

University of California Standard Terms And Conditions For Various Fund Sources

University of California Standard Terms and Conditions, Appendix "A", as attached shall apply to any orders issued against this agreement regardless of funding type or value of this agreement or purchase order.

If this agreement is for maintenance to University buildings or property, University of California Supplement No. 2, Special Terms and Conditions for Maintenance as attached, shall apply regardless of funding type or value of this agreement or purchase order.

Additional Terms and Conditions for Federal Grants and/or Federal Contracts

If the University uses Federal Grant funds for this agreement or any purchase orders issued against this agreement the following flow-through clauses shall apply:

For Research, Development Test and/or Evaluation agreements or purchase orders (RDT&E) at any cost:

The clause contained in the Department of Commerce Regulations at 37 CFR part 401.14 - Patent Rights - Small Businesses and Nonprofit Organizations is incorporated herein by reference. For purposes of this order in the above clause the term "Contract" shall mean "Order"; the term "Contractor" shall mean "Seller"; and the terms "Government" and "Contracting Officer" shall mean "University".

For agreements or purchase orders that exceed \$10,000:

- Listing of Employment Openings: This agreement or purchase order requires the listing of employment openings by the vendor with the local office of the Federal - State Employment Service System.
- The University, the Federal Sponsoring Agency, the Controller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, or records of the seller which are directly pertinent to this agreement or purchase order for the purpose of making audits, examinations, excerpts, and transcriptions.
- As a supplier of goods or services to the University of California I/we certify that racially segregated facilities will not be maintained nor provided for employees at any establishment under my/our control, and that I/we adhere to the principles set forth in Executive Order 11246 and 11375, and undertake specifically to maintain employment policies and practices that affirmatively promote equality of opportunity for minority group persons and women; to take affirmative steps to hire and promote women and minority group persons at all job levels and in all aspects of employment; to communicate this policy in both English and Spanish to all persons concerned within the company, with outside recruiting services, and the minority community at large; to provide the University on request a breakdown of our total labor force by ethnic group, sex, and job category; and to discuss with the University our policies and practices relating to our affirmative action program.

For agreements or purchase orders that exceed \$100,000:

Exhibit B

On agreements or purchase orders for all federal contracts, grants, loans, and cooperative agreements (if the order value will exceed \$100,000) the "Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions" as shown at FAR 52.203-11 and attached as Exhibit B shall apply.

Exhibit A

On agreements and purchase orders (if the order value will exceed \$100,000 or the participant will have critical influence on or substantive control over the transaction) the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions" as stated in Appendix B of the OMB government wide common rule regarding non-procurement debarment and suspension published in the Federal Register on May 26, 1988 (53 FR 19211) shall apply. The text of this certification is attached as Exhibit A.

If the University uses Federal Contract funds against this agreement or any purchase orders issued against this agreement the following additional flow-through clauses shall apply:

- University of California Supplement No. 5, as attached, Special Terms and Conditions for Federal Government Contracts shall apply.

▪ Accounts, Records and Audits:

Contractor, and any subcontractors performing work hereunder, shall maintain accounts, records, documents and other evidence ("Records") detailing all elements of their proposal costs and supporting all charges made by them under this contract. These records shall be retained by contractor and subcontractor for a period of three (3) years from the date of the expiration of this contract. The system of accounts employed by the contractor and the subcontractors hereunder shall be satisfactory to the University, shall be in accordance with generally accepted accounting principles consistently applied, and shall be subject to inspection and audit by University and any of its duly authorized representatives at all reasonable times and places.

For agreements or purchase orders that exceed \$10,000:

As a supplier of goods or services to the University of California I/we certify that racially segregated facilities will not be maintained nor provided for employees at any establishment under my/our control, and that I/we adhere to the principles set forth in Executive Order 11246 and 11375, and undertake specifically to maintain employment policies and practices that affirmatively promote equality of opportunity for minority group persons and women; to take affirmative steps to hire and promote women and minority group persons at all job levels and in all aspects of employment; to communicate this policy in both English and Spanish to all persons concerned within the company, with outside recruiting services, and the minority community at large; to provide the University on request a breakdown of our total labor force by ethnic group, sex, and job category; and to discuss with the University our policies and practices relating to our affirmative action program.

