

**CONTRACT FOR THE PRINTING AND PUBLICATION OF THE OFFICIAL REPORTS  
OF THE MASSACHUSETTS SUPREME JUDICIAL COURT AND MASSACHUSETTS  
APPEALS COURT**

**BETWEEN**

**COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE REPORTER OF DECISIONS  
John Adams Courthouse  
One Pemberton Square, Suite 2500  
Boston, MA 02108-1750**

**AND**

---

---

---

---

---

**SCOPE OF WORK AND REQUIREMENTS**

**TABLE OF CONTENTS**

**PART 1 GENERAL INFORMATION**

- 1.01 Introduction
- 1.02 Definitions
- 1.03 Electronic Transfer of Files
- 1.04 Web Site
- 1.05 Customer Service
- 1.06 Insurance
- 1.07 Advertising

**PART 2 PUBLICATION SCHEDULES**

- 2.01 General Statement
- 2.02 Advance Sheets
- 2.03 Bound Volume
- 2.04 Web Site

**PART 3 EDITORIAL REQUIREMENTS**

- 3.01 Material to Be Published
- 3.02 Length and Pagination of Supreme Judicial Court Bound Volumes
- 3.03 Length and Pagination of Appeals Court Bound Volumes
- 3.04 Contents of Supreme Judicial Court Printed Advance Sheets
- 3.05 Contents of Appeals Court Printed Advance Sheets
- 3.06 Contents of Supreme Judicial Court Bound Volume
- 3.07 Contents of Appeals Court Bound Volume
- 3.08 Contents of the Web Site; Free Online Access
- 3.09 Contents of the Web Site; Online Subscription Service

PART 4 PRINTING AND BINDING REQUIREMENTS

- 4.01 Advance Sheets
- 4.02 Bound Volumes

PART 5 DISTRIBUTION AND INVENTORY REQUIREMENTS

- 5.01 Advance Sheets
- 5.02 Bound Volumes

PART 6 SUPREME JUDICIAL COURT STYLE MANUAL; SPECIAL VOLUMES; ADVANCE SHEET BINDERS

- 6.01 Supreme Judicial Court Style Manual
- 6.02 Special Volumes for Retiring Judges
- 6.03 Advance Sheet Binders

PART 7 GENERAL MATTERS

- 7.01 Disaster Recovery Plan
- 7.02 Failure to Meet Deadlines
- 7.03 Composition, Proofreading, and Manufacturing
- 7.04 Database
- 7.05 Inspection
- 7.06 Termination
- 7.07 Change in Publisher
- 7.08 Effective Notice
- 7.09 Integration Clause

**PART 1 GENERAL INFORMATION**

**1.01 Introduction.** \_\_\_\_\_,

hereinafter referred to as the Publisher, and the Reporter of Decisions of the Supreme Judicial Court of Massachusetts, hereinafter referred to as the Reporter, have mutually agreed that the Publisher shall print, distribute, and sell the Official Reports of the Supreme Judicial Court and Massachusetts Appeals Court, hereinafter referred to as the Official Reports, in accordance with the provisions and conditions hereinafter set out. The Publisher, as part of its undertaking pursuant to this Contract, shall, from material furnished to it by the Reporter, perform the functions necessary for creation of a Web site and shall provide and pay for all services and facilities necessary therefor in a prompt, proper, faithful and workmanlike manner.

The term of the Contract shall be three (3) years beginning with opinions delivered to the Publisher on July 2, 2009, and terminating June 27, 2012, unless terminated at an earlier date as provided in this Contract. Two additional one-year terms may be added at the option of the Reporter.

The Publisher shall make the Advance Sheets available for sale to the public for a one-year subscription term at a price no greater than that established in the Publisher's response to RFP2009. The Publisher shall make the Bound Volumes available for sale to the public at a price no greater than that established in the Publisher's response to RFP2009. Shipping and handling charges are included in the price stated.

The Publisher shall maintain a Web site ([www.massreports.com](http://www.massreports.com)) that provides access, at no cost to the public, to the slip opinions of the Appellate Courts, to an Opinion Archive, to Court Rules, and to certain primarily historical and biographical information provided by the Reporter. The Publisher may propose to the Reporter additional editorially enhanced features that are not currently available to subscribers to the Web site for

which the Publisher may charge a fee to subscribers.

The Publisher shall assess, collect, and pay over to the Commonwealth all applicable sales tax on sales of Advance Sheets, Bound Volumes, and subscriptions to the Web site. Payment to the Commonwealth of such taxes shall be made at the time and in the manner required by law. The taxes imposed by law during the course of this agreement shall be added to the prices.

If the Contract is extended beyond June 27, 2012, the price for the Advance Sheets shall be adjusted commencing with the issuance of the July 6, 2012, weekly edition, in an amount not to exceed five per cent (5%) over the previous year's price. The price shall not be adjusted during the second year of such extension. In the event of Contract extension, the price of the Bound Volumes shall remain at the price established in the Publisher's response to RFP2009.

When requested by the Reporter, the Publisher shall furnish to the Reporter complete listings of subscribers to the printed Advance Sheets, Bound Volumes, and Web site. Each listing so furnished shall be brought up to date by the Publisher not less frequently than every three months and, upon request of the Reporter, be made available to the Reporter. The listings so furnished shall be the property of the Commonwealth and the Commonwealth may use said listings for any purpose without incurring any liability to the Publisher.

