

## **MASTER SERVICES AGREEMENT**

THIS AGREEMENT is made between the National Center for State Courts (hereinafter referred to as the Center) and the National Association for Court Management (NACM) (hereinafter referred to as the Association), effective on the 6<sup>TH</sup> day of December, 2017 to establish the scope of management and secretariat services to be provided by the Center to the Association and the terms and conditions of such services.

The parties agree as follows:

1. Term. The work under this Agreement shall commence on January 1, 2018, and shall be completed on or before December 31, 2020, unless the time for completion is extended by mutual agreement in writing by the Association and the Center. This Agreement will renew automatically for an additional 60 days unless superseded by a new agreement or notice of cancellation is provided prior to the expiration of the term.
2. Scope of Services. The Center shall perform the services set forth in Appendix A, Scope of Association Services, and Appendix B, Scope of Education Services, which is incorporated by reference herein.
3. Base Fees. The services rendered by Center under this Agreement will be performed for a fixed price of:

2018: \$443,510 less \$90,000 NCSC Contribution = \$353,510

2019: \$452,380 less \$90,000 NCSC Contribution = \$362,380

2020: \$461,428 less \$90,000 NCSC Contribution = \$371,428

Bonuses. In addition to these base fees, the parties agree to the following bonus trigger that will result in additional payment to NCSC. If in any contract year NACM's total vendor revenue from the Midyear and Annual Conferences combined exceeds \$310,325, NACM shall pay to NCSC 25% of the excess amount. In the event that a bonus is triggered, the bonus amount shall be payable to NCSC by October 31 of that same year. Vendor revenue is defined as the total revenue generated from the sales of exhibit hall booth space and sponsorships. It does not include advertising revenue. Bonuses triggered pursuant to this section shall not alter the base fees described in Section 3 of this agreement. For clarity, an example based on the above figures is provided. If total vendor revenue in 2018 is \$330,325, NCSC's bonus would be \$5,000 ( $\$330,325 - \$310,325 = \$20,000 \times 25\% = \$5,000$ ).

4. Payment. Payment will be made directly to the Center upon submission of invoices and statements for services rendered. This fee is based solely upon the functions identified in the Scope of Services. Invoices shall be submitted monthly with the fee and any additional charges due and payable within thirty days of the invoice date.

5. Additional Charges. Additional services beyond those listed in the Scope of Services will be billed at an agreed upon hourly rate per project. Work for additional charges must be pre-approved by the President of the Association.
6. Out of Pocket Costs. The following items will be billed to the Association for "out-of-pocket" expenses at their actual cost:
  - Copies
  - Faxes
  - Broadcast email subscription services
  - Mailings
  - Business Cards
  - Outsourcing of special Association approved services and projects
  - Travel expenses for designated support staff
  - Other out-of-pocket expenses that are approved through the Association's budget
7. Independent Contractor Status. The Center is an independent contractor and not an employee, servant, agent, partner or joint venturer of the Association. The Association shall determine the scope of services to be performed and shall monitor the work progress and quality, but the Center shall determine how, when and the means by which it accomplishes the work specified by the Association. The Center shall set its own daily hours of work consistent with the requirements of the scope of services, and shall furnish its own place of work as well as supplies and equipment. Any and all employees of the Center while engaged in the performance of any work or service required by the Association under this Agreement will be considered employees of Center only and not of the Association. Any and all claims that may arise under the Worker's Compensation Act of Virginia on behalf of Center's employees while doing any work under or associated with this Agreement shall be the sole obligation and responsibility of Center.
8. Ownership of Information and Property. All computer data and paper records prepared by the Center specifically for the Association or prepared or provided by the Association, its officers, directors, members, or agents, along with supplies purchased by the Association are the property of the Association. Other data and records, including those regarding the operations of the Center, along with all other supplies and property, shall remain the property of the Center. Upon termination of this Agreement, all Association property will be returned to the Association and all outstanding Center invoices will be paid by the Association. Computer data will be placed on suitable media in an ASCII file. Data fields will be documented on paper and a hard copy will be provided of all data. The Center will retain the Association's records in accordance with the Association's approved records retention policy. The Center may retain a copy of the Association's data and records for archival purposes. Any additional expenses incurred during the transfer process from the Center will be billed at actual cost. Under this agreement, the Association authorizes

the use of its membership and other prospect databases to be used by the NCSC to market its programs and services. In exchange, NCSC will allow the Association to use its customer and prospect database for appropriate marketing of its programs, services and membership.

