

**INDEPENDENT CONTRACTOR AGREEMENT  
BETWEEN  
THE STATE BAR OF CALIFORNIA  
AND  
MACIAS GINI & O'CONNELL, LLP**

**THIS INDEPENDENT CONTRACTOR AGREEMENT** ("Agreement") is made as of the last signature date set forth below ("Effective Date"), by and between The State Bar of California ("State Bar"), a public corporation having a principal place of business at 180 Howard Street, San Francisco, CA 94105, and Macias Gini & O'Connell, LLP, a California limited liability partnership ("Contractor"), having a principal place of business at **2121 North California Boulevard, Suite 750, Walnut Creek, CA 94596**. This Agreement sets forth the terms and conditions by which Contractor will perform services for the State Bar. The State Bar and Contractor are sometimes referred to individually as a "Party," and collectively as the "Parties."

**RECITALS**

WHEREAS, the State Bar wishes to retain Contractor to provide certain auditing services described below upon the terms and conditions hereinafter set forth.

WHEREAS, the Contractor agrees to perform such services.

NOW, THEREFORE, in consideration of covenants and agreements herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, agree as follows:

**ARTICLE 1 - SERVICES**

1.1. Services. Contractor agrees to perform the services described in the attached Statement of Work, attached hereto as Attachment A (collectively referred to as "Services") to the reasonable satisfaction of an individual designated by the State Bar, who at this time is Aracely Montoya-Chico ("Authorized Representative").

1.2. Change Orders. The Parties agree that either Party may request reasonable changes to the scope of the Services, Fee, project schedule or timeline, or any other Contractor obligations under this Agreement after the Effective Date by submitting a written request ("Change Order Proposal") to the other Party. Any acceptance of the Change Order Proposal must be in writing and executed by the Parties, and such written and executed instrument ("Change Order Amendment") will state the Parties' mutual agreement to enter into such Change Order Amendment to this Agreement. Contractor shall not proceed with any changes to its obligations unless first documented in a Change Order Amendment executed by both Parties.

## **ARTICLE 2 - TERM OF AGREEMENT**

2.1. **Term.** The term of this Agreement will commence on the Effective Date and will continue in full force and effect until 11:59:59 pm on December 31, 2029 ("**Expiration Date**", together with the Effective Date, the "**Term**") unless terminated earlier in accordance with the provision of **Article 10**.

2.2. **Extension of Term.** Any extensions or renewal of the Term will be subject to a mutual written agreement between Contractor and the State Bar. If the Parties renew the Term, the terms and conditions during such extension or renewal term will be the same as the terms and conditions in effect immediately prior to such renewal or extension, unless otherwise agreed to in writing by the Parties. If the Parties fail to renew or extend this Agreement, then, unless otherwise sooner terminated in accordance with its terms, this Agreement shall terminate on the Expiration Date.

2.3. **Time of the Essence.** Contractor agrees that time is of the essence with respect to Contractor's performance of each term and deadline under this Agreement.

## **ARTICLE 3 – RELATIONSHIP OF THE PARTIES**

3.1. **Independent Contractor.** The Parties agree that Contractor is an independent contractor and not an associate, employee, agent, joint-venturer, or partner of the State Bar. Nothing in this Agreement will be interpreted or construed as creating or establishing the relationship of employer and employee between the State Bar and Contractor or any assistant, employee, or agent of Contractor. Neither Contractor nor its employees or agents shall perform any acts that might lead others to believe that they are representatives of the State Bar, except as to the performance of the Services. Contractor has no authority (and will not hold itself out as having authority) to bind the State Bar and Contractor shall not make any agreements or representations on the State Bar's behalf without its prior written consent. The State Bar will not control or direct the manner or means by which Contractor, or Contractor's employees or subcontractors (if authorized), perform the Services. The Parties agree that the Services performed are outside the usual course of the State Bar's business.

3.2. **Contractor Capabilities.** Contractor represents and warrants that the Contractor is customarily engaged in an independently established trade, occupation, or business of the same nature as the Services performed hereunder.

3.3. **Furnish Labor and Equipment.** Unless otherwise provided in this Agreement, Contractor will furnish, at its own expense, all labor, tools, equipment, and materials necessary to perform the Services.

3.4. **Compliance with Applicable Rules.** Contractor shall comply with all rules and procedures communicated to Contractor in writing by the State Bar, including those related to safety, security, and confidentiality.

3.5. State Bar Benefits and Tax Withholdings. Contractor is not eligible to participate in any vacation benefits, group medical or life insurance, disability benefits, retirement benefits, or any other fringe benefits or benefit plans offered by the State Bar to its employees. The State Bar will not be responsible for withholding or paying any income, payroll, Social Security, or other federal, state, or local taxes. The State Bar will not be responsible for making any insurance contributions, including for unemployment, disability, or workers' compensation insurance on Contractor's behalf.

3.6. Contractor may, at Contractor's own expense, retain or employ such assistants, employees, or personnel as Contractor deems necessary to perform the Services and such individuals will be Contractor's employees or subcontractors. Contractor assumes full and sole responsibility for the payment of all compensation and expenses of these assistants, employees, or personnel, including workers' compensation coverage as required, all federal, state, and local income taxes, unemployment and disability insurance, Social Security, or other applicable withholdings.

#### **ARTICLE 4 - COMPENSATION**

4.1. Conditions for Payment of Compensation. The State Bar will compensate Contractor for Services performed to the reasonable satisfaction of the State Bar. If the State Bar determines that any Services performed by the Contractor are unsatisfactory, Contractor will promptly (but in no event less than thirty (30) days) attempt to correct the alleged unsatisfactory Services at no additional charge to the State Bar.

4.2. Invoices; Schedule. Contractor will prepare and send to the State Bar, no more frequently than biweekly, invoices that include at least the following information: (i) the date(s) upon which the Services were performed; (ii) a summary description of the Services performed; (iii) the total number of hours incurred for each date worked; and (iv) a detailed description of cost reimbursements sought for the time period. Each invoice submitted will reference the appropriate State Bar purchase order number SBC240374.

4.3. Proposed Reimbursable Expenses. Contractor will be reimbursed for actual and reasonable out-of-pocket expenses in connection with the performance of the Services that have been authorized in advance in writing by the State Bar, have been substantiated to the satisfaction of the State Bar, and are in accordance with the State Bar's Travel Expense policy then in effect. The current State Bar's Travel Expense policy is available at: <http://www.calbar.ca.gov/Portals/0/documents/forms/Travel-Expense-VOL.pdf>

4.4. Payment Schedule. For Services satisfactorily rendered pursuant to this Agreement, the State Bar will pay Contractor a not-to-exceed amount of One Million Seventy-Seven Thousand Seven Hundred Fifteen U.S. Dollars (1,077,715.00) over the full potential term of this Agreement, inclusive of the Initial Term and all Renewal Terms.