The Reporter may, from time to time, designate in writing certain subscriptions to the printed Advance Sheets as being for the use of the Trial Court of the Commonwealth. With respect to any subscription or subscriptions so designated, the Publisher agrees to begin furnishing weekly issues of the printed Advance Sheets upon request by the Trial Court, and to continue such service in effect for no less than sixty days, pending receipt of payment by the Commonwealth therefor. The Publisher also agrees to cumulate, insofar as

feasible, its charges for such subscriptions in a single monthly invoice to the Central Law Book Account of the Trial Court, or to such other account as the Reporter shall designate in writing.

A report containing an accounting by the Publisher to the Reporter for copies of bound volumes sold during each calendar month shall be made not later than the last day of the month next following. The Publisher shall include in the report an accounting for any copies of volumes it has delivered but for which it has not received payment.

The Reporter shall decide all questions which may arise (a) as to the quality, quantity, acceptability, fitness, and rate of progress of the work to be performed under this Contract and the schedules appended hereto, including all matters relating to the style, typesetting, proofreading, correction, printing, binding, and final publication of each Bound Volume and (b) as to the interpretation of this Contract and the fulfilment hereof on the part of the Publisher, and his determination or decision in writing shall be final and conclusive. The determination and decision of the Reporter on any question referred to in the preceding sentence shall be a condition precedent to the right of the Publisher to receive payment from the Commonwealth under this Contract.

The Publisher is to print, distribute, and sell the Official Reports in Advance Sheet, Bound Volume, and electronic formats, in accordance with the provisions and conditions respectively set out below.

**1.02 Definitions.** The following expressions are used in this Contract and in the schedules appended hereto shall have the meanings respectively set out below.

(a) Advance Sheets shall mean weekly installments of copies of judicial opinions of the Appellate Courts together with such other material, including corrected, amended, or supplemented pages, as the Reporter may in writing

direct or authorize the Publisher to include therein, which the Publisher shall publish with permanent pagination in the manner prescribed by this Contract.

(b) Appellate Courts shall mean the Supreme Judicial Court and the Appeals Court of the Commonwealth of Massachusetts.

(c) Bound Volume shall mean any volume of either Series covered by this Contract which the Publisher shall manufacture and deliver in the manner prescribed by this Contract.

(d) Series shall mean either of the sequentially numbered sets of volumes commonly known, respectively, as Massachusetts Reports and Massachusetts Appeals Court Reports.

**1.03 Electronic Transfer of Files.** All files to be included in the Official Reports under this Contract shall be transmitted electronically from the Reporter, except such items incapable of being transmitted to the Publisher by such a process. The latter exception encompasses, but is not limited to, items such as photographs, maps, tables, etc. If direct telecommunication becomes impossible because of telephone line or equipment failure, alternative methods of transferring the files may be undertaken as a temporary measure at the discretion of the Reporter.

In order to implement electronic transfer, the Publisher shall provide and maintain equipment approved by the Reporter. The Reporter shall be responsible for the coding, keying, proofreading, and correction of the files transmitted to the Publisher as specified below.

The same means of transmission shall apply to both appellate courts. The electronic files shall be transmitted to the Publisher on a schedule determined by the Reporter. The Reporter shall prepare the initial word processor advance sheet files using WordPerfect. The Reporter will use a system of macros to strip WordPerfect formatting codes that will be replaced

with tags (e.g., SGML, HTML). The Reporter will parse the tags prior to transmission. The Publisher shall maintain a custom-designed software program, mutually agreed upon by the Reporter and the Publisher, to receive the files.

**1.04 Web Site.** The Publisher shall provide the public with the capability of browsing the latest slip opinions, which shall remain on the Web site for a period of two (2) weeks; a daily e-mail service for which users may register to receive slip opinions that fall within a set number of law practice areas established by the Reporter; a fully searchable opinion archive of advance sheets; and a fully searchable archive of unpublished decisions of the Appeals Court.

**1.05 Customer Service.** The Publisher shall maintain a customer service toll-free telephone line or e-mail address for the purpose of answering customer service inquiries.

**1.06 Insurance.**

(a) Performance Bond. The Publisher shall obtain a performance bond payable to the Commonwealth in the sum of \$ 50,000, with a surety company qualified to do business in Massachusetts. The bond shall be accompanied by the usual attesting certificate from the insurance company.

(b) Certificate of Insurance. Before taking possession of any existing inventories of volumes of both Series or any portion thereof, the Publisher shall procure insurance, with such carriers and upon such terms as, in the judgment of the Reporter, shall be sufficient to indemnify the Commonwealth for any loss of or damage to such inventories or such portion thereof, and the Publisher shall pay the premiums for such insurance in a timely manner when due.

**1.07 Advertising.** The Publisher may advertise and sell the Advance Sheets and Bound Volumes but, in doing so, should not state that the Reporter

or the Commonwealth are in some way, by executing the Contract, endorsing the Publisher's products or services. The Reporter must be given the opportunity to approve any type of advertising or promotion of the sale of the Advance Sheets and Bound Volumes.

