



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
**Office of Procurement**

Guma' Hustisia, Imwal Aweewe, House of Justice  
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**MARTHA B. MENDIOLA**  
*Procurement Officer*

**REQUEST FOR PROPOSALS**  
**NO. RFP-2021-JUD-5**  
**“ELECTRONIC RECORDING (E-RECORDING) SYSTEM”**

**SUBMISSION DATE: May 25, 2021 (ChST)**  
**SUBMIT TO: Cashier's Window, Suite 212 of the Marianas Business Plaza**  
**TIME: 3:00 p.m.**

The Commonwealth Judiciary (“Judiciary”) is accepting proposals from qualified and experienced E-Recording vendors to provide a fully-integrated E-Recording System for the Commonwealth Recorder’s Office (“CRO”).

The Request for Proposal No. RFP-2021-JUD-5 and supporting documents may be obtained at the cashier’s window, located at Suite 212 of the Marianas Business Plaza, in Susupe, Saipan, during regular working hours. The proposal package may also be retrieved online at [www.nmijudiciary.com](http://www.nmijudiciary.com).

The Judiciary reserves the right to reject any or all proposals, or portions thereof, and waive immaterial defects if to do so would be in the best interest of the CNMI government.

The provisions of the NMI Judiciary Rules of Procurement Rule 69 prohibiting gratuities, kickbacks and contingent fees shall apply.

\_\_\_\_\_  
/s/  
ALEXANDRO C. CASTRO  
Chief Justice

\_\_\_\_\_  
/s/  
MARTHA B. MENDIOLA  
Judiciary Procurement Officer

**REQUEST FOR PROPOSALS  
RFP-2021-JUD-5**

**ELECTRONIC RECORDING (“E-RECORDING”) SYSTEM  
NMI JUDICIARY  
P.O. BOX 502165, SAIPAN, MP 96950  
(670) 236-9804  
[www.nmijudiciary.com](http://www.nmijudiciary.com)**

**Date of Issuance: May 4, 2021**

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## REQUEST FOR PROPOSALS

### **SECTION I. INTRODUCTION.**

The Commonwealth Judicial Branch (“Judiciary”) is accepting proposals from qualified and experienced E-Recording vendors to provide a fully-integrated E-Recording System for the Commonwealth Recorder’s Office (“CRO”).

The CRO manages records which includes, but is not limited to, land records, Uniform Commercial Code (“UCC”) documents, marriage certificates, birth and death certificates, judgments, and maps; and that number grows every year. The Judiciary seeks an intelligent solution that optimizes workflow, utilizes current technology, and increases access to recorded documents.

Currently, the CRO receives documents in-person and provides for a manual filing and indexing system. The CRO provides customer service in person and via telephone, sets appointments for in person researching, and conducts research for patrons and the Judiciary.

### **SECTION II. INSTRUCTIONS.**

**A. Proposal Package:** A copy of the request for proposals package (“Package”) is available at **the Cashier’s window, Suite 212, Marianas Business Plaza, Susupe, Saipan between 8:00 am. to 3:00 p.m., Monday to Friday, Chamorro Standard Time (“ChST”),** excluding observed holidays, upon registration completion. The Package may also be retrieved online at [www.nmijudiciary.com](http://www.nmijudiciary.com). For website issues preventing access, please contact the Procurement Officer at [procurement@NMIJudiciary.com](mailto:procurement@NMIJudiciary.com).

**B. Receipt and Proposal Opening.**

**1. Sealed Proposals within the CNMI.**

**a. Physical submission.** Sealed proposals must be marked **RFP-2021-JUD-5** and submitted in one (1) original and three (3) hard copies to the Cashier’s window, Suite 212, Marianas Business Plaza, Susupe, Saipan no later than **3:00 p.m., ChST, on May 25, 2021.**

**OR**

**b. Electronic submission:** Proposals must be marked **RFP-2021-JUD-5** and submitted in one (1) PDF ELECTRONIC FORMAT to the Procurement Officer at [procurement@nmijudiciary.com](mailto:procurement@nmijudiciary.com) no later than **3:00 p.m., ChST on May 25, 2021.**

**2. Sealed Proposals outside the CNMI.**

**a. Physical submission:** Sealed proposals must be marked **RFP-2021-JUD-5** and submitted in one (1) original and three (3) hard copies. It must be mailed to **the Commonwealth Judiciary, Attn: Procurement Officer to P.O. Box 502165, Saipan MP, 96950,** via United States Postal Service (“USPS”) or the official government postal service of a foreign country. The proposal submission must be postmarked no later than **May 25, 2021** and must be received within seven (7) working days of that date. Proposers outside the Commonwealth must notify the Procurement Officer in writing of their intent to propose in order to be

extended these additional seven (7) days for the receipt of the actual proposal documents. The Procurement Officer has discretion to grant the extension. This notice of intent to propose must be made via email to [procurement@nmijudiciary.com](mailto:procurement@nmijudiciary.com) by **3:00 p.m., ChST, on May 18, 2021.**

**OR**

**b. Electronic submission:** Proposals must be marked **RFP-2021-JUD-5** and submitted in ONE PDF ELECTRONIC FORMAT to the Procurement Officer at [procurement@nmijudiciary.com](mailto:procurement@nmijudiciary.com) no later than **3:00 p.m., ChST, on May 25, 2021.**

**3. Proposal Openings.** Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and shall be open for public inspection after contract award.

**C. Pre-Proposal Meeting.** A pre-proposal meeting will be held on **May 11, 2021, at 10:00 a.m., ChST** via **MS Teams Video-Teleconference**. Vendors who wish to attend the pre-proposal meeting must contact the Procurement Officer at [procurement@nmijudiciary.com](mailto:procurement@nmijudiciary.com) no later than **10:00 a.m., ChST, on May 10, 2021** to receive the meeting invite.

**D. Contact.** Questions regarding this request for proposals or the scope of work must be made to the Procurement Officer at [procurement@nmijudiciary.com](mailto:procurement@nmijudiciary.com) **no later than 10:00 a.m., ChST, on May 13, 2021.** Questions submitted after this deadline may not be answered.

### **SECTION III. REQUIREMENTS.**

**A. Scope of Work.** The proposal must provide for a system that is already developed and deployable. With the exception of limited necessary customizations to fully meet requirements, the Judiciary will not participate with a respondent to develop and build a solution or leverage another platform to build an E-Recording System.

The chosen respondent **must** show they have the necessary organization, experience, and skills required to successfully perform the contract, as well as show they have a satisfactory performance record in implementing an E-Recording System. It is also essential that the chosen respondent has the necessary manpower to comply with the required delivery and performance schedule.

The chosen proposer shall provide the following goods/services:

#### **1. Description.**

**a.** Provide a fully integrated E-Recording System which includes:

- i.** Real-time filing, real-time recording, indexing, and managing system for all documents filed, recorded, indexed, and maintained by the Commonwealth Recorder;
- ii.** System must be able to file all documents recorded by the Commonwealth Recorder;
- iii.** System must be able to receive documents via internet, public access terminal, and offline;

- iv.** 24/7 online access from anywhere and in-office terminal for unlimited public access, research, viewing, filing, retrieving/downloading/printing, and purchasing of documents with the Commonwealth Recorder;
- v.** Secure online user interface to allow public to request certified or non-certified copies of records;
- vi.** Advanced search engine/functions and instruction boxes to assist users. The searchable fields must have customization capabilities;
- vii.** 24/7 secured online payment system via debit and credit cards, e-checks, and other forms of electronic payment. The system must also allow the Judiciary to transact cash payments. The system must be an integrated module that will process payments of fees in accordance with the Judiciary fee schedule. The system must be capable to show a breakdown of costs;
- viii.** Optical character recognition capabilities for efficient and intelligent indexing of documents;
- ix.** Automated indexing system for the organization of images/files into a secured database, capable of utilizing Judiciary-specified data, including parties, file number, legal description, village name, and cross references to relevant documents;
- x.** System to create certifications/official stamps for documents filed and recorded; System must have the capability to add Judiciary's seal or other images, as needed;
- xi.** System for Commonwealth Recorder to set up work flow for document management, status tracking, and auditing. The system must allow a review of filed documents prior to its rejection or approval. This medium must allow real-time notification to submitters regarding the status of their filing. It must also allow emailing of images/documents back to submitter;
- xii.** Cashiering with automated fee calculating system capable of printing receipts; System must have the ability to integrate with Judiciary's payment system to facilitate payment processing;
- xiii.** Customer and technical support;
- xiv.** Data conversion and migration from existing files into the proposed system;
- xv.** Staff training and knowledge transfer;
- xvi.** Support and maintenance;
- xvii.** Continuity of Operations Plan and Disaster Recovery platform including natural disasters, catastrophes, power outage, and pandemic;
- xviii.** System backup and recovery strategies of data center and services to the Judiciary;
- xix.** System with ability to assign work items to staff;
- xx.** System with capability for multiple-language interface; and

xxi. Comprehensive reporting system.