- i. The State Bar shall pay Contractor One Hundred Seventy-Two Thousand One Hundred Thirty-Five U.S. Dollars (\$172,135.00) for the 2024-2025 financial auditing services and Nineteen Thousand Two Hundred Fifty U.S. Dollars (\$19,250.00) for the 2024-2025 single audit for the total fixed fee of One Hundred Ninety-One Thousand Three Hundred Eighty-Five U.S. Dollars (\$191,385.00) for Year 1; One Hundred Seventy-Two Thousand One Hundred Thirty-Five U.S. Dollars (\$172,135.00) for the 2025-2026 financial auditing services and Nineteen Thousand Two Hundred Fifty U.S. Dollars (\$19,250.00) for the 2025-2026 single audit for the total fixed fee of One Hundred Ninety-One Thousand Three Hundred Eighty-Five U.S. Dollars (\$191,385.00) for year 2; and, One Hundred Seventy-Two Thousand One Hundred Thirty-Five U.S. Dollars (\$172,135.00) for 2026-2027 for year 3.
- ii. If the State Bar exercises the first one-year Renewal Term, the State Bar shall pay Contractor a fixed fee of One Hundred Seventy-Two Thousand One Hundred Thirty-Five U.S. Dollars (\$172,135.00) for 2027-2028 for year 4.
- iii. If the State Bar exercises the second one-year Renewal Term, the State Bar shall pay Contractor One Hundred Seventy-Two Thousand One Hundred Thirty-Five U.S. Dollars (\$172,135.00) for the 2028-2029 financial auditing services and One Hundred Seventy-Eight Thousand Five Hundred Forty U.S. Dollars (\$178,540.00) for 2028 Internal Controls Review for the total fixed fee of Three Hundred Fifty Thousand Six Hundred Seventy-Five U.S. Dollars (\$350,675.00) for year 5.

## **ARTICLE 5 - WARRANTIES AND REPRESENTATIONS**

1.1. **Qualifications.** Contractor warrants that Contractor and its personnel, employees, and subcontractors (if authorized) have the education, qualifications, expertise, experience, and ability necessary to perform the Services in a diligent, timely, professional, and workmanlike manner consistent with the highest industry standards for similar services.

1.2. Contractor warrants that the Services furnished pursuant to this Agreement will conform to the requirements of this Agreement.

1.3. **Legal Compliance.** Contractor warrants and represents that it has, or it will obtain in a timely manner before the commencement of the Services, all permits, licenses, registrations, or approvals necessary or applicable to Contractor's delivery of the Services.

1.4. **Original Work.** Contractor warrants that all Work Product is and will be Contractor's original work (except for material in the public domain or provided by the State Bar) and does not and will not violate or infringe upon the intellectual property rights or any other rights of any person, firm, corporation, or other entity.

1.5. **Title to Work.** Contractor warrants that the State Bar will receive good and valid title to all Work Product, free and clear of all encumbrances and liens of any kind.

1.6. Good Standing. Contractor represents and warrants that it has been duly organized, is validly existing and in good standing under the laws of the state of California and is duly qualified to do business in and is in good standing in the State of California.

1.7. No Material Litigation. Contractor represents that to the knowledge of Contractor no litigation is pending or threatened against or affecting Contractor or any affiliate of Contractor (i.e., entity in which Contractor has a minority stake in the ownership of such entity) that will have a material adverse effect on Contractor's ability to perform the Services.

1.8. Contractor warrants that it is the sole owner or licensee of all intellectual property rights necessary for the execution of the Services under the Agreement.

## **ARTICLE 6 - INDEMNITY**

### **2.1. Contractor's Indemnification Obligation**

2.1.1. Indemnification. Contractor shall indemnify and defend and hold harmless the State Bar, including its Board of Trustees, members of State Bar's committees and subentities, officers, directors, agents, attorneys, employees, volunteers successors, and assigns, including their respective boards, officers, directors, agents, attorneys, employees and partners (as the same may be constituted from time to time, hereinafter referred to as "State Bar Indemnified Party (or Parties)") from and against any and all claims, demands, damages, debts, liabilities, losses, obligations, costs, expenses, liens, judgments, awards, penalties, fines, actions, or causes of action (including but not limited to reasonable attorneys' fees, costs, and expenses), whether or not litigation is actually commenced (collectively, "Losses"), arising out of or in connection with any actual or alleged direct claim or third-party claim alleging: (i) breach by Contractor of any warranty, representation, term, condition, or obligation under this Agreement; (ii) any claim or action related to the Work Product, the Services, and the deliverables prepared by or for Contractor in connection with this Agreement and provided to the State Bar; (iii) any claim or action for personal or bodily injury, or death, or otherwise involving alleged defects in Contractor's business or any of its products or services prepared or created in connection with this Agreement, whether or not provided to the State Bar; (iv) any failure by Contractor to comply with any statutory or regulatory obligation in the performance of its obligations under this Agreement; (v) the actual or alleged infringement by Contractor of any copyright, trademark, or other proprietary right of any person or entity; (vi) breach or potential breach of data or privacy; or (vii) any act or omission of Contractor or its employees, agents, or subcontractors related to the performance of this Agreement.

2.1.2. Costs and Expenses. Contractor will be liable to the State Bar for all costs (including but not limited to reasonable attorneys' fees, costs, and expenses) incurred by the State Bar for the purposes of enforcing this indemnity provision.

2.1.3. Legal Counsel. If both Parties are named as defendants in the same civil action, and the State Bar determines that a conflict of interest exists between the Parties, Contractor will provide, at its own cost, independent counsel for the State Bar. The State Bar may, at its option, designate its Office of General Counsel as an equal participating counsel in any litigation wherein the State Bar is defended by Contractor.