## **PART 2 PUBLICATION SCHEDULES**

**2.01 Advance Sheets.** The Advance Sheets for the Official Reports are published weekly (i.e., composed, printed, and shipped), fifty-two weeks per year. The publishing week begins on Thursday and tagged opinions, orders, amendments to rules, etc., released from Thursday through Wednesday of the publishing week are numbered chronologically by the Reporter and transmitted electronically to the Publisher by 2:00 P.M. EST on Wednesday. The Publisher composes the Advance Sheets on Wednesday afternoon and electronically transmits the composed pages to the Reporter on Wednesday night. On Thursday the Reporter proofreads the pages and returns all corrections to the Publisher by 2:00 P.M. EST. The corrected pages and any re-corrected pages are transmitted back and forth by facsimile, or by other means approved by the Reporter, between the Publisher and the Reporter, and the final sign-off by the Reporter takes place on Thursday by 5:00 P.M. EST. The Advance Sheets are manufactured and mailed by the Publisher on Friday evening.

The first edition of the Advance Sheets under the Contract is to be published no later than July 3, 2009.

**2.02 Bound Volume.** The Bound Volumes of the Massachusetts Reports and the Massachusetts Appeals Court Reports are set in type, corrected, and prepared in final form by the Publisher.

The Publisher shall perform the following steps in the manufacturing of each Bound Volume with such time allowed for each step as the Reporter, after consultation with the Publisher, shall establish by written instructions to the Publisher.



First, the Publisher shall prepare page proofs containing all material in the weekly Advance Sheets and shall submit to the Reporter weekly at the time of distributing the Advance Sheets one (1) copy of said proofs for examination and for the insertion thereon of citations and any corrections required by the Reporter in preparation for publication of the Bound Volume.

Second, after a volume of Advance Sheets has been closed the Reporter will return to the Publisher the corrected proof. The Publisher shall then submit one copy (1) of a final proof to the Reporter for approval.

Third, a complete set of unbound signatures shall be submitted to and approved by the Reporter.

Fourth, a sample cover shall be submitted to and approved by the Reporter, and the Publisher shall then print and bind the volume.

In December of each year of the Contract, the Reporter and the Publisher shall agree on a publication schedule for the Bound Volumes. The Publisher shall immediately notify the Reporter by e-mail with an explanation of any delay in the scheduled publication of any Bound Volume.

In the event of termination of the Contract for any reason, the Publisher shall remain responsible for publishing any volumes of the Massachusetts Reports or Massachusetts Appeals Court Reports that it was responsible for publishing in the Advance Sheets before the Contract terminated.

**2.03 Web Site.** The Reporter shall provide to the Publisher in electronic format by 4:00 P.M. EST each day the slip opinions of the Supreme Judicial Court and the Appeals Court to be posted by the Publisher to the appropriate sections of the Web site at 10:00 A.M. EST the next day. The Reporter shall also provide in electronic format by 4:00 P.M. EST each day the unpublished decisions of the Appeals Court to be posted by the Publisher to the appropriate section of the Web site at 10:00 A.M. EST the next day.

Finally, each afternoon prior to the morning of release of a Supreme Judicial Court decision, the Reporter, by the use of administration utilities software provided by the Publisher (or another alternative acceptable to the Reporter), shall post for delayed release at 8:00 A.M. EST the case caption for each case to be released at 10:00 A.M. EST on the Reporter's Web site under the heading "Today's SJC Cases." The "Today's SJC Cases" section of the Web site shall contain the following explanation:

The following slip opinions will be released by the Supreme Judicial Court at 10:00 A.M. Eastern Time. This advance notice is provided as a service to the users of our Web site. Although the list of the cases is announced via the Web site at 8:00 A.M. Eastern Time, the release of the slip opinions will occur at 10:00 A.M. Please note that there may be an occasion when a slip opinion listed at 8:00 A.M. is not released at 10:00 A.M. on that day.

### **PART 3 EDITORIAL REQUIREMENTS**

**3.01 Material to Be Published.** The opinions of the Supreme Judicial Court and Appeals Court shall be published in two separate Series of volumes, entitled Massachusetts Reports and Massachusetts Appeals Court Reports. Each separate Series will commence with the publication of Advance Sheets and culminate with the publication of Bound Volumes.

While advertisements of the Publisher's products shall not appear in the Advance Sheets and Bound Volumes, it shall be permissible for the Publisher to place an advertisement on the outside back cover of the Advance Sheets that refers to matters relating to this Contract.

**3.02 Length and Pagination of Supreme Judicial Court Bound Volumes.** The Reporter will carefully monitor the total number of pages contained in a Massachusetts Reports Bound Volume and timely notify the Publisher when a Bound Volume has reached capacity. A Bound Volume will have a minimum of 850 opinion pages. No Bound Volume will have more than 1,000 total pages, including preliminary pages, tables of cases, opinion pages, rescript opinion pages, orders regarding further appellate review, other orders, opinions of

the justices, rules of the Supreme Judicial Court, rules of civil procedure, rules of criminal procedure, rules of appellate procedure, memorials, and index.

The pagination of a Bound Volume of Massachusetts Reports is uniformly established and provides room for expansion so that the various types of material published always appear in the same numerical sequence:

|                              |        |
|------------------------------|--------|
| Opinion Text                 | 1-1000 |
| Rescripts                    | 1001   |
| Orders (FAR)                 | 1101   |
| Orders (Other)               | --     |
| Opinions of the Justices     | 1201   |
| Rules of the SJC             | 1301   |
| Rules of Civil Procedure     | 1401   |
| Rules of Criminal Procedure  | 1501   |
| Rules of Appellate Procedure | 1601   |
| Memorials                    | --     |
| Index                        | --     |

**3.03 Length and Pagination of Appeals Court Bound Volumes.** The Reporter will carefully monitor the total number of pages contained in a Massachusetts Appeals Court Reports Bound Volume and timely notify the Publisher when a Bound Volume has reached capacity. A Bound Volume will have a minimum of 825 opinion pages and a maximum of 900 opinion pages. No Bound Volume will have more than 1,000 total pages, including preliminary pages, tables of cases, opinion pages, rescript opinion pages, orders (decisions pursuant to rule 1:28), other orders, rules of the Appeals Court, memorials, and index.