**2. Time, Place, and Method of Delivery or Performance.**

The chosen proposer must be ready to deploy the E-Recording System within three to five (3-5) months. The Judiciary reserves the right to adjust timeline from contract execution and receipt of Notice to Proceed. The contract shall be for a minimum of one (1) year with an option to renew annually.

**B. Proposal Submission Documents.** Proposers must include in their proposal submission the following:

**1. Project Approach and Information.** The following documents/information must be included in the proposal submission:

- a. Description of integrated filing and management E-Recording System and its capabilities;
- b. Description of integrated payment and cashing system;
- c. Search engine capabilities and features;
- d. Plans to migrate existing data and/or convert records of the Commonwealth Recorder into a new system;
- e. A training component and knowledge transfer including access to these resources and documentation;
- f. Support and maintenance plan;
- g. Technical and customer support plan;
- h. System recovery and backup strategies;
- i. Continuity of Operations Plan and Disaster Recovery Plan;
- j. Relevant experience;
- k. Any other information and/or documents to assist the Judiciary in understanding the proposer's E-Recording System and its capabilities and plans to fulfill this request for proposal's scope of work;
- l. Proposer's terms and conditions; and
- m. Copy of a valid business license.

**2. Forms.** The following forms must be completed, signed and included in the proposal submission.

- a. Certification of Prohibition Against Gratuities, Kickbacks, and Contingent Fees.
- b. Vendor Registration Form.

**SECTION IV. EVALUATION FACTORS.**

**A. Evaluation Factors.** All evaluation factors stated in the request for proposals shall be considered in determining proposals in the competitive range (i.e., those allowed to participate further in the selection process), and any subsequent evaluations (including evaluation of best and final offers from the competitive range offerors).

**B. Evaluation Factors Are:**

- |   |           |
|---|-----------|
| 1. Qualification (Personnel, Education and Professional Licenses) | 15 points |
| 2. Experience (similar projects)                                  | 30 points |
| 3. Project Approach   | 30 points |
| 4. Price  | 25 points |

**SECTION V. NOTICE.**

- A. Confidentiality.** Until award of a contract is made, the content of any proposals submitted by the proposer shall be held in strictest confidence.
- B. Costs.** All costs incurred by the proposer to prepare a response to this invitation for proposals and subsequent inquiries shall be borne by the proposer.
- C. Addenda.** Any changes or clarifications to the scope of work or project details will be made via addenda and emailed to all registered, potential proposers.
- D. Error in Proposals.** Each proposer must carefully examine their proposal prior to submission. Each proposer must comply with the requirements contained in the request for proposals. Failure to do so is at the proposer's risk. Deviation from the requirements may result in rejection of the proposal.
- E. Right to Reject or Waive.** The Judiciary reserves the right to reject any or all proposal, or portions thereof. A proposal may be rejected for any of the following reasons:
1. Failure to conform to essential requirements of the requests for proposals such as specifications or time of delivery;
  2. Submission contents are so unacceptable that a revision of the proposal in the negotiation stage would be equivalent to accepting a new proposal;
  3. In comparison with other proposals, such proposal clearly has no chance of being selected for award.
  4. Imposition of conditions or restrictions in the proposal which modify requirements of the request for proposal. For example, proposals may be rejected in which the proposer:
    - a. Protects against future changes in conditions, such as increased costs;
    - b. Fails to state a price and indicates that price shall be the price in effect at the time of delivery;
    - c. States a price but qualifies it as subject to price in effect at time of delivery; or
    - d. Limits the rights of the Judiciary.
  5. Unreasonableness as to price; or
  6. A proposal from a non-responsible proposer.
  7. Failure to execute the contract or furnished the required bonds.
- F. Cancellation.** The Judiciary reserves the right to cancel this request for proposal any time before contract execution.
- G. Property of the Judiciary.** All proposals received shall become the property of the Judiciary and will not be returned to the proposer.

## **SECTION V. AWARD.**

- A. Prior to Award.** Discussions may be conducted with responsible offerors who submit proposals in the competitive range for the purpose of clarification and ensuring a full understanding of, and responsiveness to, all solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- B. Award.** Award shall be made to the responsible offeror whose proposal is determined to be most advantageous to the Judiciary taking into consideration price and the evaluation factors set forth in the request for proposal. No other factors or criteria shall be used in the evaluation and the contract file shall contain the basis on which the award is made. **The Judiciary reserves the right to award only a portion of the request for proposal.**
- C. Contract Execution.** Upon receiving notification of an intent to award, the proposer must enter into an agreement with the Judiciary within five (5) business days. The Judiciary reserves the right to withdraw its intent to award, should the proposer fail to execute an agreement. A sample contract and standard terms and conditions is attached with this request for proposal. The Judiciary reserves the right to amend the sample contract prior to execution.

## **SECTION VI. STATUTORY AND REGULATORY REQUIREMENTS.**

- A.** The contractor and subcontractors employed in the completion of the project shall comply with all applicable Federal, State and CNMI Law.
- B.** Procurement procedures shall be in full compliance with the NMI Judiciary Rules of Procurement.
- C.** The Contractor must also comply with and sign the attached form for Judiciary Rules of Procurement Rules 69 and 70:

### **Rule 69. Gratuities and Kickbacks.**

**(a) Gratuities.** It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or dispute or other particular matter, pertaining to any program requirement, or a contractor or subcontract, or to any solicitation or proposal therefore.

**(b) Kickbacks.** It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

### **Rule 70. Prohibition Against Contingent Fees.**

**(a) Contingent Fees.** It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Judiciary contract upon an agreement or understanding for a

commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

**(b) Representation of Contractor.** Every person, before being awarded a Judiciary contract, shall represent, in writing, that such person has not retained anyone in violation of Rule 70(a). Failure to do so constitutes a breach of ethical standard.

**ELECTRONIC RECORDING (“E-RECORDING”) SYSTEM  
REQUEST FOR PROPOSALS  
NO. RFP-2021-JUD-5**

The NMI Judiciary Rules of Procurement prohibit gratuities, kickbacks, and contingent fees. All Contractors shall certify [under oath] that they have not in any way been involved in any gratuities, kickbacks, or contingent fees in connection with their selection or ultimate performance of this contract.

**Rule 69. Gratuities and Kickbacks.**

- (a) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or dispute or other particular matter, pertaining to any program requirement, or a contractor or subcontract, or to any solicitation or proposal therefor.
- (b) Kickbacks. It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontractor or order.

**Rule 70. Prohibition Against Contingent Fees.**

- (a) Contingent Fees. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Judiciary contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

I (name) \_\_\_\_\_, a representative of (company) \_\_\_\_\_ have read and understood the prohibition on gratuities, kickbacks, and contingent fees as set forth in NMI Judiciary Rules of Procurement Rule 69 and Rule70 above. I attest that I have not retained anyone in violation of these rules. I further agree to comply with the requirements set forth in Rules 69 and 70 and understand that failure to do so may result in rejection of the bid submission or termination of award of contract.