## 2.2. Indemnification Procedures

2.2.1. Notice of Claims and Lawsuits. If any third-party claim is commenced against any State Bar Indemnified Party entitled to indemnification under this Article, the State Bar will promptly give written notice thereof to Contractor, and Contractor shall immediately assume the defense of such claim with counsel acceptable to the State Bar. The State Bar's failure to provide a notice to Contractor under this section does not relieve Contractor of any liability that Contractor may have to the State Bar. The State Bar Indemnified Party will cooperate, at the sole cost of Contractor, in all reasonable respects with Contractor and its attorneys in the investigation, trial, and defense of such claim, and in any appeal arising therefrom; provided, however, that the State Bar Indemnified Party may, at its own cost and expense, participate, through its attorneys (including, but not limited to, the State Bar's Office of General Counsel) or otherwise, in such investigation, trial, and defense of such claim, and any appeal arising therefrom. Contractor will coordinate the defense of any third-party claim with the State Bar, including any investigation and trial, and any appeal therefrom. Contractor shall not enter into a settlement of any claim that involves a remedy other than the payment of money by Contractor without the prior written consent of the State Bar. If Contractor does not assume an immediate defense of a claim that Contractor is obligated to defend, the State Bar will have the right to defend the claim in such manner as it may deem appropriate, at the sole cost and expense of Contractor.

2.2.2. Selection of Counsel. Notwithstanding anything to the contrary in this Article, the State Bar may select its own legal counsel to represent its interests, and Contractor will:

- 2.2.2.1. reimburse the State Bar for its costs and attorneys' fees immediately upon request as they are incurred; and
- 2.2.2.2. remain responsible to the State Bar for any Losses indemnified under Section 6.1.1.

2.2.3. Internal Legal Expense. If any legal work reasonably necessary to the State Bar's defense as described herein is performed by the State Bar's Office of General Counsel, the State Bar will determine the value of such work at a reasonable hourly rate for comparable outside counsel and Contractor shall promptly pay it; provided, however, the Parties hereby confirm that such fees shall be recoverable with respect to legal work performed by the State Bar's Office of General Counsel only to the extent that such work is not duplicative of legal work performed by outside counsel paid for by Contractor and representing the State Bar in such matter.

## **ARTICLE 7 - INSURANCE**

3.1. Types and Limits of Insurance. During the Term of this Agreement, Contractor will maintain and keep in full force and effect at Contractor's own cost and expense, the following insurance policies for the joint benefit of Contractor and the State Bar:

3.1.1. Professional Liability Insurance coverage with a minimum limit of One Million Dollars (\$1,000,000). Such professional liability insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A-VII.

3.1.2. Commercial General Liability Insurance coverage having a combined single limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage liability, Two Million Dollars (\$2,000,000) annual aggregate, and One Million Dollars (\$1,000,000) for products/completed operations. Such commercial general liability insurance will name the State Bar and its Board of Trustees, directors, officers, and employees as additional insured. Such commercial general liability insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A:X.

3.1.3. Workers' Compensation Insurance coverage if Contractor has one (1) or more employees as defined by the State of California, coverage as required by applicable California state law and federal statutes covering liability for injuries to all persons employed by the insured in the conduct of its operations, together with employer's liability insurance in the amount of One Million Dollars (\$1,000,000) for each accident and One Million Dollars (\$1,000,000) policy limit for bodily injury by disease. Such workers' compensation insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A:X.

3.1.4. Comprehensive Automobile Liability coverage if a vehicle or mobile equipment are used to perform the Services under this Agreement, having a combined single limit of not less than One Million (\$1,000,000) per occurrence and insuring against liability for claims arising out of the ownership, maintenance, or use of any owned, hired or non-owned vehicles. Such comprehensive automobile liability insurance will name the State Bar and its Board of Trustees, directors, officers, and employees as additional insured. Such comprehensive automobile liability insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A:X.

3.1.5. Privacy Security Liability/Cyber Insurance coverage for a minimum limit of Two Million Dollars (\$2,000,000) per claim and annual aggregate. Such privacy security liability/cyber insurance will be with an insurance carrier with an A.M. Best rating of not less than A:X.

3.1.6. Umbrella Liability Insurance coverage with a general aggregate limit of Five Million Dollars (\$5,000,000.00) and a per occurrence limit of at least Five Million Dollars (\$5,000,000.00). Such umbrella liability insurance will name the State Bar and its Board of

Trustees, directors, officers, and employees as additional insured. Such umbrella liability insurance coverage will be with an insurance carrier with an A.M. Best rating of not less than A:X.

3.2. Certificates and Endorsements. Within fifteen (15) calendar days of the Effective Date, Contractor shall deliver to the State Bar offices at 845 S. Figueroa St., Los Angeles, CA 90017 Attn: Procurement, certificates of insurance, together with original endorsements, evidencing compliance with the requirements in this Article. Each certificate will provide that the issuing company (the insurer) will mail written notice to the State Bar thirty (30) calendar days prior to any cancellation of the policies or reduction in coverage or amount. In addition, Contractor shall also provide prompt written notice to the State Bar if there are any cancellations or lapses, reductions in coverage or coverage limit, or other material changes to the insurance policies. If Contractor fails to secure and maintain the required insurance policies as set forth in this Article, the State Bar may, in its sole discretion, purchase the required insurance coverage and Contractor shall reimburse the State Bar for all the associated costs, including any administrative costs incurred in securing such coverage. If Contractor assigns, subcontracts, or delegates any portion of the duties pursuant to Article 15, Contractor shall ensure that each such assignee, subcontractor, or delegee purchases and maintains insurance coverage required by this Agreement.

3.3. Waiver of Subrogation. Contractor waives and releases all claims and all rights of recovery against the State Bar for any loss, injury, or damage arising from any claim that: (i) is of the type that is required to be insured against under the terms of this Agreement, regardless of whether such insurance coverage actually exists; or (ii) is actually insured against under any insurance policy carried by Contractor, regardless of whether such insurance is required hereunder. To the extent permitted by law, Contractor's waiver and release will apply irrespective of the cause or origin of the claim, including the negligence or intentional misconduct of the State Bar, or of any person acting at the direction or under the control of the State Bar. Contractor agrees that the foregoing waiver will be binding upon its respective insurance carriers, and (except for any insurance policy that provides that the insured thereunder may effectively waive subrogation without further action on the part of the insured) Contractor shall obtain endorsements or take such other action as may be required to effect such insurer's waiver of subrogation under each such policy.

3.4. Waiver of Coverage. The State Bar agrees to waive the Workers' Compensation Insurance requirements above if Contractor initials here \_\_\_\_\_, and agrees that Contractor does not have one (1) or more employees as defined by the State of California. The State Bar agrees to waive the Automobile Liability Insurance requirements above if Contractor initials here \_\_\_\_\_, and agrees that Contractor will not use any vehicle or mobile equipment to perform the Services under this Agreement.