The pagination of a Bound Volume of Massachusetts Appeals Court Reports is uniformly established and provides room for expansion so that the various types of material published always appear in the same numerical sequence:

|                            |       |
|----------------------------|-------|
| Opinion Text               | 1-900 |
| Rescripts                  | 901   |
| Orders (FAR)               | 1101  |
| Orders (Other)             | --    |
| Rules of the Appeals Court | 1201  |
| Memorials                  | --    |
| Index                      | --    |

**3.04 Contents of Supreme Judicial Court Printed Advance Sheets.** The Advance Sheets of the Massachusetts Reports shall contain: (a) front cover with Commonwealth seal, volume and page range for each printed section, description of the publication, statement of the statutory authority for printing, list of the cases reported in the issue (a lengthy list runs over to reverse cover), name and title of Reporter, date of issue, statement of number of sections in the shipment, and name of Publisher; (b) title of volume on top one-half of first page of opinions reported; (c) report of case (full opinion) with running head, case caption, county of origin of action, date of oral argument, date of release, panel, catchwords, headnotes with corresponding page ranges, statement of prior procedural history, listing of counsel, majority opinion, and any concurring or dissenting opinions; (d) report of case (rescript opinion) with running head, case caption, date of release, catchwords, opinion, and listing of counsel; (e) orders with respect to applications for leave to obtain further appellate review; (f) any other orders; (g) opinions of the justices; (h) rules of the Supreme Judicial Court; (i) rules of civil procedure; (j) rules of criminal procedure; (k) rules of appellate procedure; (l) two separate pamphlets containing mid-point and final tables of cases and indexes; and (m) periodic looseleaf amended or corrected pages.

**3.05 Contents of Appeals Court Printed Advance Sheets.** The Advance Sheets of the Appeals Court Reports shall contain: (a) front cover with Commonwealth seal, volume and page range for each printed section, description of the publication, statement of the statutory authority for printing, list of the cases reported in the issue (lengthy list runs over to reverse cover), name and title of Reporter, date of issue, statement of number of sections in the shipment, and name of Publisher; (b) a statement on the reverse cover stating the United States Postal Service number, that the official opinions

are published weekly by the Publisher, the price of an advance subscription, and the address of the Publisher; (c) title of volume on top one-half of first page of opinions reported; (d) report of case (full opinion) with running head, case caption, docket number; county of origin of action, date of oral argument, date of release, panel, catchwords, headnotes with corresponding page ranges, statement of prior procedural history, listing of counsel, majority opinion, and any concurring or dissenting opinions; (e) report of case (rescript opinion) with running head, case caption, docket number; date of release, catchwords, opinion, and listing of counsel; (f) decisions pursuant to Appeals Court rule 1:28 (short notations of unpublished opinions); (g) any other orders; (h) rules of the Appeals Court; (i) two separate pamphlets containing mid-point and final tables of cases and indexes; and (j) periodic looseleaf amended pages, corrected pages, or supplemented pages.

**3.06 Contents of Supreme Judicial Court Bound Volumes.** A Bound Volume of the Massachusetts Reports shall contain: (a) hard bound cover and properly stamped spine with title of publication, volume number, year or years volume covers; title page containing the words "Massachusetts Reports," volume number, title, months of year volume covers, name of Reporter and title, and name of Publisher and year of publication; (b) reverse of title page containing name of Publisher and date of printing; (c) listing of Justices and the Attorney General of Massachusetts; (d) statement of order in which opinions are reported, circumstances in which opinions are withdrawn, and occasional errata; (e) table of cases; (f) title of volume on top one-half of first page of opinions reported; (g) report of case (full opinion) with running head, case caption, county of origin of action, date of oral argument, date of release, panel, catchwords, headnotes with corresponding page ranges, statement of prior procedural history, listing of counsel, majority opinion, and any concurring or dissenting opinions; (h) report of case (rescript

opinion) with running head, case caption, date of release, catchwords, opinion, and listing of counsel; (i) orders with respect to applications for leave to obtain further appellate review; (j) any other orders; (k) opinions of the justices; (l) rules of the Supreme Judicial Court; (m) rules of civil procedure; (n) rules of criminal procedure; (o) rules of appellate procedure; (p) memorials; and (q) index.