\_\_\_\_\_  
Name and Signature

\_\_\_\_\_  
Date



## VENDOR REGISTRATION FORM

*(Instructions on reverse)*

### SUPPLIER ORGANIZATION INFORMATION

|                    |             |                             |                        |                 |             |
|--------------------|-------------|-----------------------------|------------------------|-----------------|-------------|
| 1. COMPANY NAME    |             | 2. TAXPAYER ID NUMBER (TIN) | 3. IS THIS TIN AN SSN? |                 |             |
| 4. MAIN PHONE      | 5. MAIN FAX | 6. MAIN EMAIL ADDRESS       |                        | 7. WEBSITE      |             |
| 8. MAILING ADDRESS |             | 9. CITY                     | 10. STATE              | 11. POSTAL CODE | 12. COUNTRY |

### POINT OF CONTACT

|           |                     |                   |           |  |  |
|-----------|---------------------|-------------------|-----------|--|--|
| 13. NAME  |                     |                   | 14. TITLE |  |  |
| 15. PHONE | 16. ALTERNATE PHONE | 17. EMAIL ADDRESS |           |  |  |

### PERSON RESPONSIBLE FOR PREPARING THE FORM

|               |                     |                   |           |  |  |
|---------------|---------------------|-------------------|-----------|--|--|
| 18. NAME      |                     |                   | 19. TITLE |  |  |
| 20. PHONE     | 21. ALTERNATE PHONE | 22. EMAIL ADDRESS |           |  |  |
| 23. SIGNATURE |                     |                   | 24. DATE  |  |  |

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**INSTRUCTIONS FOR PREPARATION OF  
JUD PROC. FORM 3**

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General.

The JUD PROC. FORM 3, Vendor Registration Form, must be completed to register as a Commonwealth of the Northern Mariana Islands Judiciary ("Judiciary) vendor. The Judiciary reserves the right to approve or disapprove the registration request at their discretion.

Please email the completed form, accompanied with a copy of your Business License and document showing proof of your TIN (i.e. W2), to [procurement@nmijudiciary.com](mailto:procurement@nmijudiciary.com).

Instructions for completing the form.

1. Enter the company name as identified in the company Business License.
2. Enter the Taxpayer Identification Number (TIN).
3. Answer "Yes" only if the TIN in Item 2 is a Social Security Number issued by the Social Security Administration. Otherwise, answer "No."
4. Enter the company's main phone number.
5. Enter the company's main fax number.
6. Enter the company's main email address.
7. Enter the company's website address.
8. Enter the company's mailing address.
9. Enter the company's city address.
10. Enter the company's state address.
11. Enter the company's postal address zip code.
12. Enter the company's country address.
13. Enter the name of the person who can be contacted regarding procurement, billing, etc.
14. Enter the title of the person listed in Item 13.
15. Enter the contact number of the person listed in Item 13.
16. Enter an alternate contact number of the person listed in Item 13.
17. Enter the email address of the person listed in Item 13.
18. Enter the name of the person responsible for preparing the form.
19. Enter the title of the person listed in Item 18.
20. Enter the contact number of the person listed in Item 18.
21. Enter an alternate contact number of the person listed in Item 18.
22. Enter the email address of the person listed in Item 18.
23. The person listed on Item 18 must sign the form.
24. Enter the date on which the form was signed and completed.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS JUDICIARY  
CONTRACT FOR PURCHASE OF SOFTWARE AS A SERVICE

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**I. PARTIES**

This contract is between the Commonwealth of the Northern Mariana Islands Judiciary and referred to herein as “the Judiciary,” and [XXXX]. [XXXX]. is referred to in this contract as the “Contractor.”

Contractor is a [CORPORATION, NON PROFIT CORPORATION, UNIVERSITY, GOVERNMENT AGENCY, ETC].

Chief Justice Alexandro C. Castro is the Expenditure Authority for the Judiciary. Any reference to the expenditure authority in this contract is a reference to Chief Justice Alexandro C. Castro. The Expenditure Authority may take any action on behalf of the Judiciary provided for by this contract or by law.

**II. NOTICE**

All notices and communications required by this contract shall be in written form and shall be delivered to the following addresses:

Attn: Martha B. Mendiola  
Procurement Officer  
Office of Procurement  
Guma' Hustisia, Iimwal Aweewe, House of Justice  
P.O. Box 502165  
Saipan, MP 96950  
[procurement@nmijudiciary.com](mailto:procurement@nmijudiciary.com)  
(670) 236-9804

[CONTRACTOR NAME]  
[CONTRACTOR MAILING ADDRESS]

**III. COMMUNICATION**

The Contractor shall maintain communications with the Judiciary at all stages of the Contractor’s work. The Contractor will submit any questions it may have to the Judiciary regarding the performance of the contract.

**IV. GENERAL PURPOSE**

The purpose of this contract is for the Judiciary to procure from the Contractor the services described in this contract and in the attached exhibits and to enjoy any warranty or other goods provided for by this contract. The services being procured are described in [Exhibit X], to this contract.

If the description of the services in [Exhibit X] conflict with the description of the services in this contract, then the description in this contract will control.

The services will be provided on the island of \_\_\_\_\_ at [ENTER ADDRESS OR APPROXIMATE LOCATION].

The services will be performed according to the statement of work provided by the Contractor.

**V. CONTRACTOR TO PROVIDE EQUIPMENT**

The Contractor will provide the Software-as-a-Service [XXXXXX].

**VI. WARRANTY**

The services purchased by this contract are subject the warranties provided for by Commonwealth law.

**VII. CONTRACT DOCUMENTS**

The following instruments shown in the table below, constitute the contract documents (“Contract Documents”) and are incorporated as part of the Contract thereof. If any of the attached documents conflict with this contract, then the language of this contract will control.

| <b>EXHIBIT</b> | <b>NAME OF DOCUMENT</b>       |
|----------------|-------------------------------|
| A              | Standard Terms and Conditions |
|                |                               |

**VIII. CONSIDERATION AND SCOPE OF WORK**

Contractor agrees to perform the services described in this contract and the documents attached and incorporated into this contract. The Judiciary agrees to pay \$\_\_\_\_\_ in exchange for the services. In addition, the consideration for this agreement is in the mutual covenants and stipulations hereby agreed to by the parties and set out in the following paragraphs.

**IX. DURATION OF CONTRACT**

The Contractor will begin its performance on \_\_\_\_\_ or upon receipt of a Notice to Proceed by the Judiciary.

This contract will remain in effect until \_\_\_\_\_ (or 2 years after the effective date of this contract). Automatic Subscription Renewal beyond this term is strictly prohibited.

**X. INCORPORATED BY REFERENCE BUT NOT ATTACHED**

This contract incorporates the following documents and laws that are not attached to this contract:

1. All Commonwealth laws, regulations, or rules applicable to the purchase of goods in the Commonwealth; and
2. All applicable federal laws and regulations.

**XI. CONTRACT EXTENSION**

[IF YOU DO NOT WANT AN EXTENSION OPTION, THEN DELETE THIS SECTION. REMEMBER, CHANGE ORDERS ARE NOT APPROPRIATE FOR EXTENSION UNDER MOST CIRCUMSTANCES, SO KEEP THIS SECTION IF THERE IS ANY CHANCE THAT YOU WILL WANT AN EXTENSION.]. [USE THIS IF YOU WANT AN EXTENSION OPTION: The Judiciary may extend the term of this contract by written notice to the Contractor 30 days before the contract expires. This extension provision may be exercised more than once, but the total extension of performance may not exceed six (6) months. If the Judiciary exercises its option to extend this contract, then the contract will continue without any change in the terms and conditions of this contract.]

**XII. DELIVERY AND PAYMENT**

1. The Contractor agrees to begin, and to continue for as long as this contract provides, to perform the services on the island of Saipan. The Contractor will invoice the Judiciary and will be paid according to the following schedule:

| DATE THE JUDICIARY RECEIVES INVOICE | INVOICE AMOUNT | PAYMENT DUE DATE |
|-------------------------------------|----------------|------------------|
|                                     |                |                  |
|                                     |                |                  |
|                                     |                |                  |

2. If the notice to proceed is issued after a date identified in the above-schedule, then the Contractor will invoice the Judiciary on the next date identified in the above-schedule. Thereafter, invoices will be issued in accordance with the above-schedule and will continue to be issued until the contract is completed.
3. Payment by the Judiciary shall be made only upon Contractor’s submission of evidence to the Expenditure Authority that the Contractor has delivered the services and has adhered to all contract terms and specifications.
4. If the Contractor fails to invoice the Judiciary according to the above schedule, then the Judiciary, at its sole discretion, may refuse to pay the untimely invoice. If the Judiciary exercises its right to refuse payment under this subsection, neither party will be relieved of its obligation to perform under this contract.

**XIII. ADJUSTMENTS OF TIME FOR PERFORMANCE**

The Expenditure Authority may grant Contractor up to 30 additional days to complete the delivery of the services required by this contract. A grant of additional time will only be effective if placed in writing and signed by the Expenditure Authority.