For agreements or purchase orders that exceed \$25,000:

Exhibit C

Awards under federal contracts which exceed \$25,000 must comply with the provisions of FAR 52.209-6, Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment, which states that the University shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the University, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government. The text of such disclosure is attached as **Exhibit C**. The University shall notify the federal Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment. The notice must include the following:

1. The name of the subcontractor
2. The University's knowledge of the reasons for the subcontractor being on the List of Parties Excluded From Procurement Programs.
3. The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded From Procurement Programs.
4. The systems and procedures the University has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

For agreements or purchase orders that exceed \$100,000:

Exhibit B

On agreements or purchase orders for all federal contracts, grants, loans, and cooperative agreements (if the order value will exceed \$100,000) the "Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions" as shown at FAR 52.203-11 and attached as Exhibit B shall apply.

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ARTICLE 1 - The materials, supplies or services covered by this order shall be furnished by Seller subject to all the terms and conditions set forth in this order including the following, which Seller, in accepting this order, agrees to be bound by and to comply with in all particulars and no other terms or conditions shall be binding upon the parties unless hereafter accepted by them in writing. Written acceptance or shipment of all or any portion of the materials or supplies, or the performance of all or any portion of the services, covered by this order shall constitute unqualified acceptance of all its terms and conditions. The terms of any proposal referred to in this order are included and made a part of the order only to the extent it specifies the materials, supplies, or services ordered, the price therefor, and the delivery thereof, and then only to the extent that such terms are consistent with the terms and conditions of this order.

ARTICLE 2 - INSPECTION. The services, materials and supplies furnished shall be exactly as specified in this order free from all defects in Seller's performance, design, workmanship and materials, and, except as otherwise provided in this order, shall be subject to inspection and test by University at all times and places. If, prior to final acceptance, any services and any materials and supplies furnished therewith are found to be incomplete, or not as specified, University may reject them, require Seller to correct them without charge, or require delivery of such materials, supplies, or services at a reduction in price which is equitable under the circumstances. If Seller is unable or refuses to correct such items within a time deemed reasonable by University, University may terminate the order in whole or in part. Seller shall bear all risks as to rejected services and, in addition to any costs for which Seller may become liable to University under other provisions of this order, shall reimburse University for all transportation costs, other related costs incurred, or payments to Seller in accordance with the terms of this order for unaccepted services and materials and supplies incidental thereto. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud or such gross mistakes as amount to fraud.

ARTICLE 3 - CHANGES. University may make changes within the general scope of this order in drawings and specifications for specially manufactured supplies, place of delivery, method of shipment or packing of the order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of this order, an equitable adjustment in the price or delivery or both shall be made. No change by Seller shall be allowed without written approval of University. Any claim of Seller for an adjustment under this Article must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such change unless University waives this condition in writing. Nothing in this Article shall excuse Seller from proceeding with performance of the order as changed hereunder.

ARTICLE 4 - TERMINATION

A. University may, by written notice stating the extent and effective date, cancel and/or terminate this order for convenience in whole or in part, at any time. University shall pay Seller as full compensation for performance until such termination:

(1) the unit or pro rata order price for the performed and accepted portion; and
(2) a reasonable amount, not otherwise recoverable from other sources by Seller as approved by University, with respect to the unperformed or unaccepted portion of this order, provided compensation hereunder shall in no event exceed the total order price.

B. University may by written notice terminate this order for Seller's default, in whole or in part, at any time, if Seller refuses or fails to comply with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time, or fails to perform the services within the time specified or any written extension thereof. In such event, University may purchase or otherwise secure services and, except as otherwise provided herein, Seller shall be liable to University for any excess costs occasioned University thereby. If, after notice of termination for default, University determines that the Seller was not in default or that the failure to perform this order was due to causes beyond the control and without the fault or negligence of Seller (including, but not restricted to, acts of God or of the public enemy, acts of University, acts of Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a subcontractor or supplier due to such causes and without the fault or negligence of the subcontractor or supplier), termination shall be deemed for the convenience of University, unless University shall determine that the services covered by this order were obtainable by Seller from other sources in sufficient time to meet the required performance schedule.