**3.07 Contents of Appeals Court Bound Volumes.** A Bound Volume of the Appeals Court Reports shall contain: (a) hard bound cover and properly stamped spine with title of publication, volume number, and year or years; title page containing volume number, title, year or years, name of Reporter and title, and name of Publisher; (b) reverse of title page containing name of Publisher and date of printing; (c) listing of Justices and the Attorney General of Massachusetts; (d) statement of order in which opinions are reported, circumstances in which opinions are withdrawn, and occasional errata; (e) table of cases; (f) title of volume on top one-half of first page of opinions reported; (g) report of case (full opinion) with running head, case caption, docket number, county of origin of action, date of oral argument, date of release, panel, catchwords, headnotes with corresponding page ranges, statement of prior procedural history, listing of counsel, majority opinion, and any concurring or dissenting opinions; (h) report of case (rescript opinion) with running head, case caption, docket number, date of release, catchwords, opinion, and listing of counsel; (i) decisions pursuant to Appeals Court rule 1:28 (short notations of unpublished opinions); (j) any other orders; (k) rules of the Appeals Court; (l) memorials; and (m) index.

**3.08 Contents of the Web Site; Free Online Access.** The Publisher should construct a Web site containing free online access to the contents of the printed Advance Sheets and other information about the publication of the

Official Reports found by the Reporter to be useful to the public and the bar.

The free access portion of the Web site of the Reporter shall contain, at a minimum, the materials currently found at [www.massreports.com](http://www.massreports.com) as outlined here:

- (a) "Home Page";
- (b) "Directory" containing general office information and the staff of the members of the Reporter's office;
- (c) "Recent Additions" to the Web site;
- (d) Daily postings of "Slip Opinions" and an e-mail function that will distribute each morning at 10:00 EST opinions pre-selected by the user from a list of practice areas;
- (e) "Court Rules" section containing rules of appellate procedure, rules of civil procedure, rules of criminal procedure, and rules of the Supreme Judicial Court;
- (f) Link to Supreme Judicial Court and Appeals Court public docket information;
- (g) Information regarding the Justices of the Supreme Judicial Court, including biographies, memorials, and listing of all Chief Justices and Associate Justices who have sat on the Supreme Judicial Court;
- (h) Historical and practical information about the operation of the office of the Reporter of Decisions;
- (i) Supreme Judicial Court Style Manual;
- (j) "Links" to other appropriate courts and organizations;
- (k) "Site Map";
- (l) "Privacy Statement";
- (m) "Disclaimer";
- (n) "Contact" information;
- (o) An 8:00 A.M. EST posting of case captions of "Supreme Judicial Court

Cases to be Released" at 10:00 A.M. EST; and

(p) "Terms of Use" statement with language conveying the message that, "Use of all or part of the data displayed on this site for commercial or other unauthorized purposes is prohibited."

In addition, the Web site shall contain a fully searchable database of Supreme Judicial Court and Appeals Court decisions and Appeals Court unpublished decisions (not including headnotes written by the Reporter's office), the purpose of which is to provide public access to historical Massachusetts case law. The functionality of this portion of the Web site should be similar to the current "Opinion Archive" on the Reporter's Web site.

A disclaimer may strictly prohibit use or reuse of the data for commercial purposes.

**3.09 Contents of the Web Site; Online Subscription Service.** The Web site should also contain a subscription service that, at a minimum, provides access to the opinions of the Supreme Judicial Court and the Appeals Court (2001-present), and the accessibility and searchability features available in the Advance Sheets portion of the current Web site. The Web site could also contain enhancements to the online subscription service that would increase the number of subscribers. Subscribers to the online subscription service could be given access to the Publisher's Web site through a link on the Reporter's site.

#### **PART 4 PRINTING AND BINDING REQUIREMENTS**

**4.01 Advance Sheets.** The Publisher, as part of its undertaking pursuant to this Contract, shall, from the tagged material furnished to it by the Reporter, perform the typesetting, proofreading, correcting, and printing of the printed Advance Sheets and shall provide and pay for all services and facilities necessary therefor in a prompt, proper, faithful and workmanlike manner.



The following specifications for the printing and sale of printed Advance Sheets are made a part of this Contract.

(a) Judicial opinions, together with headnotes, rules of court and such supplementary material as the Reporter may direct by written instructions, shall be set in type, proofread, corrected, printed and sold by the Publisher in booklet form with standard punched holes to permit insertion in loose-leaf binders. Single loose-leaf pages, for the purpose of correcting, amending, or supplementing previously printed advance sheet text, shall be issued when required by the Reporter.

(b) The typefaces or fonts used and dimensions of printed matter, the layout, and all other aspects of the style of the printed Advance Sheets shall be in substantial conformity to the samples attached hereto and by this reference incorporated herein, unless the Reporter, by written instructions, shall direct otherwise.

(c) Each page of the Advance Sheets shall be eight and one-half inches high by five and one-half inches wide.

(d) There shall be separate pagination for each court, which shall be the permanent pagination for the final Bound Volume within which the material printed in the Advance Sheets is to be placed. Pagination for each court shall be assigned by the Publisher and shall be in two or more numerical series to be established by the Reporter in a manner to assure that the parts of each Bound Volume appear in the following order: opinions with headnotes, rescript opinions, orders or summary dispositions, advisory opinions, rules, and memorials.

(e) The preparation of proofs necessary for the publication of the printed Advance Sheets shall be the responsibility of the Publisher. The Publisher shall transmit such proofs to the Reporter in the manner provided by section 2.01. The Reporter shall, in the manner provided by section 2.01,

review the proofs and clear all material for publication.

(f) Without the previous consent of the Reporter, expressed in writing, no advertising or other material shall be mailed in the same container with any weekly issue of printed Advance Sheets.