The Contractor may grant the Judiciary additional time, as necessary, to complete the payment for the services. A grant of additional time will only be effective if it is placed in writing and signed by an agent of the Contractor.

**XIV. INTERPRETATION AND VALIDITY**

- (a) This contract shall be interpreted under the laws of the Commonwealth of the Northern Mariana Islands and NMI Judiciary Rules of Procurement.
- (b) All provisions of this Contract shall, to the extent practical, be interpreted to be consistent with the NMI Judiciary Rules of Procurement. In the event of an unresolvable conflict between any provision of the contract and the NMI Judiciary Rules of Procurement, the NMI Judiciary Rules of Procurement shall govern the Contract.
- (c) In the event of a conflict between any provision of the Contract and Agreement document and these General Conditions, the Contract and Agreement shall govern the Contract.
- (d) If the contract documents include a “Special Conditions” document, that document shall be interpreted to supplement these General Conditions and shall prevail if in conflict.
- (e) If the Judiciary, without any fault on its own part, becomes a party to any litigation by or against the Contractor in connection with this contract, the Contractor shall pay its own costs and expenses incurred, including reasonable attorneys’ fees. For the convenience of the parties and witnesses, and in the interest of justice, the venue for litigation shall be the court of appropriate jurisdiction on the island of Saipan, CNMI.
- (f) In the event the contract or the procurement action resulting in the contract is found to be in violation of the NMI Judiciary Rules of Procurement, then the Contract will not be valid under the laws of the Commonwealth of the Northern Mariana Islands, and may be found to be legally voidable. The Judiciary will seek to have any liability asserted against it by a contractor which directly results from improper acts of a government employee to be determined judicially to be the individual liability of the employee who committed the wrongful acts.

## **XV. PROHIBITED TERMS**

This contract is void if either the procurement processes or contract execution fails to comply with the NMI Judiciary Rules of Procurement. Any procurement action of a Judiciary official or employee in violation of said regulations is not authorized by the Judiciary and is an act for which the Judiciary will not take responsibility or be liable for in any manner. The Contractor and the Procurement Officer hereby certify that they have both read and understand said procurement regulations and have complied with such.

## **XVI. SIGNATURE REQUIREMENTS**

No Contract can be formed prior to the approval of all required signatories, as evidenced by the signature affixed below of each of them, made in the order listed. The Contract shall become effective upon certification of contract completion by the Procurement Officer.

## **XVII. SIGNATURES**

### **1. Procurement Officer**

I declare that I have complied with the NMI Judiciary Rules of Procurement; that this contract is for a public purpose; and that the contract does not waste or abuse public funds.

I declare that I, personally, have the authority to obligate the expenditure of funds for this contract. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this day in the Commonwealth of the Northern Mariana Islands.

\_\_\_\_\_  
Martha B. Mendiola  
Procurement Officer

\_\_\_\_\_  
Date

2. Budget and Finance Director

I hereby certify that the funds identified below are available and have been committed for funding of this Contract:

Account: \_\_\_\_\_

Amount: \_\_\_\_\_

\_\_\_\_\_  
John T. Villagomez  
Budget and Finance Director

\_\_\_\_\_  
Date

3. Legal Counsel

I hereby certify that this contract has been numbered, reviewed and approved as to form and legal capacity.

\_\_\_\_\_  
Hyun Jae Lee  
General Counsel

\_\_\_\_\_  
Date

4. Chief Justice

\_\_\_\_\_  
Alexandro C. Castro  
Chief Justice

\_\_\_\_\_  
Date:

5. Contractor – [NAME OF CONTRACTOR]:

On behalf of the Contractor, I represent that I am authorized to bind the Contractor to the terms of this Contract, and by my signature I do hereby accept and bind the Contractor to the terms of this Contract. I further represent for the Contractor that no person associated with the Contractor has retained any person in violation of the NMI Judiciary Rules of Procurement.

\_\_\_\_\_  
PRINTED NAME OF SIGNING AUTHORITY

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
SIGNATURE OF SIGNING AUTHORITY

\_\_\_\_\_  
Date

6. CERTIFICATION OF CONTRACT COMPLETION

I hereby certify that this contract bears all signatures and is therefore complete.

\_\_\_\_\_  
Martha B. Mendiola  
Procurement Officer

\_\_\_\_\_  
Date:

**XVIII. END OF CONTRACT DOCUMENT**

Procurement Information  
(For government purposes only)

Method of Procurement (Check one only)

- Competitive Sealed Bids
- Competitive Sealed Proposal
- Small Purchase
- Sole Source
- Emergency
- Expedited

Type of Procurement (Check one only)

- Initial procurement
- Subsequent procurement –
- Following Bid Protest
- Government's Option
- Replacement for Defaulted Contractor

Government contract numbers of all related contracts with the Vendor:  
Insert Contract Numbers, or NONE

# STANDARD TERMS AND CONDITIONS

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## STADARD TERMS AND CONDITIONS

### 1. ENTIRE AGREEMENT

With respect to the subject matter of the Contract, as expressed in the Contract Documents, represents the entire agreement between the Commonwealth of the Northern Mariana Islands Judiciary (“Judiciary”), Chief Justice Alexandro C. Castro as Expenditure Authority (“Expenditure Authority”), and the Contractor, and supersedes all prior agreements and understandings. No revision to the express terms of the contract shall be implied, except as required by law.

### 2. CONTRACT SUBJECT TO FUNDING

Continued funding of this Contract beyond the present fiscal year is contingent on availability of funding in future years. In the event that such funding does not become available, the Judiciary may terminate the contract without any further liability.

### 3. SEVERABILITY

If any part of the contract is declared unenforceable or invalid, the remainder of this contract will continue to be valid and enforceable.

### 4. CONTRACT NOT ASSIGNABLE

The Contract and all of its covenants shall inure to the benefit of and be binding respectively upon the Judiciary and the Contractor and its partners, successors, assigns and legal representatives. The Contractor may not assign, transfer, encumber, or sublet its interest or obligations under the Contract without written consent of the Judiciary. No mechanic, subcontractor, supplier, or other person shall be permitted to contract for or in any other manner have or acquire any lien upon the services covered by the Contract, or the construction to which the services pertain, or the land upon which the construction is situated.

### 5. INTERPRETATION AND VALIDITY

(a) This contract shall be interpreted under the laws of the Commonwealth of the Northern Mariana Islands.

(b) All provisions of this Contract shall, to the extent practical, be interpreted to be consistent with the NMI Judiciary Rules of Procurement. In the event of an unresolvable conflict between any provision of the contract and the NMI Judiciary Rules of Procurement, the NMI Judiciary Rules of Procurement shall govern the Contract.

(c) In the event of a conflict between any provision of the Contract and Contract Documents and these Standard Terms and Conditions, the Contract and Contract Documents shall govern the Contract.

(d) If the Contract Documents include a “Special Conditions” document, that document shall be interpreted to supplement these Standard Terms and Conditions and shall prevail in the event of a conflict.

(e) In the event the contract or the procurement action resulting in the contract is found to be in violation of the NMI Judiciary Rules of Procurement, then the Contract will not be valid under the laws of the Commonwealth of the Northern Mariana Islands, and may be found to be legally voidable. The Judiciary will seek to have any liability asserted against it by a contractor which directly results from improper acts of a government employee to be determined judicially to be the individual liability of the employee who committed the wrongful acts.

## 6. LAWS TO BE OBSERVED

(a) The Contractor is assumed to be familiar with all federal and local laws, codes, ordinances, and regulations which, in any manner, affect those engaged or employed in the work or the material or equipment used in or upon the site, or in any way affect the conduct of the work. No pleas of misunderstanding or ignorance on the part of the Contractor will, in any way, serve to modify the provisions of the contract.

(b) The Contractor, at all times, shall observe and comply with all Federal and local laws, codes, ordinances, and regulations in any manner affecting the conduct of the work, and the Contractor and their surety shall indemnify and save harmless the Judiciary and all its officers, agents and servants any claim or liability arising from or based on the violation of any such law, code, ordinance, regulation, order, or decree, whether by themselves or their employees.

(c) The Contractor shall be responsible for reporting to the Commonwealth Historical Preservation Office for verification and determination any discovery encountered during execution of this contract bearing archaeological, cultural, or historical content.