10. Representation. The Center is hereby authorized, subject to the approved the Association's budget and annual plan, to acquire on the Association's behalf and for its benefit, goods and services. Any resulting agreements and/or contracts are the responsibility of the Association.
11. Indemnification: The Association shall indemnify and hold harmless the Center, its officers, directors, employees and agents for and against all liabilities of any nature or kind related to any and all claims and causes of action by third parties, including but not limited to judgments, verdicts, settlements, fines, court costs, and reasonable attorneys' fees, resulting from any act or omission of the Association, its officers, directors, members, or agents, or any act or omission of the Center, its officers, directors, employees, or agents acting within the scope of their authority on behalf of the Association .

The Center shall indemnify and hold harmless the Association its officers, directors, members and agents for and against all liabilities of any nature or kind related to any and all claims and causes of action by third parties, including but not limited to judgments, verdicts, settlements, fines, court costs, and reasonable attorneys' fees, resulting from any act or omission of the Center, its officers, directors, employees, or agents, that are outside the scope of their authority to act on behalf of the Association.

12. Confidentiality. The Center agrees that with respect to any and all materials, reports, correspondence, or other documents which have been stamped or otherwise identified as confidential matters by the Association's President, Officers, or Board ("the Confidential Materials"), the Center shall not disclose, distribute or publish such Confidential Materials to any third party, unless otherwise requested by a duly authorized member of the Association's Executive Committee.
13. Governing Law. The laws of the Commonwealth of Virginia shall govern the validity, construction, interpretation, and effect of this Agreement.
14. Entire Agreement and Modification. This Agreement constitutes the final, integrated expression of the Agreement of the Association and the Center and supersedes all previous communications, representations, or agreements, either verbal or written that may have been made in connection with the subject matter hereof. No amendments or changes may be made to the terms and conditions of this Agreement (including, but not limited to scope of services, deliverables, timetable or terms of Agreement, price, cost or budgetary adjustments), without the mutual, written consent of the parties.

15. Waivers. The failure of the parties to enforce, at any time, the provisions of this Agreement or to exercise any option that may be provided will not be construed as a waiver of such provisions or to affect the validity of this Agreement or any part thereof or the right of the parties to enforce thereafter each and every provision and to exercise any such option. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies available under this Agreement shall be taken and construed as cumulative, that is, as being in addition to every other remedy provided by operation of law.
16. Termination for Cause. If either party fails to fulfill its obligations under this Agreement in a timely and proper manner or otherwise violates any provisions of the Agreement, the other party will have the right to terminate this Agreement for cause by giving written notice. The notice shall specify the acts or omissions relied upon as cause for termination. The termination will become effective sixty (60) days following receipt, provided that the recipient of the notice will have thirty (30) days following receipt of notice to remedy the claimed deficiencies. All finished or unfinished work provided by the Center shall become the property of the Association. The Center is entitled to receive just and equitable compensation for any satisfactory work completed prior to the effective date of termination.
17. Periodic Evaluation. The President of the Association will meet with the Center's President, Vice President for External Affairs, or Director of Association & Conference Service at regularly scheduled meetings of the Association's officers, board, and other available meetings to discuss the progress or the performance of this contract. The Association and the Center agree to voice concerns, point out deficiencies, request changes, and other contract related communications during these meetings.

Representing NCSC:

Print Name:

Mary McQueen

Signature:

Mary McQueen

Title:

President, NCSC

Date:

12/6/17

Representing NACM:

Print Name:

Vicky Carlson

Signature:

Vicky L Carlson

Title:

President, NACM

Date:

12/7/2017