Discrimination/Harassment-Free Workplace Policy shall be reported to the Commission on Judicial Conduct and the Judicial Selection Commission.

Agencies may have time limitations for filing complaints. For example, complaints of unlawful discriminatory practices must be filed with the Hawai'i Civil Rights Commission no later than one hundred eighty (180) days, or with the Equal Employment Opportunity Commission no later than three hundred (300) days from the date of: (1) the alleged unlawful discriminatory act; or (2) the last occurrence of discrimination in a pattern of ongoing discriminatory conduct.

Persons wishing to file complaints with other agencies should contact that agency to obtain information on their specific procedures and should not wait for resolution of a complaint made to the employer, including the Judiciary. Contact information for other agencies are as follows:

Equal Employment Opportunity Commission
300 Ala Moana Boulevard, Room 7-127
P.O. Box 50082
Honolulu, Hawai'i 96850-0051
Telephone: 1-800-669-4000 info@eeoc.gov

Hawai'i Civil Rights Commission
830 Punchbowl Street, Room 411
Honolulu, Hawai'i 96813
Telephone: (808) 586-8636 DLIR.HCRC.INFO@hawaii.gov

Hawai'i Government Employees Association Headquarters
888 Mililani Street, Suite 401
Honolulu, Hawai'i 96813-2991
Telephone: (808) 536-2351 oahudiv@hgca.org

United Public Workers Headquarters
1426 North School Street
Honolulu, Hawai'i 96817
Telephone: (808) 847-2631

Office of Disciplinary Counsel
201 Merchant Street, Suite 1600
Honolulu, Hawai'i 96813
Telephone: (808) 521-4591

Commission on Judicial Conduct
426 Queen Street, Room 118
Honolulu, Hawai'i 96813-2914
Telephone: (808) 539-4790
judconduct.c.comm@courts.hawaii.gov

Judicial Selection Commission
417 South King Street
Honolulu, Hawai'i 96813-2902
Telephone: (808) 538-5200

**CONSENT TO SUBCONTRACT FOR
MEDIATION AND RELATED DISPUTE RESOLUTION SERVICES**

Effective _____, the Judiciary, State of Hawaii by its Administrative Director of the Courts (hereinafter "JUDICIARY"), and Mediation Centers of Hawaii, Inc. (hereinafter "CONTRACTOR"), entered into an Agreement for Health and Human Services Competitive Purchase of Services, Contract No. J26233 (hereinafter "Agreement"). CONTRACTOR desires to enter into subcontracts with the organizations indicated on the attached list (hereinafter "SUBCONTRACTORS") to provide mediation and related dispute resolution services pursuant to the terms of the Agreement. In accordance with Section 3.2 of the General Conditions of the Agreement, JUDICIARY consents to subcontracts between CONTRACTOR and each SUBCONTRACTOR on the following conditions:

1. CONTRACTOR shall make the determination that each SUBCONTRACTOR is qualified to provide mediation and related dispute resolution services pursuant to the terms of the Agreement. CONTRACTOR shall be fully responsible to JUDICIARY for the performance of services by each SUBCONTRACTOR in the manner set forth in the Agreement.
2. CONTRACTOR shall submit a written request and receive written authorization for the JUDICIARY for any changes to be made to the attached list of mediation and related dispute resolution organizations.
3. CONTRACTOR shall be solely responsible for paying compensation to SUBCONTRACTORS for services provided.
4. CONTRACTOR shall be liable for the acts and omission of SUBCONTRACTORS for all loss, damage, or injury caused by SUBCONTRACTORS during the course of performing services pursuant to the Agreement.
5. CONTRACTOR shall cause all General Conditions and Special Conditions to the Agreement to be inserted in its subcontract with SUBCONTRACTORS so that SUBCONTRACTS must comply by all the items and conditions of the Agreement as are applicable to the services performed by SUBCONTRACTORS.
6. Nothing contained in this Consent shall create any contractual relationship between JUDICIARY and SUBCONTRACTORS.

THE JUDICIARY, STATE OF HAWAII

By _____
Brandon M. Kimura
Administrative Director of the Courts

Date: _____

PROVIDER:

By _____
Print Name _____
Title _____
Date _____

APPROVED AS TO FORM:

Staff Attorney

PROVIDER'S ACKNOWLEDGMENT

STATE OF HAWAII)
) ss.
COUNTY OF _____

On this _____ day of _____, _____, before me personally
appeared _____, to me known, to be the person(s) described in and,
who, being by me duly sworn, did say that he/she is the _____ of
_____, the PROVIDER named in the foregoing instrument, and that
he/she is authorized to sign said instrument on behalf of the PROVIDER, and acknowledges
that he/she executed said instrument as the free act and deed of the PROVIDER.

Doc. Date: _____ # of Pages: _____

Doc. Description: _____

_____ Circuit

Notary Public, State of Hawaii\

Print/Type Name

Date

My Commission Expires: _____

SUBCONTRACTOR ATTACHMENT

List of SUBCONTRACTORS for CONTRACTOR :

Kauai Economic Opportunity, Inc.

Kuikahi Mediation Center

Mediation Services of Maui, Inc.

The Mediation Center of the Pacific, Inc.

West Hawaii Mediation Services