## **ARTICLE 8 – CONFIDENTIALITY**

4.1. Confidential Information. Contractor agrees to maintain in strictest confidence any non-public, proprietary, or confidential information, records, data, and/or any and all other

material disclosed or provided by the State Bar to Contractor or its employees, contractors, subcontractors, and agents (collectively, "Contractor's Representatives"), either orally, in writing, electronically or in any other form or medium, or that Contractor or Contractor's Representatives may otherwise receive access to in connection with the Services, concerning any aspect of the affairs of the State Bar, including by way of example and without limitation any information or material pertaining to the State Bar's operations, processes, plans, policies, procedures, Board of Trustees, leadership, management, employees, personnel, contractors, volunteers, legal and regulatory affairs, attorney-client privileged information, attorney work product, applicant admissions and moral character records, licensee disciplinary records that are confidential under Business and Professions Code section 6086.1(b), Bagley-Keene closed session materials, financial data, licensees (former and current), applicants, and relationships with third-parties ("Confidential Information"). Confidential Information also includes any notes, analyses, compilations, studies or other material, Work Product, deliverables or documents prepared by Contractor and Contractor's Representatives which contain, reflect, or are based, in whole or in part, on the Confidential Information, regardless of whether such documents are marked as Confidential Information. Confidential Information also includes any confidential or proprietary information of any third-party who may disclose such information to the State Bar in the course of the State Bar's affairs. Confidential Information will also include the existence and terms of this Agreement. Confidential Information does not include information that: (a) is or becomes a part of the public domain through no act or omission of Contractor or Contractor's Representatives; (b) is lawfully disclosed to Contractor or Contractor's Representatives by a third-party without restrictions on disclosure; or (c) was in Contractor or Contractor's Representative's lawful possession, as established by documentary evidence, prior to the disclosure by the State Bar.

4.2. Safeguarding Confidential Information. Contractor shall safeguard such Confidential Information and will take all necessary steps to protect such Confidential Information. Contractor will only use and disclose Confidential Information to Contractor's Representatives requiring such Confidential Information to perform the Services pursuant to this Agreement. Contractor will require each of Contractor's Representatives to execute a written agreement containing confidentiality obligations substantially similar to those in this Agreement. All Confidential Information furnished to Contractor by the State Bar is the sole and exclusive property of the State Bar or, where applicable, other third-parties. Contractor will notify the State Bar immediately of any unauthorized use, access, or disclosure of Confidential Information and take all commercially reasonable steps to prevent further use, access, or disclosure.

4.3. Unauthorized Disclosure. Contractor shall not disclose Confidential Information or permit it to be disclosed, in whole or part, to any third-party without the prior written consent of the State Bar in each instance. If any person or entity requests by a subpoena or court order any information or materials relating to this Agreement which is within the possession, custody, or control of Contractor (or the possession, custody, or control of personnel, employees, agents, or representatives of Contractor), Contractor shall promptly inform the State Bar of such request and cooperate with the State Bar to the extent the State Bar objects or moves to quash such request or subpoena. Notwithstanding any contrary provision contained herein, Contractor may

disclose Confidential Information to the extent that such disclosure is required by law or regulation, or is pursuant to a valid order of a court of competent jurisdiction or an authorized governmental authority; provided that Contractor: (a) immediately notifies the State Bar in writing of the disclosure request and to the extent not prevented from doing so by an applicable government authority, provides the State Bar a copy of the order by the applicable court or governmental authority so the State Bar may seek a protective order or another appropriate remedy; (b) cooperates with the State bar if it seeks a protective order or other appropriate remedy preventing or limiting disclosure; and (c) seeks confidential treatment of any Confidential Information required to be disclosed before disclosure. If the State Bar cannot obtain a protective order, another appropriate remedy, or otherwise fails to quash the legal process requiring disclosure, Contractor will work with the State Bar to disclose the requested Confidential Information only to the extent required by such law, regulation, or order.

4.4. Additional Remedies for Unauthorized Disclosure. Contractor acknowledges that irreparable harm can result to the State Bar and to third-parties by disclosure or threatened disclosure of Confidential Information that cannot be adequately relieved by monetary damages alone. Accordingly, the State Bar may seek equitable remedies including a temporary or permanent injunction or other equitable relief from any court of competent jurisdiction, without the necessity of showing actual damages and without the necessity of posting any bond or other security. The equitable relief will be in addition to, not in lieu of, legal remedies, monetary damages, or other available forms of relief. If the State Bar incurs any loss or liability arising out of disclosure or use of any Confidential Information by any one or more of Contractor's Representatives other than as authorized herein, that disclosure or use will be deemed to have been by Contractor for purposes of determining whether Contractor breached any of its obligations under the Agreement.

4.5. No Publicity. Contractor shall not issue any public announcements or statements related to this Agreement or the Services performed for the State Bar, or engage in any publicity or advertising related to the same, including but not limited to online, print, broadcast or social media, without obtaining the prior written consent of the State Bar.

4.6. Data Security. Contractor shall notify the State Bar in writing, as provided by section 13.1 and to [irt@calbar.ca.gov](mailto:irt@calbar.ca.gov), as soon as reasonably feasible, and in any event within twenty-four hours, of Contractor's discovery or reasonable belief of any security incident including, but not limited to, any actual or reasonably suspected: (i) unauthorized use of, or unauthorized access to, information systems, (ii) damage to, or inability to access, Confidential Information or information systems due to a malicious use, attack or exploit of such Confidential Information or information systems, (iii) unauthorized acquisition, alteration, disclosure, theft, or loss of or access to Confidential Information, (iv) unauthorized use of Confidential Information for purposes of actual, reasonably suspected, or attempted theft, fraud, identity theft or other misuse, (v) transmission of malicious code to the State Bar's information systems arising from, in whole or part, an act, error, or omission of Contractor or Contractor's Representatives, (vi) poisoning attacks or content-based attacks that materially impact the safety, reliability, and accuracy of Contractor's Services, and or (vii) any other cybersecurity event or personal

information breach as defined by any applicable data protection laws (“Security Incident”). Contractor shall begin remediation immediately. Contractor shall provide frequent updates regarding findings and actions performed by Contractor until the Security Incident has been effectively resolved to the State Bar’s satisfaction. Contractor shall conduct an investigation of the Security Incident and shall share the report of the investigation with the State Bar. At the State Bar’s sole discretion, the State Bar and its authorized agents shall have the right to lead or participate in the investigation. If the State Bar is subject to liability for any Security Incident, then Contractor shall indemnify, defend, and hold harmless the State Bar from such claims.