(g) The Publisher, at its own expense, shall, within sixty days following the date this Contract is executed, or such additional time as the Reporter may allow, install on its premises typesetting equipment compatible with the word processing systems employed by each of the Appellate Courts. The equipment so installed by the Publisher shall include such ancillary or linking equipment, and have such capacity as is necessary to enable the Publisher to receive and set in type the opinions of the appellate courts in a manner conforming to the time schedule and specifications for publication of Advance Sheets, as set out in this Contract.

**4.02 Bound Volumes.** The Publisher, in the manner prescribed in this Contract and in the schedules appended hereto, shall do all typesetting, correcting, proofreading, and printing, of the Bound Volumes, embodying sequential and chronological text, which Bound Volumes shall be identified by a designation in writing by the Reporter, all of the said Bound Volumes being additions to the two Series, and containing opinions of the Appellate Courts in cases to be decided during the period beginning July 2, 2009, and continuing through June 27, 2012, and also including any Bound Volume or Bound Volumes in process on June 27, 2012. The opinion text contained in the said Bound Volumes shall consist substantially of material contained in the printed Advance Sheets to be manufactured and sold by the Publisher pursuant to this Contract. A Bound Volume shall be deemed to be in process for the purpose of this paragraph if any material chronologically falling within such Bound Volume has been furnished to the Publisher by the Reporter with a direction in writing that it be placed in such Bound Volume.

(a) Each Bound Volume shall contain, in a chronological order to be established by written instructions of the Reporter, judicial opinions of one of the Appellate Courts and such other material as the Reporter may furnish to the Publisher for inclusion therein.

(b) The Publisher shall do all required work and provide and pay for all necessary labor, materials, and facilities in a prompt, proper, faithful, and workmanlike manner and in strict conformity with the provisions of this Contract and with the specifications contained herein.

(c) The kind and type used and the style and arrangement of each Bound Volume shall be in substantial conformity to Volume 450 of the Massachusetts Reports, unless the Reporter shall, by written instruction, direct the Publisher otherwise.

(d) The paper stock used in each Bound Volume shall be that commercially known as Book Paper 50#, color Pub White A74, acid-free English finish law book paper, equal in quality to that used in Volume 450 of the Massachusetts Reports.

(e) Each Bound Volume shall contain approximately nine hundred sixty (960) pages of printed material. The size of page and dimensions of the printed matter thereon shall be in conformity to Volume 450 of the Massachusetts Reports.

(f) The binding of each Bound Volume of Massachusetts Reports shall be Buckram of the same style, color, and character of workmanship as that of Volume 450 of the Massachusetts Reports and shall be of material as nearly uniform as possible with the said Volume 450. The markings on the spine shall conform to the general character of the markings on the said Volume 450. The binding of each Bound Volume of Massachusetts Appeals Court Reports shall be Buckram of the same style, color, and character of workmanship and of material as nearly uniform as possible with that of Volume 69 of the Massachusetts

Appeals Court Reports, and the markings on the spine shall conform to the general character of the markings on the said Volume 69. With respect to Bound volumes of both Series, binding shall be according to the standards for library binding of the Library Binding Institute.

(g) The Publisher shall make good any defect, omission, or mistake in the performance of its work on the Bound Volumes covered by this Contract and, if requested by the Reporter to do so, shall publish a corrected version of any Bound Volume which contains substantial errors resulting from deficiencies in the Publisher's performance of its obligations under this Contract.

#### **PART 5 DISTRIBUTION AND INVENTORY REQUIREMENTS**

**5.01 Advance Sheets.** The Publisher, as part of its undertaking pursuant to this Contract, shall mail and deliver printed Advance Sheets and shall provide and pay for all services and facilities necessary therefor in a prompt, proper, faithful and workmanlike manner.

(a) The Reporter shall transmit material to the Publisher and the Publisher shall, at or before the close of business on Friday of each week, deliver to subscribers or place in the mails the issue of the printed Advance Sheets containing the text of all materials received from the Reporter through 2:00 P.M. EST on Wednesday of that same calendar week.

(b) The Publisher shall deliver to subscribers or place in the U.S. mail the first issue of the printed Advance Sheets on Friday, July 10, 2009. This issue shall include the opinions of the Appellate Courts released during the week ending Wednesday, July 8, 2009, together with such other material as may be included therein by the Reporter pursuant to this Contract.

(c) The Publisher shall deliver to subscribers or place in the U.S. mail the last issue of the printed Advance Sheets on Friday, June 29, 2012. This issue shall include the opinions of the Appellate Courts released during the week ending Wednesday, June 27, 2012, together with such other material as

may be included therein by the Reporter pursuant to this Contract.

(d) Printed Advance Sheets shall be delivered to subscribers by the Publisher or, alternatively, shall be sent to them by first class U.S. mail. At the Publisher's expense, alternative mail services, including overnight courier services, may be used for delivery of the Advance Sheets.

(e) The Publisher shall, under the direction of the Reporter, print a cumulative table of titles and an index of the Reporter's catchwords, with respect to the printed Advance Sheets of each Appellate Court, at the completion of the printed Advance Sheets comprising each Bound Volume and at the approximate midpoint thereof, and shall place such table and index in the mails addressed to subscribers or shall deliver it to them with the next weekly issue of Advance Sheets.