## 7. REGULATIONS CONTROLLING

This contract is void if either the procurement processes or contract execution fails to comply with the NMI Judiciary Rules of Procurement. Any procurement action of a Judiciary official or employee in violation of said rules is not authorized by the Judiciary and is an act for which the Judiciary will not take responsibility or be liable for in any manner. The Contractor and the Judiciary Procurement Officer hereby certify that they have both read and understand said procurement rules and have complied with all such regulations.

## 8. NO WAIVER BY JUDICIARY

The failure of the Judiciary in any one or more instances to insist upon strict performance of any of the items of the Contract, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment, to any extent, of the right to assert or rely upon any such terms or options on any future occasion.

## 9. LITIGATION

If the Judiciary, without any fault on its own part, becomes a party to any litigation by or against the Contractor in connection with this contract, the Contractor shall pay all costs and expenses incurred by the Judiciary, including reasonable attorneys' fees.

## 10. INDEPENDENT CONTRACTOR

(a) For purposes of the application of Article 11, "Ethics in Public Contracting" of the NMI Judiciary Rules of Procurement, the Contractor and its employees, agents, subcontractors, and representatives shall be considered employees of the Judiciary, as provided by NMI Judiciary Rules of Procurement Rules 65 through 74.

(b) Except as stated in the NMI Judiciary Rules of Procurement authorized in writing by the Procurement Officer and only under the terms so stated or authorized, neither the Contractor nor its employees or subcontractors shall act for, represent, or bind the Judiciary in any capacity or manner whatsoever, or be deemed or considered an employee, agent, or representative of the

Judiciary, or be deemed to have any relationship with the Judiciary other than that of independent contractor.

## 11. AUTHORITIES AND LIMITATIONS

(a) All work under the Contract shall be performed under the general direction of the Procurement Officer, who alone shall have the power to bind the Judiciary and to exercise the rights, responsibilities, authorities and functions vested in them by the contract documents, except that they shall have the right to designate authorized representatives to act for them. The authorized representatives are responsible for guiding the technical aspects of the project and for general surveillance of the work performed. The authorized representatives shall not make any commitments or authorize any changes which constitute work not within the general scope of the Contract, change the expressed terms and conditions hereof or specifications incorporated or included herein, or by any act or omission authorize expressly or otherwise, a basis for any increase in the contract price or time for performance, unless permitted by the Contract or these Standard Terms and Conditions. Whenever any provisions in the Contract specify an individual (such as, but not limited to, Construction Engineer, Inspector, or Custodian) or an organization (whether government or private) to perform any act on behalf of, or in the interest of the Judiciary, that individual or organization shall be deemed to be the Procurement Officer's authorized representative under the Contract but only to the extent so specified. A copy of each document vesting authority in an authorized representative or designating an additional authorized representative shall be furnished to the Contractor.

(b) The Contractor shall perform the Contract in accordance with any order (including but not limited to instruction, direction, interpretation or determination issued by an authorized representative in accordance with their authority to act for the Procurement Officer; but the Contractor assumes all the risks and consequences of performing the contract in accordance with any order (including but not limited to, instruction, direction, interpretation, or determination) of anyone not authorized to issue such order.

(c) The work of the Contractor is subject to inspection to ensure strict compliance with the terms of the Contract. No inspector is authorized to change any provision of the specifications without the written authority of the Procurement Officer, nor shall the presence or absence of an inspector relieve the Contractor from any requirements of the work.

## 12. SATISFACTION OF EXPENDITURE AUTHORITY REQUIRED

The Contractor agrees to complete the contract according to the terms of the contract and to the full satisfaction of the Expenditure Authority.

## 13. DISPUTES AND REMEDIES

(a) Notwithstanding any other provision of the Contract, before the Contractor may bring any action at law or equity relating to any dispute relating to the Contract, including but not limited to claims for wrongful termination or breach, the Contractor must first submit the dispute to administrative resolution and appeal as provided by the NMI Judiciary Rules of Procurement.

(b) The Judiciary will not be held liable for interest on any judgment taken as a result of any legal action in connection with this contract.

(c) The Judiciary will not be held liable for any punitive damages as a result of any legal action in connection with this contract.

(d) Nothing in this clause shall serve to limit any remedies at law or equity available to the Judiciary.

#### 14. LIQUIDATED DAMAGES [AS APPLICABLE]

(a) The amount per day of liquidated damages, as referred to in these Standard Terms and Conditions, is the sum stated as “Liquidated Damages” in the Contract and Agreement document, or, if no amount is stated in the Contract and Agreement, then in any document in the bid package, or, if no amount is stated in these documents, then in the Proposal, if any. In the event no amount for liquidated damages may be determined from the application of the first sentence of this paragraph, then the daily amount of liquidated damages shall be the greater of (i) one hundred dollars (\$100), or (ii) two percent (2%) of the contract price divided by the number of calendar days of the contract time, the contract time and contract price being determined at the time of the assessment of liquidated damages. This amount is considered to be liquidated damages to reimburse the Judiciary for loss and damages suffered by the Judiciary and is in no case a penalty.

(b) In the event the Contractor shall fail fully to perform and complete the work in conformity with the Contract within the contract time, the Contractor shall pay to the Judiciary for each and every day of the additional time in excess of the contract time liquidated damages as specified in paragraph (a) of this clause.

(c) Liquidated damages may also be assessed against the Contractor under other provisions of the Contract, and shall be determined in accordance with paragraph (a) of this section.

(d) The Judiciary may recover the amount of liquidated damages by deducting the amount thereof out of any monies which may be due or become due the Contractor under the Contract or under any other existing or future contract between the Judiciary and the Contractor, or by an action at law against the Contractor or their surety, or by any or all of these methods.

#### 15. SUSPENSION OF WORK

(a) The Procurement Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as they may determine to be appropriate for the convenience of the Judiciary including, but not limited to suspensions for unfavorable weather or other essential conditions, failure on the part of the Contractor to prosecute properly the work in accordance with the contract, or failure of the Contractor to carry out orders or to remove defective materials or work.

(b) In the event of a suspension of work by the Procurement Officer under paragraph (a) of this clause for any reason over which the Contractor has or had no control, the Contractor may be reimbursed for actual money expended on the job during the period of suspension. No allowance will be made for anticipated profits. The period of suspension shall be computed from the date set out in written order for work to cease until the date of the order for work to resume.

(c) Claims for such compensation shall be filed with the Procurement Officer within 10 days after the date of the order to resume work, or such claim will not be considered. The Contractor shall submit with its claim substantiating papers covering the entire amount shown on the claim. The Procurement Officer shall take the claim under consideration, and may make such investigations as are deemed necessary, and shall be the sole judge as to the equitability of such claim and such decision shall be final.

(d) If the performance of all or any part of the work, for an unreasonable period of time, is suspended, delayed, or interrupted by an act of the Procurement Officer in the administration of the Contract, or by their failure to act within the time specified in the Contract (or if no time is

specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of the Contract (excluding anticipated profit) necessarily caused by such unreasonable suspension, delay, or interruption, and the contract shall be modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent: (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor; or (2) for which an equitable adjustment is provided for or excluded under any other provision of the Contract.

(e) No claim under paragraphs (c) and (d) of this clause shall be allowed: (1) for any costs incurred more than twenty (20) days before the Contractor shall have notified the Procurement Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.

(f) The Contractor shall not suspend the work without written approval by the Procurement Officer, and prior to resuming work shall give the Procurement Officer forty-eight (48) hours' notice to afford opportunity to re-establish inspection.

(g) No provision of this clause shall be construed as entitling the Contractor to compensation for delays due to inclement weather, delays due to failure for surety, for suspensions made at the request of the Contractor, or for any other delay provided for in the contract documents, including all amendments, addenda, and change orders.

## 16. VARIATION IN ESTIMATED QUANTITY

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Procurement Officer within 10 calendar days from the beginning of the delay, or within such further period as may be granted by the Procurement Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Procurement Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgement of the Procurement Officer, is justified.

## 17. CHANGES

(a) The Procurement Officer may, at any time and without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes in:

- (i) The specifications (including drawings and designs);
- (ii) The method or manner of performance of the work;
- (iii) The Judiciary-furnished facilities, equipment, materials, services, or site;
- (iv) The directing of acceleration in performance of the work;
- (v) Place of delivery;
- (vi) Time of performance; or
- (vii) Description of services to be performed.