## **ARTICLE 9 – INTELLECTUAL PROPERTY RIGHTS**

5.1. Intellectual Property Rights Defined. For purposes of this Agreement, the term “Intellectual Property Rights” means know-how, inventions, patents, patent rights, and registrations and applications, renewals, continuations and extensions thereof, works of authorship and art, copyrightable materials and copyrights (including, but not limited to, titles, computer code, designs, themes, concepts, artwork, graphics and visual elements, and methods of operation, and any related documentation), copyright registrations and applications, renewals and extensions thereof, mask works, industrial rights, trademarks, service marks, trade names, logos, trademark registrations and applications, renewals and extensions thereof, derivative works, trade secrets, rights in trade dress and packaging, publicity, personality and privacy rights, rights of attribution, authorship, integrity and other similarly afforded “moral” rights, and all other forms of intellectual property and proprietary rights recognized by the U.S. laws, and other applicable foreign and international laws, treaties and conventions.

5.2. Work Product. Contractor recognizes and agrees that all rights, titles, and interests, including all Intellectual Property Rights, which may be prepared, procured, or produced in whole or in part in, or resulting from, the Services rendered by Contractor pursuant to this Agreement, including, without limitation, any and all deliverables, research, proposals, materials, reports, plans, other writings, and other work product (collectively referred to as “Work Product”), including all Intellectual Property Rights, are “works made for hire” for the benefit of the State Bar, and will be owned by the State Bar. To ensure that the Work Product becomes the sole property of the State Bar, in consideration of the mutual promises contained in this Agreement, Contractor hereby agrees to transfer, in perpetuity, to the State Bar all of the right, title, and interest in the Work Product, in the United States of America and throughout the world, and hereby assigns any and all such rights, including renewals and extensions of each such copyright(s) that may be secured under the laws now or hereafter. At the State Bar’s request and expense, Contractor will execute, during and after the Term, all further actions including execution and delivery of documents reasonably required to perfect the foregoing rights in the State Bar. In the event Contractor fails to execute any documents, Contractor appoints the State Bar as its attorney-in-fact to execute such documents on Contractor’s behalf. Contractor hereby waives or transfers any and all moral rights, including without limitation any right to attribution, identification, integrity, disclosure, authorship or any other rights that may be known as “moral rights,” or limitation on a subsequent modification that Contractor (or its employees, agents, or subcontractors) has or may have in the Work Product or any part thereof.

5.3. No Transfer of Title in and to Contractor's Pre-Existing IP. Notwithstanding the foregoing, the State Bar acknowledges that independent of this Agreement, Contractor has created, acquired, or otherwise has rights in and may, in connection with the performance of this Agreement, employ certain intellectual property, including, without limitation, various concepts, ideas, methods, methodologies, procedures, processes, know-how, or techniques (collectively, "Pre-Existing IP"). The State Bar and Contractor intend that Contractor's interests in or title to such Pre-Existing IP will remain vested in Contractor; provided, however, that to the extent that Work Product incorporates any Pre-Existing IP, Contractor hereby grants to the State Bar a worldwide, perpetual, non-exclusive, fully paid-up, royalty-free, irrevocable right and license to use such Pre-Existing IP as incorporated into such Work Product to enable the State Bar to have full use of such Work Product as contemplated by this Agreement, including, without limitation, the right to run, execute, copy, modify, create derivative works, display, distribute, and sublicense such rights. Contractor represents that its rights to any Pre-Existing IP are sufficiently broad to meet the requirements of this section.

5.4. No Transfer of Title in and to State Bar's Pre-Existing IP. As between Contractor and the State Bar, the State Bar is, and will remain, the sole and exclusive owner of all rights, titles, and interests in and to any documents, specifications, data, know-how, methodologies, software, Confidential Information and other materials provided or made accessible to Contractor by the State Bar ("State Bar Materials"), including all Intellectual Property Rights therein. Contractor has no right or license to reproduce or use any State Bar Materials except solely during the Term to the extent necessary to perform Contractor's obligations under this Agreement. All other rights in and to the State Bar Materials are expressly reserved by the State Bar. Contractor has no right or license to use the State Bar's trademarks, service marks, trade names, logos, symbols, or brand names.

## **ARTICLE 10 – TERMINATION OF AGREEMENT**

6.1. Termination by the State Bar. The State Bar may terminate this Agreement, in its sole discretion, with or without cause and for any reason upon fourteen (14) calendar days written notice to Contractor. Contractor's sole compensation will be for that portion of the Services performed by Contractor to the date of termination, together with reimbursable expenses, if any, then due pursuant to the Agreement; provided, however, that Contractor will not be paid for any services or reimbursable expenses associated with any work or service which was not authorized by the State Bar pursuant to the Agreement.

6.2. Termination by Contractor. Contractor may terminate this Agreement, in its sole discretion, with or without cause and for any reason upon thirty (30) calendar days written notice to the State Bar. Contractor's sole compensation will be for that portion of the Services performed to the date of termination, together with reimbursable expenses, if any, then due pursuant to the Agreement; provided, however, that Contractor will not be paid for any services or reimbursable expenses associated with any services which were not authorized by the State Bar pursuant to the Agreement.

6.3. This Agreement will terminate automatically in the event of the bankruptcy or insolvency of either Party.

6.4. Force Majeure. No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any terms of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected Party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, other specific potential disasters or catastrophes, such as epidemics, pandemics, or quarantines, or explosions; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national, regional, or local emergency; (h) strikes, labor stoppages or slowdowns, or other industrial disturbances; or (i) shortage of adequate power or transportation facilities. The Impacted Party shall give notice within seven (7) days of the Force Majeure Event to the other Party, stating the period of time the Force Majeure Event is expected to continue, and describing the impact on performance of the Services and other obligations under the Agreement. Notwithstanding the preceding sentence, if either Party's performance is affected by any Force Majeure Event, either Party may terminate this Agreement by written notice to the other Party, without any penalty, liability, or any other costs or damages, whatsoever.

6.5. Obligations Upon Expiration, Cancellation, or Termination. Upon expiration, cancellation, or termination of this Agreement, or at any other time upon the State Bar's written request, Contractor shall, within seven (7) calendar days after such expiration, cancellation, termination, or written request:

6.5.1. deliver to the State Bar all deliverables (whether complete or incomplete), Work Product and all materials, equipment, and other property provided for Contractor's use by the State Bar;

6.5.2. deliver to the State Bar all tangible documents and other media, including any copies, containing, reflecting, incorporating, or based on the Confidential Information;

6.5.3. permanently erase all the Confidential Information from Contractor's computer and phone systems; and

6.5.4. certify in writing to the State Bar that Contractor has complied with the requirements of this Section.

## **ARTICLE 11 - CONFLICT OF INTEREST**

7.1. Conflicts of Interest. Contractor represents that it is not now aware of any facts that create a potential or actual conflicts of interest, including offering or providing any incentive, directly or indirectly, to any member of State Bar's Board of Trustees, officer, director, employee or consultant in order to obtain this Agreement.