(f) The Publisher shall furnish, without charge, up to one hundred fifty (150) subscriptions to the printed Advance Sheets to particular offices of the Commonwealth, including subscriptions, in the quantities respectively indicated, to the following offices of the Commonwealth: Supreme Judicial Court, thirty-six (36) subscriptions; Appeals Court, seventy-six (76) subscriptions; Attorney General, twenty (20) subscriptions; State Secretary, two (2) subscriptions; State Library, three (3) subscriptions; Reporter, eleven (11) subscriptions.

(g) The Publisher shall undertake and have full charge of the sale at retail to the general public of the Advance Sheets; shall take upon itself the calling to the attention of the Bar of Massachusetts and others who may be interested in such sale, by circular or otherwise, that they are for sale by the Commonwealth; and shall sell them to the public at a price no greater than that established in the Publisher's response to RFP2009. Shipping and handling charges are included in the price stated.

(h) If the Publisher, as a result of the termination of this Contract or

for any other reason, shall fail to furnish to any subscriber who has paid the subscription price the printed Advance Sheets which such subscriber is thereby entitled to receive, the Publisher shall thereupon refund to such subscriber such portion of the subscription price as represents the portion of the subscription year during which the Publisher has so failed.

**5.02 Bound Volumes.** (a) The Publisher shall complete and deliver, at the times and in the manner provided in this Contract, the total shipment of copies of each Bound Volume no later than ninety days following the delivery to the Publisher by the Reporter of the last instalment of material, to be included in such Bound Volume. With respect to any Bound Volume, the said ninety days shall be enlarged by the number of days during which the Reporter retains any page proof of that Bound Volume submitted to him by the Publisher, without returning to the Publisher a corrected copy thereof.

(b) The Publisher shall deliver all copies of all Bound Volumes to or as directed in written instructions by the Reporter. On completion of each Bound Volume, the Publisher shall furnish the Commonwealth with up to seven hundred (700) copies thereof which the Publisher shall distribute as follows: (a) The Publisher shall, within thirty days following the date that binding is completed, distribute single copies to each of such State and municipal offices as the Reporter shall designate by written instructions. Such distribution shall be accomplished through the United States Postal Service or such other service as the Reporter shall approve by written instructions; (b) The Publisher shall deliver the remainder of the said copies to the Commonwealth at such location or locations in the city of Boston, not exceeding four such locations, as the Reporter shall designate by written instructions.

(c) After delivery and distribution of the copies referred to in paragraph (a) of this Section 5.02, the Publisher shall undertake and have

full charge of the sale at retail to the general public of the remaining copies of each Bound Volume and of prior volumes of both Series; shall take upon itself the calling to the attention of the Bar of Massachusetts and others who may be interested in such sale, by circular or otherwise, that they are for sale by the Commonwealth; and shall sell them to the public at a price no greater than that established in the Publisher's response to RFP2009. Shipping and handling charges are included in the price stated.

(d) The Publisher shall, during the term of this Contract, print and keep in its inventory copies of all existing bound volumes of Massachusetts Reports and Massachusetts Appeals Court Reports in quantities sufficient to meet all reasonable current and future demands of persons seeking to purchase any of these Reports at the prices fixed by this Contract.

(e) The Publisher shall print and keep in its inventory sufficient additional copies of the Bound Volumes of these Reports as they are completed, above the number of Bound Volumes ordered by subscribers, to supply estimated future sales for a period of one (1) year.

(f) The Publisher shall reprint the Bound Volumes printed under this Contract and printed under previous contracts whenever the inventory shall fall below an estimated one (1) year's supply.

(g) The Publisher may substitute unbound volumes for some or all of the quantities of Bound Volumes, which the Publisher is required to maintain pursuant to this Contract, provided that the Publisher binds them in covers and bindings equivalent to the original Bound Volumes prior to sale.

(h) The Commonwealth shall own the Bound Volume inventory and the Publisher shall store and maintain the inventory. The Publisher shall retain sixty (60) per cent of the sale price of each copy of any volume sold by it, and pay the balance of the sale price to the Commonwealth. The sum so retained by the Publisher shall constitute its entire compensation for its

services and expenses as sales agent under this section. Payment by the Publisher to the Commonwealth for copies of volumes sold during each calendar month shall be made not later than the last day of the month next following. Interest at the rate of twelve (12) percent per annum shall be added to any sum due the Commonwealth under this section and not paid by the Publisher on or before that date. At the termination of the Contract, the Publisher shall cooperate with the Reporter and the new Publisher in transferring the inventory to the new Publisher.

(i) The Publisher shall transport and provide adequate storage facilities for existing inventories of volumes of both Series, published before the effective date of this Contract, as well as for future inventories of the volumes of both Series, within ten days following instructions in writing by the Reporter to do so. The Publisher shall retain such inventories during such time as the Reporter shall require, which time shall not extend beyond the completion of the Publisher's work under this Contract. At the time the Publisher takes possession or relinquishes possession of such inventories or any portion thereof, and at such other times as the Reporter shall determine, a physical count of all volumes shall take place, which shall be witnessed by representatives of both the Reporter and the Publisher.

(j) The storage facilities for the inventories of all volumes of reports shall be at such location or locations as the Reporter shall approve by written instructions.