(b) Any other written order or an order (which terms as used in this paragraph shall include direction, instruction, interpretation, or determination) from the Procurement Officer, which causes any such change, shall be treated as a change order under this clause, provided that the Contractor gives the Procurement Officer written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.

(c) Except as herein provided, no order, statement, or conduct of the Judiciary shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under the Contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly; provided, however, that except for claims based on defective specifications, no claim for any change under (b) above shall be allowed for any costs incurred more than twenty (20) days before the Contractor gives written notice as therein required: and provided further, that in the case of defective specifications for which the Judiciary is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.

(e) If the Contractor intends to assert a claim for an equitable adjustment under this clause, they must, within thirty (30) days after receipt of a written change order under paragraph (a) of this clause, or the furnishing of a written notice under paragraph (b) of this clause, submit to the Procurement Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Procurement Officer. The statement of claim hereunder may be included in the notice under paragraph (b) of this clause.

(f) No claim by the Contractor for an equitable adjustment under this clause shall be allowed if asserted after final payment under this contract.

(g) Additional performance and payment bond protection shall be furnished by the Contractor in connection with any modification affecting an increase in the price under the Contract if:

(i) The modification is for new or additional work which is beyond the scope of the existing contract; or

(ii) The modification is pursuant to an existing provision of the Contract and increases the contract price by \$5,000 or twenty five percent (25%) of the basic contract price whichever is less.

## 18. EQUITABLE ADJUSTMENT

(a) The Contractor's written statement of the monetary extent of a claim for equitable adjustment shall be submitted in the form of a lump sum proposal (unless otherwise requested by the Procurement Officer) with an itemized breakdown of all increases or decreases in the cost of the Contractor's and all subcontractors' work, in at least the following detail:

(i) Material quantities and unit costs,

(ii) Labor costs (identified with specific item of material to be placed or operation to be performed),

(iii) Workmen's Compensation and Public Liability Insurance overhead, and

(iv) Employment taxes under FICA, FUTA, and CNMI Social Security System.

(b) The percentage for overhead, profit, and commission shall be negotiated and may vary according to the nature, extent, and complexity of the work involved, but in no case shall exceed fifteen percent (15%) of the estimated cost of the work, and shall be considered to include, but is not limited to, insurance other than that mentioned in this clause, bonds, use of small tools,

incidental job burdens, and general office expense. No percentages for overhead, profit or commission, will be allowed on employment taxes under FICA, FUTA, and CNMI Social Security System.

(c) The Contractor shall submit with the proposal, any request for time extension related to the claim for equitable adjustment.

(d) In considering a proposal, the Procurement Officer will make check estimates in detail, utilizing unit prices where specified or agreed upon, with a view to arriving at an equitable adjustment.

(e) After receipt of a proposal with a detailed breakdown, the Procurement Officer shall act promptly thereon. Provided, however, that when the necessity to proceed with a change does not allow sufficient time to properly check a proposal, or in the event of failure to reach an agreement on a proposal, the Procurement Officer may order the Contractor to proceed on the basis of price to be determined at the earliest practicable date but not to be more than the increase or less than the decrease proposed.

(f) Except in unusual cases where neither the Contractor nor the Judiciary can ascertain the full extent of the work which will be required pursuant to a change until the work involved therein has been substantially completed, final agreement on a proposal shall be effected no later than the time when the work involved is estimated by the Procurement Officer to be 50% complete; in the event final agreement cannot be reached by that time, the Procurement Officer shall issue a unilateral determination as to the equitable adjustment of the contract price and the time required for performance.

## 19. TERMINATION FOR DEFAULT

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will ensure its completion within the contract time, or fails to complete said work within the contract time, the Judiciary may, by written notice to the Contractor from the Procurement Officer, terminate the Contractor's right to proceed with the work or such part of the work as to which there has been delay, after providing ten (10) day's written notice and an opportunity to the Contractor to show cause why such action should not be taken. In the event of a termination for default under this clause, the Judiciary may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plans as may be on the site of the work and necessary therefor. Whether or not the Contractor's right to proceed with the work is terminated, the Contractor and their sureties shall be liable for any damage to the Judiciary resulting from the Contractor's refusal or failure to complete the work within the contract time.

(b) The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

(i) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of nature, acts of the public enemy, acts of the Commonwealth or the Judiciary in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers of any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and

(ii) The Contractor, within ten (10) days from the beginning of any such delay (unless the Procurement Officer grants a further period of time before the date of final payment under the

contract), notify the Procurement Officer in writing of the cause of delay. The Procurement Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in their judgement, the findings of fact justify such an extension and his findings shall be final, subject only to appeal as provided in the "Disputes and Remedies" clause.

(c) If the Judiciary terminates the Contractor's right to proceed under paragraph (a), the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work, together with any increased costs occasioned the Judiciary in completing the work.

(d) If the Contractor is in default under paragraph (a), but the Judiciary does not terminate the Contractor's right to proceed, the resulting damage will consist of applicable liquidated damages until the work is completed or accepted.

(e) The Contractor shall be in default of the Contract, and the Procurement Officer may immediately and without other notice, terminate the Contractor's right to proceed with the Contract through written notice to the Contractor of default termination, upon a determination by the Procurement Officer that, related to this particular contract, any of the following has occurred—

(i) The Contractor has committed any breach of ethical standards as defined in the Contract Documents, the NMI Judiciary Rules of Procurement, or other applicable law.

(ii) The Contractor has participated in any violation of the rules in the NMI Judiciary Rules of Procurement to the disadvantage of the Judiciary.

(iii) The Contractor has colluded with other potential awardees of the Contract or with government employees to the disadvantage of the Judiciary.

(iv) The Contractor knowingly requests and/or receives payment to which it is not entitled under the specific terms of the Contract.

(v) The Contractor accepts payment with knowledge that government employees or officials authorizing the payment have not complied with the terms of the Contract or applicable law.

(f) If, after notice of termination of the contractor's right to proceed under any of the provisions of this clause, it is subsequently determined by the Procurement Officer (or, upon review of the Procurement Officer's decision, by an authorized administrative or judicial body) that the Contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the "Termination for the Convenience of the Judiciary" clause. This paragraph shall provide the exclusive remedy for a wrongful termination for default.

(g) Any disagreement of the Contractor to any action taken by the Judiciary under this clause shall be a dispute within the meaning of the "Disputes and Remedies" clause.

(h) The rights and remedies of the Judiciary provided in this clause are in addition to any other rights and remedies provided by law or under the Contract.

## 20. TERMINATION FOR THE CONVENIENCE OF THE JUDICIARY

(a) Termination. The Procurement Officer may, when the interests of the Judiciary so require, terminate this contract in whole or in part, for the convenience of the Judiciary. The Procurement Officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when the termination becomes effective.

(b) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and, on the date set in the notice of termination, the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as

they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the Judiciary. The Contractor must still complete the work not terminated by the notice of termination and incur obligations as are necessary to do so.

(c) Right to Supplies. The Procurement Officer may require the Contractor to transfer title and deliver to the Judiciary in the manner and to the extent directed by the Procurement Officer:

- (i) Any completed supplies; and
- (ii) Such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the Contractor has specifically produced or specially acquired for the performance of the terminated part of the Contract.

(d) The Contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the Contractor in which the Judiciary has an interest. If the Procurement Officer does not exercise the right specified in paragraph (c), the Contractor shall use their best efforts to sell such supplies and manufacturing materials in accordance with the standards of the Uniform Commercial Code of the Northern Mariana Islands, 5 CMC § 2706. Utilization of this procedure in no way implies that the Judiciary has breached the contract by exercise of the "Termination for Convenience of the Judiciary" clause.

(e) Compensation. The Contractor shall submit to the Procurement Officer a termination claim specifying the amount due because of the Termination for Convenience together with cost and pricing data to the extent required. If the Contractor fails to file a termination claim within one (1) year from the effective date of the termination, the Procurement Officer may pay the Contractor, if at all, an amount set in accordance with paragraph (g).

(f) The Procurement Officer and the Contractor may agree to a settlement provided the Contractor has filed a termination claim and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the Judiciary, the proceeds of any sales and supplies and manufacturing materials under paragraph (d) and the contract price of the work not terminated.