7.2. Additional Conflicts of Interest Requirements. Contractor understands and acknowledges that the State Bar is a public corporation, and as such, the organization and its Board of Trustees, officers, directors and employees are subject to various rules, laws and regulations relating to conflict of interests, gifts, honoraria and travel or other payments. Accordingly, Contractor acknowledges and agrees that Contractor shall, and ensure that any Contractor personnel assigned to provide the Services under this Agreement or any Statement of Work shall, comply with the following additional requirements:

7.2.1. Contractor and Contractor's personnel must comply with all applicable federal, state, and local laws and regulations pertaining to conflicts of interest laws, including without limitation State Bar's Conflict of Interest Code available at <https://www.calbar.ca.gov/Portals/0/documents/Conflict-of-Interest-Code-State-Bar.pdf>, filing of Statement of Economic Interests (Form 700) (if applicable), the California Political Reform Act (Government Code Section 81000 et seq.), Government Code Section 1090 et seq. and/or common law conflict of interest laws (collectively, the "Conflicts of Interest Laws").

7.2.2. During the term of this Agreement, Contractor shall not perform any work for State Bar or any another person, entity or business, which would: (i) result in an actual or potential conflict of interest under the Conflict of Interest Laws; (ii) require Contractor to abstain from any decision under this Agreement or prospective services of the Vendor its affiliate companies pursuant to the Conflict of Interest Laws and/or (iii) violate the Conflict of Interests Laws. Contractor warrants that it is not now aware of any facts, which violate any of these provisions and the Conflict of Interest Laws.

7.2.3. Contractor understands that, if this Agreement is made in violation of Government Code Section 1090 et seq., the entire Agreement is voidable and Contractor will not be entitled to any compensation for Services performed pursuant to this Agreement and Contractor will be required to reimburse State Bar any sums paid to Contractor. Contractor further understands that, in addition to the foregoing, Vendor may be subject to criminal prosecution for a violation of Government Code Section 1090.

7.3. Disclosure of Conflicts of Interest. If Contractor hereafter becomes aware of any facts that might reasonably be expected to either create a conflict of interest under the Conflict of Interest Laws or violate the provisions of this Section 11, Contractor shall immediately make full written disclosure of such facts to State Bar. Full written disclosure shall include, without limitation, identification of all persons, entities and businesses implicated and a complete description of all relevant circumstances. Vendor shall submit any disclosures required by this Section 11 to the address in Section 13.1 (Notices), with a copy to the attention of the General Counsel.

## **ARTICLE 12 - COMPLIANCE WITH LAWS**

8.1. Contractor, and its personnel, employees, and subcontractors will comply with all applicable laws, ordinances, and regulations adopted or established by federal, state, or local governmental bodies or agencies, including but not limited to the provisions of the Fair Employment and Housing Act (California Government Code, section 12900 et seq.) and any applicable regulations promulgated thereunder (California Code of Regulations, Title 2, section 7285.0 et seq.), ADA/ADAAA, and section 508 of the Rehabilitation Act. Contractor will include the non-discrimination and compliance provisions of this Article in all subcontracts that will perform work under the Agreement.

### **ARTICLE 13 – NOTICES**

9.1. Unless otherwise specifically stated in this Agreement, any notices to be given by either Party to the other must be in writing and delivered either personally or by express mail, facsimile, or electronic transmission with a copy sent by regular mail to the address set forth below.

<b>THE STATE BAR OF CALIFORNIA</b> <b>Attn: Procurement</b> <b>845 S. Figueroa St.</b> <b>Los Angeles, CA 90017</b>	<b>MACIAS GINI &amp; O’CONNELL, LLP</b> <b>2121 NORTH CALIFORNIA BOULEVARD,</b> <b>SUITE 750</b> <b>WALNUT CREEK, CA 94596</b>
<b>WITH COPIES TO</b>	
<b>Office of General Counsel</b> <a href="mailto:OGC@calbar.ca.gov">OGC@calbar.ca.gov</a>	
<b>Executive Director</b> <a href="mailto:Executivedirector@calbar.ca.gov">Executivedirector@calbar.ca.gov</a>	

Each Party may change the notice address appearing above by giving the other Party written notice in accordance with this Article.

### **ARTICLE 14 – AUDIT**

10.1. The State Bar reserves the right to have an independent audit conducted of Contractor’s compliance with the terms of this Agreement, if the State Bar reasonably believes such audit is necessary to ensure confidentiality, or financial or program accountability or integrity. Contractor shall retain all records associated with the Services performed for a period of three (3) years from the expiration, cancellation, or termination of this Agreement.

### **ARTICLE 15 – ASSIGNMENT**

11.1. Contractor shall not assign, subcontract, delegate, or otherwise transfer any of the rights, duties, or obligations set forth in this Agreement to any third-party without the prior written consent of the State Bar.

## **ARTICLE 16 – GENERAL PROVISIONS**

12.1. Entire Agreement. This Agreement, together with any attachments or appendices attached hereto, supersedes any and all other agreements, either oral or written, which may exist between the Parties with respect to the subject matter hereof, and contains all of the covenants and agreements between the Parties as of the Effective Date of this Agreement. By signing below, each Party acknowledges that no agreements, statements, or promises outside of those expressly set forth in this Agreement will be binding on the Parties.

12.2. Governing Law/Jurisdiction/Venue. This Agreement is deemed to have been made and entered into by the Parties at San Francisco, California, and will be governed and construed according to the laws of the State of California, without giving effect to any conflict of laws principles that would cause the laws of any other jurisdiction to apply. Contractor agrees to bring any action or proceeding arising out of or in connection with the Agreement only in any state court located in the City and County of San Francisco, California or the County of Los Angeles, California. Contractor irrevocably submits to the exclusive jurisdiction of these courts and waives the defense of inconvenient forum to the maintenance of any action or proceeding in such venue. Nothing contained in this Agreement constitutes a waiver of the State Bar's sovereign immunity or any individual's good faith, official, or otherwise applicable immunities.

12.3. No Third-Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than State Bar and its respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

12.4. Waiver. No waiver of a breach, failure of any condition, right, or remedy contained in or granted by the provisions of the Agreement will be effective unless and until it is in writing and signed by the Party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy will be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless the writing so specifies.

12.5. Modifications. No amendment, alteration, or variation of the terms of this Agreement will be valid unless made in writing and signed by both Parties.