C. If University determines that Seller has been delayed in the work due to causes beyond the control and without the fault or negligence of Seller, University may extend the time for completion of the work called for by this order, when promptly applied for in writing by Seller; any extension granted shall be effective

only if given in writing. If such delay is due to failure of University, not caused or contributed to by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of the order shall be subject to change under the Changes Article. Sole remedy of Seller in event of delay by failure of University to perform shall, however, be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of the delay. No allowance will be made for anticipated profits.

D. The rights and remedies of University provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

E. As used in this Article, the word "Seller" includes Seller and its suppliers at any tier.

ARTICLE 5 - LIABILITY FOR UNIVERSITY - FURNISHED PROPERTY. Seller assumes complete liability for any tooling, articles or material furnished by University to Seller in connection with this order and Seller agrees to pay for all such tooling, articles or material damaged or spoiled by it or not otherwise accounted for to University's satisfaction. The furnishing to Seller of any tooling, articles, or material in connection with this order shall not, unless otherwise expressly provided, be construed to vest title thereto in Seller.

ARTICLE 6 - TITLE. Title to the material and supplies purchased hereunder shall pass directly from Seller to University at the f.o.b. point shown, or as otherwise specified in this order, subject to the right of University to reject upon inspection.

ARTICLE 7 - PAYMENT, EXTRA CHARGES, DRAFTS. Seller shall be paid, upon submission of acceptable invoices, for materials and supplies delivered and accepted or services rendered and accepted. University will not pay cartage, shipping, packaging or boxing expenses, unless specified in this order. Drafts will not be honored. Invoices must be accompanied by shipping documents or photocopies of such, if transportation is payable and charged as a separate item.

ARTICLE 8 - CHARACTER OF SERVICES. Seller, as an independent contractor, shall furnish all equipment, personnel and material sufficient to provide the services expeditiously and efficiently during as many hours per shift and shifts per week and at such locations as the University may so require and designate.

ARTICLE 9 - FORCED, CONVICT, AND INDENTURED LABOR

A. By accepting this order, Seller hereby certifies that no foreign-made equipment, materials, or supplies furnished to the University pursuant to this order will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.

B. Any Seller contracting with the University who knew or should have known that the foreign-made equipment, materials, or supplies furnished to the University were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract pursuant to the above, may have any or all of the following sanctions imposed:

(1.) The contract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the University.
(2.) Seller may be removed from consideration for University contracts for a period not to exceed 360 days.

ARTICLE 10 - INDEMNITY.

A. General. Seller shall defend, indemnify, and hold harmless University, its officers, employees, and agents, from and against all losses, expenses (including attorneys' fees), damages, and liabilities of any kind resulting from or arising out of this agreement and/or Seller's performance hereunder, provided such losses, expenses, damages and liabilities are due or claimed to be due to the negligent or willful acts or omissions of Seller, its officers, employees, agents, subcontractors, or anyone directly or indirectly employed by them, or any person or persons under Seller's direction and control.

B. Proprietary Rights. Seller shall indemnify, defend, and hold harmless University, its officers, agents, and employees against all losses, damages, liabilities, costs, and expenses (including but not limited to attorneys' fees) resulting from any judgment or proceeding in which it is determined, or any settlement agreement arising out of the allegation, that Seller's furnishing or supplying University with parts, goods, components, programs, practices, or methods under this order or University's use of such parts, goods, components, programs, practices, or methods supplied by Seller under this order constitutes an infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party. The foregoing shall not apply unless University has informed Seller as soon as practicable of the suit or action alleging such infringement. Seller shall not settle such suit or action

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without the consent of University. University retains the right to participate in the defense against any such suit or action.

C. Products. Seller shall fully indemnify, defend, and hold harmless University from and against any and all claim, action, and liability, for injury, death, and property damage, arising out of the dispensing or use of any of Seller's product provided under authorized University orders. In addition to the liability imposed by law on the Seller for damage or injury (including death) to persons or property by reason of the negligence, willful acts or omissions, or strict liability of the Seller or his agents, which liability is not impaired or otherwise affected hereby, the Seller hereby assumes liability for and agrees to save University harmless and indemnify it from every expense, liability or payment by reason of any damage or injury (including death) to persons or property suffered or claimed to have been suffered through any act or omission of the Seller. The University agrees to provide Seller with prompt notice of any such claims and to permit Seller to defend any claim or suit, and that it will cooperate fully in such defense.