(g) Absent complete agreement under paragraph (f), the Procurement Officer shall pay the Contractor the following amounts, provided payments agreed to under paragraph (f) shall not duplicate payments under this paragraph:

- (i) contract prices for supplies or services accepted under the contract.
- (ii) costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted supplies or services; provided, however, that if it appears that the Contractor would have sustained a loss if completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss.
- (iii) cost of settling and paying claims arising out of termination of subcontracts or orders pursuant to paragraph (f). These costs must not include costs paid in accordance with subparagraph (g)(ii).
- (iv) the reasonable settlement costs of the Contractor including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract for the termination and settlement of the contracts thereunder, together with reasonable storage, transportation, and other costs incurred in

connection with the protection or disposition of property allocable to the terminated portion of the Contract. The total sum to be paid the Contractor under this subparagraph shall not exceed the total contract price plus reasonable settlement costs of the Contractor reduced by the amount of payments otherwise made from the proceeds of any sales of supplies and manufacturing materials under paragraph (d), and the contract price of work not terminated.

## 21. RIGHTS-OF-WAY

(a) The Judiciary will furnish all lands, easements, and rights-of-way required for completion of the work. In acquiring easements or rights-of-way the Judiciary will proceed as expeditiously as possible, but in the event all rights-of-way or easements are not acquired prior to the beginning of construction, the Contractor shall begin work on such lands and rights-of-way as have been acquired. No claim for damage will be allowed by reason of the Judiciary's delay in obtaining lands, easements, or rights-of-way. In the event of litigation or other delays in acquiring rights-of-way, the time allowed herein for completion of the work will be extended to compensate the Contractor for time actually lost by such delay.

## 22. APPROPRIATENESS OF EQUIPMENT

The Contractor shall furnish such equipment as is considered necessary for the prosecution of the work in an acceptable manner and at a satisfactory rate of progress. All equipment, tools, and machinery used for handling materials and executing any part of the work may be subject to the approval of the Procurement Officer and may be maintained in a satisfactory working condition. Equipment used on any portion of the work shall be such that no injury to the work, roadways, adjacent property, or other objects will result from its use. The contract may be terminated if the Contractor fails to provide adequate and proper equipment for the work.

## 23. SITE INVESTIGATION

(a) The Contractor acknowledges that they have investigated and satisfied themselves as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides, or similar physical conditions at the site, the conformations and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that they have satisfied themselves as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Judiciary, as well as from information presented by the drawings and specifications made as part of this contract. Any failure by the Contractor to acquaint themselves with the available information will not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work. The Judiciary assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the Judiciary.

## 24. DIFFERING SITE CONDITIONS

(a) The Contractor shall promptly, and before such conditions are disturbed, notify the Procurement Officer in writing of:

(i) Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract, or;

- (ii) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered, and generally recognized as hindering work of the character provided for in the Contract.
- (b) The Procurement Officer shall promptly investigate the conditions, and if they find that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for performance of, any part of the work under the Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the contract modified in writing accordingly.
- (c) No claim by the Contractor under this clause shall be allowed unless the Contractor has given notice required in (a) above; provided, however, the time prescribed therefore may be extended by the Judiciary.
- (d) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.
- (e) The Contractor shall submit all claims for equitable adjustment in accordance with, and subject to the requirements and limitations set out in the "Equitable Adjustment" clause.
- (f) Upon written request by the Procurement Officer, the Contractor shall submit a proposal, in accordance with the requirements and limitations set out in the "Equitable Adjustment" clause, for work involving contemplated changes covered by the request, within the time limit indicated in the request or any extension of such limit as may be subsequently granted. If, within a reasonable time after receipt of such a proposal, the Procurement Officer orders the Contractor to proceed with the performance of the work contemplated, the proposal submitted prior to the order shall constitute the Contractor's statement of the monetary extent of claim for equitable adjustment.

## 25. INSPECTION AND ACCEPTANCE

- (a) Except as otherwise provided in the Contract, inspection and test by the Judiciary of material and workmanship required by the Contract shall be made at reasonable times and at the site of the work, unless the Judiciary determines that such inspection or test of material which is to be incorporated in the work shall be made at the place of production, manufacture, or shipment of such material. To the extent specified by the Judiciary, at the time of determining to make off-site inspection or test, such inspection or test shall be conclusive as to whether the material involved conforms to the contract requirements. Such off-site inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Judiciary after acceptance of the completed work under the terms of paragraph (b) of this clause, except as provided in this paragraph.
- (b) The Contractor shall, without charge, replace any materials or correct any workmanship found by the Judiciary not to conform to the contract requirements unless, in the public interest, the Judiciary consents to accept such material or workmanship with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (c) If the Contractor does not promptly replace such material or correct such workmanship, the Judiciary may: (1) by contract or otherwise, replace such material or correct such workmanship and charge the cost thereof to the Contractor; or (2) terminate the Contractor's right to proceed in accordance with the "Disputes and Remedies" clause.
- (d) The Contractor shall furnish promptly, without additional charge, all facilities, labor and material reasonably needed for performing the safe and convenient inspection and test as may be required by the Judiciary. All inspection and testing by the Judiciary shall be performed in such

manner so as to not delay the work unnecessarily. Special, full size, and performance tests shall be performed as described in the Contract. The Contractor shall be charged with any additional cost of inspection when material and workmanship are not ready at the time specified by the Contractor for its inspection.

(e) Should it be considered necessary or advisable by the Judiciary, at any time before acceptance of the entire work, to make an examination of work already completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect, due to the fault of the Contractor or their subcontractors, they shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, an equitable adjustment shall be made in the contract price to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the work has been delayed thereby, they shall, in addition, be granted a suitable extension of time.

(f) Unless otherwise provided in the Contract, acceptance by the Judiciary shall be made as promptly as practicable after completion and inspection of all work required by the Contract. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Judiciary's right under any warranty or guarantee.

(g) The Contractor shall give the Judiciary at least 10 days advance written notice of the date the work will be fully complete and ready for final inspection and tests will be started within 10 days from the date specified in the aforesaid notice unless the Judiciary determines that the work is not ready for final inspection and so informs the Contractor.

(h) The Contractor shall submit to the Judiciary, in writing, a letter request for a pre-final inspection not less than 72 hours (3 days) prior to the date of the requested inspection. The Contractor should provide a copy of this letter to the Judiciary or their designee with a date stamp mark affixed by the NMI Judiciary Office of Procurement.

## 26. MATERIAL AND WORKMANSHIP

(a) Unless otherwise specifically provided in the Contract, all equipment, material, and articles incorporated in the work covered by the Contract are to be new and of the most suitable grade for the purpose intended. Unless otherwise specially provided in the Contract, reference to any equipment, material, article, or patented process, by trade name, make or catalog number, shall not be construed as limiting competition, and the Contractor may, at their option, use any equipment, material, article or process which, in the judgment of the Procurement Officer, is equal to that named. The Contractor shall furnish to the Procurement Officer for their approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature, and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection.

(b) All work under the Contract shall be performed in a skillful and workmanlike manner. The Procurement Officer may, in writing, require the Contractor to remove from the work any employee the Procurement Officer deems incompetent, careless, or otherwise objectionable.

## 27. OTHER CONTRACTS

(a) The Judiciary may undertake or award other contracts for additional work, and the Contractor shall fully cooperate with such other contractors and Judiciary employees and carefully fit his own work to such additional work as may be directed by the Judiciary. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor, or with the performance of work by any Judiciary employee.

## 28. SUBCONTRACTS

(a) Nothing contained in this contract shall be construed as creating any contractual relationship between any subcontractor and the Judiciary. The divisions or sections of the specifications are not intended to direct the Contractor in dividing the work among subcontractors, or to limit the work performed by any trade.

(b) Within ten (10) days after award of any subcontract by either the Contractor or any of their subcontractors, the Contractor shall deliver to the Judiciary a statement setting forth the name and address of the subcontractor and a summary description of the work subcontracted.

(c) The Contractor shall be responsible to the Judiciary for acts and omissions of their own employees and of subcontractors and their employees. They shall also be responsible for the coordination of the work of the trades, subcontractors, and suppliers.

(d) The Judiciary will not undertake to settle any differences between or among the contractor, subcontractors, and suppliers.

## 29. JUDICIARY OCCUPANCY

(a) The Procurement Officer reserves the right of partial occupancy or use of facilities, services, and utilities, prior to final acceptance, without implying compliance or acceptance of any part of the project by the Judiciary. Prior to such occupancy or use, the Judiciary shall furnish the Contractor with an itemized list of work remaining to be performed or corrected.