12.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which, will constitute but one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile, email, or any other reliable means will be effective for all purposes as the delivery of a manually executed original counterpart. Either Party may maintain a copy of this Agreement in an electronic form. The Parties further agree that a copy produced from the delivered16 counterpart or electronic

form by any reliable means (for example, photocopy, facsimile, or printed image) will be considered an original in all respects.

12.7. Electronic Signature. The Parties acknowledge and agree that this Agreement may be executed by an electronic signature (digital, encrypted, or any other form), which will be considered an original and manual signature for all purposes and will have the same force and effect as an original and manual signature. Without limitation, an “electronic signature” will include faxed versions of an original signature, electronically scanned, and transmitted versions (e.g., via pdf) of an original signature, or transmittal via any other electronic means, and will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

12.8. Titles. The titles used are not a part of this Agreement and are included solely for convenience and have no bearing upon and do not in any way limit the application of the terms and conditions of this Agreement.

12.9. Severability. If any phrase, sentence, clause, or provision in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being affected, impaired, or invalidated in any way.

12.10. Survival. The provisions of Articles 5, 6, 8, 9, 10(F), 11, 14, 15, and 16 (Warranties and Representations, Indemnity, Confidentiality, Intellectual Property Rights, Termination of Agreement, Conflict of Interest, Audit, Assignment and General Provisions) will survive the cancellation, termination, or expiration of this Agreement.

12.11. Disputes. In the event of a dispute, Contractor will continue with its responsibilities under this Agreement, including but not limited to, continuing to provide the Services, unless and until the State Bar instructs otherwise in writing.

12.12. Authority to Contract. Each Party represents and warrants that it has full power to enter into and perform its respective obligations under this Agreement and that the person signing this Agreement has been properly authorized and empowered to enter into this Agreement. Each Party acknowledges that it has read and understands this Agreement and will be bound by it.

*[Signatures Follow]*

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**THE STATE BAR OF CALIFORNIA,**  
a public corporation

**MACIAS GINI & O'CONNELL, LLP,**  
a limited liability partnership

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: Aracely Montoya-Chico

Print: \_\_\_\_\_

Title: Chief Financial Officer

Title: \_\_\_\_\_

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

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

Taxpayer Identification: \_\_\_\_\_

DRAFT

ATTACHMENT A

STATEMENT OF WORK

[ATTACHED]

DRAFT

## STATEMENT OF WORK

By state law (California Business and Professions Code § 6145), the State Bar's annual audit must be performed by an independent national or regional firm with at least five (5) years of governmental auditing experience. Regional is generally defined as auditors having multiple offices throughout the western United States.

The State Bar's fiscal year begins on January 1 and ends on December 31. The State Bar currently has 672 authorized full-time employees and an annual budget of approximately \$400 million, with the largest portion being pass-through grants expenditures. The accounting and financial reporting functions of the State Bar are centralized. It follows the "business-type" activities reporting requirements of GASB Statement No. 34 that provides a comprehensive one-line look at the Bar's financial activities. The enterprise fund model is followed, and the full accrual basis of accounting is used. See [Attachment A: 2022 Financial Statement and Independent Auditor's Report](#) from the MGO audit firm for additional information.

### A. Scope of Work to be Performed

California Business and Professions Code § 6145 requires the State Bar to contract with an independent national or regional public accounting firm to audit its financial statements each fiscal year. The statute requires a copy of the audit and financial statement to be submitted to the State Bar's Board of Trustees and to specified public officials by May 31<sup>st</sup> after the close of the State Bar's fiscal year, which is the calendar year. **Any audit of the State Bar's financial statements must be completed no later than May 31<sup>st</sup> of each year.**

### B. Auditing Standards to Be Followed

To meet the requirements of this request for proposals, the audit shall be performed in accordance with generally accepted auditing standards ("GAAS") as set forth by the American Institute of Certified Public Accountants (AICPA).

### C. Reports to Be Issued

Following the completion of the audit of the fiscal year's financial statements, the auditor shall issue a report on the fair presentation of the financial statements in conformity with generally accepted accounting principles ("US GAAP"). The auditor shall communicate in a letter to management any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. In addition, the following conditions shall be considered reportable:

1. Irregularities and illegal acts. Auditors shall be required to make an immediate, written report of all irregularities and illegal acts of which they become aware to the following parties:
  - a. Executive Director
  - b. Chief Financial Officer
  - c. Audit Committee Chair
  
2. Reporting to the audit committee. Auditors shall ensure that the State Bar's audit committee is informed of each of the following:
  - a. The auditor's responsibility under generally accepted auditing standards;
  - b. Significant accounting policies;
  - c. Management judgments and accounting estimates;
  - d. Significant audit adjustments;
  - e. Other information in documents containing audited financial statements;
  - f. Disagreements with management;
  - g. Management consultation with other accountants;
  - h. Major issues discussed with management prior to retention;
  - i. Difficulties encountered in performing the audit.

#### D. Special Considerations

In addition to the audit of the State Bar's financial statements, the auditor will conduct and prepare a special financial report and audit called the *Statement of Expenditures of Mandatory Fees*. This report is required for compliance with the United States Supreme Court's decision in *Keller v. State Bar of California* (1990) 496 U.S. 1, which held that the State Bar cannot use mandatory fees paid by its members for political or ideological activities not related to regulation of the legal profession or improvement of the quality of legal services in California. Activities related to the regulation of the legal profession or improving the quality of legal services are described as chargeable, and all members can be compelled to support them. Activities falling outside of the regulation of the legal profession or improving the quality of legal services are nonchargeable. Under the *Keller* decision, the State Bar is required to offer those members who choose not to support nonchargeable activities an advance deduction of dues. The amount to be offered as a deduction is determined by reviewing the State Bar's last available audited financial statement. The Statement of Expenditures of Mandatory Fees is an audit of the calculation of chargeable and nonchargeable expenses based on the last available audited financial statement. A copy of the 2022 statement can be found in [Attachment A: 2022 Financial Statement and Independent Auditor's Report](#).

In addition to the audit of the above, the auditor will conduct and prepare a special financial report examination called the *Legal Services Trust Fund Program* report. The report is required for the State Bar's compliance with the provisions described in California Business and Professional Code, Article 14 Funds for the Provision of Legal Services to Indigent Persons, section 6210-6228. The examination assesses for

compliance that interest earned on certain client trust accounts held by California attorneys is forwarded regularly to the State Bar and, after payment of administrative costs, 85 percent of the funds are distributed to qualified legal service projects and 15 percent of the funds to qualified support centers. A copy of the 2022 statement is included as [Attachment B: Legal Services Trust Program report](#).