ARTICLE 11 - DECLARED VALUATION OF SHIPMENTS. Except as otherwise provided on the face of this order, all shipments by Seller under this order for University's account shall be made at the maximum declared value applicable to the lowest transportation rate or classification and the bill of lading shall so note.

ARTICLE 12 - WARRANTY. Seller agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar supplies or services, or such other more favorable warranties as specified in this order. The rights and remedies so provided are in addition to and do not limit any rights afforded to University by any other article of this order. Such warranties will be effective notwithstanding prior inspection and/or acceptance of the services or supplies by the University.

ARTICLE 13 - ASSIGNMENT AND SUBCONTRACTING. This order is assignable by University. Except as to any payment due hereunder, this order may not be assigned or subcontracted by Seller without written approval of University. In case such consent is given, it shall not relieve Seller from any of the obligations of this Agreement and any transferee or subcontractor shall be considered the agent of Seller and, as between the parties hereto, Seller shall be and remain liable as if no such transfer or subcontracting had been made.

ARTICLE 14 - EQUAL OPPORTUNITY AFFIRMATIVE ACTION. Seller shall not maintain or provide racially segregated facilities for employees at any establishment under its control. Seller agrees to adhere to the requirements set forth in Executive Orders 11246 and 11375, and with respect to activities occurring in the State of California, to the California Fair Employment and Housing Act (Government Code section 12900 et seq.). Expressly, Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, medical condition (as defined by California Code section 12925f), marital status, age, physical and mental handicap in regard to any position for which the employee or applicant for employment is qualified, or because he or she is a disabled veteran or veteran of the Vietnam era. Seller shall further specifically undertake affirmative action regarding the hiring, promotion and treatment of minority group persons, women, the handicapped, and disabled veterans and veterans of the Vietnam era. Seller shall communicate this policy in both English and Spanish to all persons concerned within its company, with outside recruiting services, and the minority community at large. Seller shall provide the University on request a breakdown of its labor force by groups, specifying the above characteristics within job categories, and shall discuss with the University its policies and practices relating to its affirmative action programs.

ARTICLE 15 - The clauses contained in the following paragraphs of the Federal Acquisition Regulations are incorporated by reference. The full text is available upon request:

- FAR 52.222-04 Contract Work Hours and Safety Standards Act
- FAR 52.222-26 Equal Opportunity
- FAR 52.223-02 Clean Air and Water (If order exceeds \$100,000)

ARTICLE 16 - WORK ON UNIVERSITY OR GOVERNMENT PREMISES. If Seller's work under this order involves performance by Seller at University or United States Government owned sites or facilities, the following provisions shall apply:

A. Liens. Seller agrees that at any time upon request of University he will submit a sworn statement setting forth the work performed or material furnished by subcontractors, suppliers and materialmen, and the amount due and to become

due to each, and that before the final payment called for hereunder, will if requested, submit to University a complete set of vouchers showing what payments have been made for materials and labor used in connection with the work called for hereunder.

Seller shall:

(1) Indemnify and hold harmless University from all claims, demands, causes of action or suits, of whatever nature, arising out of the services, labor and materials furnished by Seller or its subcontractors under this order, and from all laborers', materialmen's and mechanics' liens upon the real property upon which the work is located or any other property of University;

(2) Promptly notify University in writing, of any such claims, demands, causes of action, or suits brought to its attention. Seller shall forward with such notification copies of all pertinent papers received by Seller with respect to any such claims, demands, causes of action or suits and, at the request of University shall do all things and execute and deliver all appropriate documents and assignments in favor of University of all Seller's rights and claims growing out of such asserted claims as will enable University to protect its interest by litigation or otherwise. The final payment shall not be made until Seller, if required, shall deliver to University a complete release of all liens arising out of this order, or receipts in full in lieu thereof, as University may require, and if required in either case, an affidavit that as far as it has knowledge or information, the receipts include all the labor and materials for which a lien could be filed; but Seller may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to University to indemnify it against any claim by lien or otherwise. If any lien or claim remains unsatisfied after all payments are made, Seller shall refund to University all monies that the latter may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorneys' fees.