(b) Costs incurred as a result of such partial occupancy or use of facilities, services and utilities are subject to equitable adjustment under the provisions of the "Changes" and the "Equitable Adjustment" clauses.

(c) Necessary restoration and repair of damage resulting from partial occupancy or use shall not be at the expense of the Contractor.

## 30. PERMITS AND RESPONSIBILITIES

(a) Unless otherwise agreed, the Contractor shall, without additional expense to the Judiciary, be responsible for obtaining all necessary licenses and permits and for complying with all applicable Federal, Commonwealth of the Northern Mariana Islands, and municipal codes and regulations in connection with prosecution of the work. The Contractor shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction thereof which therefore has been accepted.

## 31. CONVICT LABOR

In connection with the performance of work under the Contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

### 32. DEBRIS AND CLEANING

(a) The Contractor shall, during the progress of the work, remove and dispose of the resultant dirt and debris and keep the job site clean.

(b) Upon completion of the work, the Contractor shall remove from the vicinity of the work all plant, buildings, rubbish, unused materials, concrete forms and other like material and construction equipment belonging to him/her or used under their direction during construction, except as otherwise directed, and in the event of their failure to do so to the satisfaction of the Judiciary, the same may be removed by the Judiciary or otherwise, at the expense of the Contractor, and their surety or sureties shall be liable therefore.

### 33. SANITATION

Adequate sanitary conveniences of an approved type for the use of persons employed on the work, and properly secluded from public observation, shall be provided and maintained by the Contractor in such a manner and at such points as shall be required or approved by the Judiciary. These conveniences shall be maintained at all times without nuisance, and this shall be strictly enforced. Upon completion of the work, they shall be removed from the premises, leaving the premises clean and free from nuisance.

### 34. FAILURE TO FURNISH INFORMATION AND RECORDS

(a) If the Contractor or any subcontractor or the officers or agents of the Contractor or any subcontractor shall refuse or have refused, except as provided otherwise by the terms Contract, to furnish to any Commonwealth agency, or any establishment in the legislative or judicial branch of the Commonwealth, information or records reasonably pertinent to the Contract or any other Judiciary contract in connection with which the Contractor or any such subcontractors has or shall have performed work or furnished materials or supplies or undertaken so to do, the following action may be taken:

(b) In the case of a refusal by the Contractor, its officers or agents, the Judiciary may, after affording an opportunity to explain or justify such refusal, terminate the Contractor's right to proceed with the work under the Contract and thereupon the Judiciary may avail itself of the rights and remedies provided in the "Termination for Default" clause, in addition to any other rights and remedies provided by law or under the Contract.

(c) In the case of a refusal by a subcontractor, its officers or agents, the Judiciary may, after affording an opportunity to explain or justify such refusal, require the Contractor to terminate the subcontract without cost to the Judiciary, or if the Contractor fails or refuses to effect such termination, the Judiciary may terminate the Contractor's right to proceed with the work under the Contract and thereupon the Judiciary may avail itself of the rights and remedies referred to in the "Termination for Default" clause.

### 35. COMPLIANCE WITH FEDERAL REQUIREMENTS

Any contract funded with federal funds is required to comply with all applicable federal laws, executive orders, policies regulations, and standards applicable to the specific project and provide federal agencies with access to Contractor records. Contractors have a duty to clarify applicable requirements prior to entering into the contract and by signature agree to comply with all applicable federal requirements. Federal requirements include but are not limited to the following:

(a) Hatch Act (5 U.S.C. §§ 1501-1508 and 7324 -7328);

- (b) OMB Circular A-133, Part 3;
- (c) Contract Work Hours and Safety Standards Act, (40 USCA § 3701 et seq.) If the Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR part 5). Under 40 U.S.C. 3702 of the Act, Contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence;
- (d) Clean Air Act, (42 USCA § 7606 et seq.); and
- (e) Federal Water Pollution Control Act, (33 U.S.C. 1251 et seq.) If the Contract is in excess of \$150,000 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401—7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251—1387). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA);
- (f) Davis-Bacon Act, (40 U.S.C. 276a – 276a-7) If the Contract is in excess of \$2000 and pertains to construction or repair, and further, if required by Federal program legislation, Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141—3148) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, the Contractor is required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor shall be required to pay wages not less than once a week;
- (g) Copeland Anti-Kickback Act (18 USC § 874 et seq.) If the Order is in excess of \$2000 and pertains to construction or repair, Contractor shall comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides in part that Contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which it is otherwise entitled;
- (h) Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333);
- (i) Equal Employment opportunity compliance including Federal statutes relating to discrimination including but not limited to Title VI of the Civil Rights Act of 1964 (P.L. 88-352; Title IX of Education Amendments of 1972, as amended (20 U.S.C. §§ 1681, 1683, 1685 - 1686), (42 USCA § 2001 et seq.);
  - (i) Equal Employment Opportunity. For all Contracts that qualify as “federally assisted construction contracts” as defined in 41 CFR Part 60–1.3, Contractor agrees to comply with E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of

Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

- (ii) Additional Equal Employment Opportunity Clause. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Procurement Officer setting forth the provisions of this nondiscrimination clause.
  
- (j) Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) Legal citations provided above are not meant as limiting Contractor to specified sections of federal requirements, and are only provided to assist the contractor in identifying some pertinent sections of law;
- (k) Energy Policy and Conservation Act (42 U.S.C. 6201) – Contractor agrees to comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201);
- (l) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – If the Contract is for \$100,000 or more, Contractor and its subcontractors shall file the certification required by this statute and associated regulations. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Commonwealth;
- (m) Debarment and Suspension (E.O.s 12549 and 12689) – Contractor represents and warrants that it is not listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM) in accordance with OMB guidelines at 2 CFR 180 that implement E.O.s 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549;
- (n) The Contractor certifies compliance with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In particular, the requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.
- (o) If applicable, the Contractor certifies compliance with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act by procuring

solid waste management services in a manner that maximizes energy and resource recovery.

- (p) If the contracting agency is an EPA financial assistance agreement recipient, then the contract agrees that it shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor further agrees that it shall carry out the applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies. The contractor understands that it bears the final responsibility for determining whether the contracting agency is an EPA financial assistance agreement recipient.

#### 36. TAXES, INSURANCE, AND PERMITS

The Contractor is responsible for all applicable Commonwealth or federal taxes and fees which may become due and owing by the Contractor by reason of this contract. The Contractor is also responsible for obtaining all insurance, licenses, permits, and certificates that may be required in order to perform this contract.

#### 37. DEBARMENT, SUSPENSION, AND PERSONAL LIABILITY FOR VIOLATION OF PROCUREMENT REGULATIONS

If the contract is in violation of the NMI Judiciary Rules of Procurement, then the Contractor may be subject to debarment or suspension from government contracting. Any person found to be violating the procurement rules may be personally liable for any damages incurred, in addition to other penalties provided for by law or rules.

#### 38. OFFICIALS NOT TO BENEFIT

No member of Congress of the United States, member of the Commonwealth of the Northern Mariana Islands Legislature or the Governor of the Commonwealth of the Northern Mariana Islands shall be admitted to any share of the Contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to the Contract if made with a corporation for its general benefit.

#### 39. GRATUITIES

It shall be a breach of contract for the Contractor to offer, give, or agree to give a gratuity or an offer of employment to any employee or former employee in connection with the execution of this contract. It shall be a breach of contract for any government employee to solicit, demand, accept, or agree to accept from the contractor, a gratuity, or an offer of employment in connection with the execution of this contract.

#### 40. KICKBACKS PROHIBITED

It shall be a breach of contract for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

#### 41. CONTINGENT FEES

The Contractor hereby represents that it has not retained any person to solicit or secure government contracts upon an agreement or understanding for a commission percentage, brokerage or contingent

fee except for the retention of a bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

42. RIGHT TO AUDIT

The Contractor and subcontractor or grantee and sub-grantee at all levels shall provide the Public Auditor of the Commonwealth of the Northern Mariana Islands with access to and the right to examine and copy any records, data or papers relevant to this contract or grant until three (3) years have passed since the final payment pursuant to this contract or grant.

43. RIGHT TO INSPECT PLANT OR PLACE OF BUSINESS [AS APPLICABLE]

The Judiciary may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of the Contract.