The auditor will need to conduct an audit and issue the *Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance* (aka the *Single Audit* report) that provides federal government (and pass-through grantors) with assurance that recipient has adequate internal controls in place and is generally in compliance with applicable laws, regulations and particular provisions of contracts and agreements. The audit of compliance is performed in accordance with generally accepted auditing standards (“GAAS”) in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*), and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The State Bar has received certain federal awards and expenditures of such awards are at least \$750,000 in one year. As a non-federal entity who received federal awards, the State Bar first became subject in 2022. Based on the most current knowledge, anticipated federal awards and expenditures would require a single audit for the State Bar’s 2023 and 2024 fiscal years.

#### E. Five-year Internal Controls Review

In accordance with the State Bar’s Board of Trustees policies, every five-years the State Bar is required to contract with an audit firm to review the State Bar’s internal controls. The review will cover the State Bar’s budget and fiscal policies and procedures, under the oversight of the Audit Committee. The last review took place in 2022. The review shall include two elements: a Policy and Procedure Review and an Internal Controls Review.

**Policy and Procedure Review** - The objective of the policy and procedure review is to evaluate whether operational, compliance, and financial reporting controls are adequate as designed to support the State Bar’s existing operations. The accounting firm shall review the State Bar’s financial policies and procedures and selected Information Technology procedures and assess them for adequacy and sufficiency to address the needs of State Bar operations and promote an effective and efficient control environment.

**Internal Controls Review** – The objective of the internal controls review is to evaluate whether the policies and procedures of the State Bar are in place and being followed. The review should be developed around industry best practices for the year in which it begins.

#### F. Presentation of Audit Reports/Deliverable

The accounting firm shall provide electronic copies of the *Financial Statements* and schedules, including the management letter upon issuance of the report. Electronic copies of the *Statement of Mandatory Fees*, the *Legal Services Trust Fund* report, and the *Single Audit* report upon issuance of such reports. The partner in charge of the audit shall be required to attend one public meeting at which the audit reports will be discussed. The *Single Audit* report results will be discussed and held in a separate meeting from the other aforementioned reports.

#### G. Rates for Additional Professional Services

If it should become necessary for State Bar to request the auditor to render any additional services to either supplement the services requested in this RFP or to perform additional work as a result of the specific recommendations included in any report issued on this engagement, then such additional work shall be performed only if set forth in an addendum to the contract between the State Bar and the firm. Any such additional work agreed to between State Bar and the firm shall be performed at the same rates set forth in the schedule of fees and expenses included in **Attachment 2: Itemized Cost Proposal**.

#### H. Manner of Payment

Progress payments will be made on the basis of hours of work completed during the course of the engagement and out-of-pocket expenses incurred in accordance with the firm's dollar cost bid proposal. Interim billing shall cover a period of not less than a calendar month.

#### I. Working Paper Retention and Access to Working Papers

All working papers and reports must be retained, at the auditor's expense, for a minimum of three (3) years, unless the firm is notified in writing by the State Bar of the need to extend the retention period. In addition, the firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

#### J. ORGANIZATIONAL STRUCTURE

##### 1. **Contact Persons/Organizational Chart**

The auditor's principal contact with the State Bar will be Aracely Montoya-Chico, Chief Financial Officer, and Coco Zeng, Controller, or other designated representative, who will coordinate the assistance to be provided by the State Bar to the auditor. For the Single Audit, the auditor's principal contact with the State Bar will be Doan Nguyen, Program Director (Office of Access & Inclusion (OA&I)).

An organizational chart with a list of key personnel with the location of their principal offices is attached as [Attachment D: State Bar Organization Structure](#). The State Bar employs approximately 650 employees. The Finance Department is made up of 17 employees who are responsible for budget and planning; accounting; and procurement. The Office of Access & Inclusion oversees all matters related to grants including, funds received, determination of expenditures to grantees and controls.

2. **Fund Structure**

The State Bar report its financial activities as one consolidated enterprise fund. The accounts of the State Bar are organized on the basis of funds, each of which is considered a separate accounting entity with its own self-balancing set of accounts that comprise its assets, deferred outflows of resources, liabilities, deferred inflows of resources, fund net position, revenues and expenses. The State Bar's funds are established for the purpose of carrying out specific activities or certain objectives in accordance with specific regulations, restrictions or limitations. For internal purposes, the State Bar's operations are divided into one General Fund and eleven restricted funds.

3. **Budgetary Basis of Accounting**

The State Bar prepares its budgets based on the working capital basis. The Bar's adopted budget is included as [Attachment C: 2024 Budget](#).

4. **Sources of Funding**

The State Bar's primary source of funding is mandatory membership fees from attorneys licensed to practice in the state. Other significant sources of revenue include voluntary dues/donations, licensure application fees, sections attorney membership fees, federal and non-federal grants, exam and moral character application fees, and client trust account revenue. The budgeted revenue total for 2024 is \$429 million, of which grant revenue accounts for over 50 percent of total revenue.

5. **Retirement Plans**

The State Bar's defined benefit plan provides retirement and disability benefits, annual cost of living adjustments, and death benefits to plan members and beneficiaries. The plan is part of the Public Agency portion of the California Public Employees' Retirement System (CalPERS), an agent multiple-employer plan administered by CalPERS which acts as a common investment and administrative agent for participating entities within the State of California.

6. **Post-retirement Benefits**

The State Bar provides certain health care and life insurance benefits for retired employees attaining specific age and service requirements. The State Bar has

established an irrevocable trust to administer the program. The State Bar funds the actuarially determined annual contribution and currently has an Other Post-Employment Benefits (OPEB) liability on its balance sheet. The Bar makes systematic transfers of the funds maintained in the Bar's trust to CalPERS under its CERBT Investment Fund Plan. No employee contributions are made to the plan and the State Bar has the right to modify plan provisions prospectively at its discretion.

**7. Component Units**

*The State Bar has no component units.*

**8. Assistance to Be Provided**

The finance department and OA&I staff and responsible management personnel will be available during the audit to assist the firm by providing information, documentation, and explanations. The preparation of lead schedules and confirmations will be the responsibility of the State Bar. IT personnel will also be available to provide systems documentation and explanations, as needed. The State Bar will provide the auditor with reasonable conference room workspace, tables and chairs, if necessary. The auditor will also be provided with access to telephone lines, photocopying facilities and facsimile machines. Report preparation, editing and printing shall be the responsibility of the auditor.

**9. Computer Systems**

The financial software used by the State Bar is Oracle Fusion (cloud ERP). Enterprise applications installed are Payroll, General Ledger, Cash Management, Accounts Payables, Fixed Assets, Procurement, and Human Resources. The auditor will have access to the financial system, as necessary.