**PART 6 SUPREME JUDICIAL COURT STYLE MANUAL; SPECIAL VOLUMES; ADVANCE SHEET BINDERS**

**6.01 Supreme Judicial Court Style Manual.** The Publisher agrees to print and deliver to the Reporter and to others designated by the Reporter 2,000 copies of a new edition of the Supreme Judicial Court Style Manual (not to exceed 150 pages). The Style Manual is to be published in 2011 on a date mutually agreed upon by the Reporter and the Publisher and is to be equal in



binding, covers, paper, size of page, margin, color of covers, and typography as a typical edition of the Massachusetts Supreme Judicial Court Advance Sheets. The price of the Style Manual shall be no greater than that established in the Publisher's response to RFP2009. The Publisher agrees to set aside a minimum of 150 copies of the Style Manual to be provided to the Reporter at no cost.

**6.02 Special Volumes for Retired Judges.** The Publisher agrees to print and deliver to the Reporter and to others designated by the Reporter a special collection of an individual retired judge's opinions at prices per volume no greater than those established in the Publisher's response to RFP2009 for an individual judge's own volumes (limit of six [6] volumes) and for all others requesting volumes.

**6.03 Advance Sheet Binders.** The Publisher may sell binders in which the weekly Advance Sheet pamphlets may be contained, if it is determined by the Publisher that a market for such binders exists. The binders should be three-ringed. The covers of the binders should be of the same color cloth as their respective Massachusetts Reports and Massachusetts Appeals Court Reports Bound Volumes and the cover spines of the binders should be stamped either Massachusetts Reports or Massachusetts Appeals Court Reports. The cover spines should also indicate the words "Advance Sheets" and provide a means for labeling the binders with the appropriate volume number that may be removed and replaced with a succeeding volume number. The cover spine may also contain the corporate name of the Publisher.

## **PART 7 GENERAL MATTERS**

**7.01 Disaster Recovery Plan.** The Publisher shall have in place, at the date of the commencement of the Contract term, a disaster recovery plan that will describe in detail alternative arrangements for composition, printing, binding, and distribution of the Massachusetts Reports and Appeals Court

Reports in the event of a disaster that causes an interruption in the work of the Publisher or an agent or subcontractor of the Publisher.

**7.02 Failure to Meet Deadlines.** Any persistent failure to meet the Advance Sheet or Bound Volume publication deadlines that is attributable to the Publisher or an agent or subcontractor of the Publisher shall constitute a material breach of the Contract.

**7.03 Composition, Proofreading, and Manufacturing.** The Publisher should take special care in (a) assigning all composition work to the staff listed in the Publisher's response to the RFP; (b) assuring that the page proofs composed by the Publisher's staff receive an initial proofreading by a competent proofreader (the page proofs will be thoroughly proofread by the Reporter's staff before publication in the Advance Sheets and, later, in the Bound Volumes); and complying with all manufacturing assurances specified in the Publisher's response to the RFP. The Publisher should advise the Reporter in writing as to the names of all agents and subcontractors utilized in the manufacturing process.

**7.04 Database.** The type set or other composition necessary for the maintenance of the Web site and the printing of the Bound Volumes and Advance Sheets under this Contract shall not be used nor permitted to be used, directly or indirectly, by the Publisher to publish further material for sale to the public without written permission of the Reporter.

**7.05 Inspection.** The right to inspect the Publisher's editorial and manufacturing facilities, including any facilities occupied by the Publisher's subcontractors, is reserved by the Reporter.

**7.06 Termination.** The Contract may be terminated whenever the Reporter, in his or her reasonably exercised judgment, determines that the Publisher has failed to perform the Contract or a substantial part thereof. The Reporter shall decide all questions which may arise (i) as to the quality,

quantity, acceptability, fitness, and rate of progress of the work to be performed under this Contract and the schedules appended hereto, including all matters relating to the style, typesetting, proofreading, correction, printing, binding, and final publication of each Bound Volume and (ii) as to the interpretation of this Contract and the fulfillment hereof on the part of the Publisher, and his determination or decision in writing shall be final and conclusive.

**7.07 Change in Publisher.** In the event the Reporter does not exercise the option to renew this Contract after June 30, 2012, or in the event the Publisher is not awarded the Contract to publish the Reports after June 30, 2014, or in the event this Contract is terminated at any time prior to June 13, 2014, the Publisher shall cooperate fully with any Publisher selected by the Reporter to publish the Reports, including the transfer of any existing book inventory and all of the type set or other composition necessary for the maintenance of the Web site and the printing of the Bound Volumes and Advance Sheets under this Contract.

**7.08 Effective Notice.** Any notice required by this Contract to be given by the Reporter to the Publisher and any determination, direction, instruction, or decision which the Reporter is empowered to make under this Contract shall be effective and binding on the Publisher if contained in a writing sent by first class United States mail, postage pre-paid, addressed to the Publisher at \_\_\_\_\_  
\_\_\_\_\_ or, alternatively, at such other address as the Publisher may hereafter specify by a notice in writing delivered to the Reporter and received by him at the Massachusetts Supreme Judicial Court, John Adams Courthouse, Pemberton Square, Suite 2500, Boston, Massachusetts 02108-1750. Any notice required or permitted by this Contract to be given by the Publisher to the Reporter shall be effective if contained

in a writing delivered to the Reporter and received by him at the Massachusetts Supreme Judicial Court, Office of the Reporter of Decisions, John Adams Courthouse, One Pemberton Square, Suite 2500, Boston, Massachusetts 02108-1750.

**7.09 Integration Clause.** This Agreement, including RFP2009 and Appendices A, B, C, and D attached, contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements, and understandings with respect thereto. This Agreement may only be amended by a written document duly executed by all parties.