B. Cleaning Up. Seller shall at all times keep University premises where the work is performed and adjoining premises free from accumulations of waste material or rubbish caused by its employees or work of any of its subcontractors, and, at the completion of the work; shall remove all rubbish from and about the building and all its and its subcontractors' tools, scaffolding, and surplus materials, and shall leave the work "broom clean" or its equivalent, unless more exactly specified. In case of dispute between Seller and the subcontractors employed on or about the structure or structures upon which the work is to be done, as herein provided, as to responsibility for the removal of the rubbish, or in case the same be not promptly removed as herein required, University may remove the rubbish and charge the cost to Seller.

C. Employees. Seller shall not employ on the work any unfit person or anyone not skilled in the work assigned to him or her, and shall devote only its best-qualified personnel to work under this order. Should University deem anyone employed on the work incompetent or unfit for his or her duties and so inform Seller, Seller shall immediately remove such person from work under this order and he or she shall not again, without written permission of University, be assigned to work under this order.

It is understood that if employees of University shall perform any acts for the purpose of discharging the responsibility undertaken by the Seller in this Article 15, whether requested to perform such acts by the Seller or not, such employees of the University while performing such acts shall be considered the agents and servants of the Seller subject to the exclusive control of the Seller.

D. Safety, Health and Fire Protection. Seller shall take all reasonable precautions in the performance of the work under this order to protect the health and safety of employees and members of the public and to minimize danger from all hazards to life and property, and shall comply with all health, safety, and fire protection regulations and requirements (including reporting requirements) of University. In the event that Seller fails to comply with said regulations or requirements of University, University may, without prejudice to any other legal or contractual rights of University, issue an order stopping all or any part of the work; thereafter a start order for resumption of work may be issued at the discretion of the University. Seller shall make no claim for extension of time or for compensation or damages by reason of or in connection with such work stoppage.

The safety of all persons employed by Seller and its subcontractors on University premises, or any other person who enters upon University premises for reasons relating to this order, shall be the sole responsibility of Seller. Seller shall at all times maintain good order among its employees and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him or her. Seller shall confine its employees and all other persons who come onto University's premises at Seller's request or for reasons relating to this order and its equipment to that portion of University's premises where the work under this order is to be performed or to roads leading to and from such work sites, and to any other area which University may permit Seller to use. Seller shall take all reasonable measures and precautions at all times to prevent injuries to or the death of any of its employees or any other person who enters upon University premises. Such measures and precautions shall include, but shall not be limited to, all safeguards and warnings necessary to protect workers and others against any conditions on

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Owner's premises which could be dangerous and to prevent accidents of any kind whenever work is being performed in proximity to any moving or operating machinery, equipment or facilities, whether such machinery, equipment or facilities are the property of or are being operated by, the Seller, its subcontractors, the University or other persons.

To the extent compliance is required, Seller shall comply with all University safety rules and regulations when on University premises.

ARTICLE 17 - INSURANCE

Seller shall defend, indemnify, and hold the University, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages that are caused by or result from the negligent or intentional acts or omissions of Seller, its officers, agents, or employees.

Seller, at its sole cost and expense, shall insure its activities in connection with the work under this order and obtain, keep in force, and maintain insurance as follows:

A. Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with limits as follows:

Each Occurrence	\$ <u>1,000,000</u>
Products/Completed Operations Aggregate	\$ <u>5,000,000</u>
Personal and Advertising Injury	\$ <u>1,000,000</u>
General Aggregate (Not applicable to the Comprehensive Form)	\$ <u>5,000,000</u>

If the above insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

B. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit not less than One million dollars (\$ 1,000,000) per occurrence. (REQUIRED ONLY IF SELLER DRIVES ON UNIVERSITY PREMISES IN THE COURSE OF PERFORMING WORK FOR UNIVERSITY.)

C. Professional Liability Insurance with a limit of _____ dollars (\$ _____) per occurrence with an aggregate of not less than _____ dollars (\$ _____). If this insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

D. Workers' Compensation as required by California State law.

It is understood that the coverage and limits referred to under a., b., and c. above shall not in any way limit the liability of Seller. Seller shall furnish the University with certificates of insurance evidencing compliance with all requirements prior to commencing work under this Agreement. Such certificates shall:

- (1) Provide for thirty (30)-days advance written notice to the University of any modification, change, or cancellation of any of the above insurance coverage.
- (2) Indicate that The Regents of the University of California has been endorsed as an additional insured for the coverage referred to under a. and b. This provision shall only apply in proportion to and to the extent of the negligent acts or omissions of Seller, its officers, agents, or employees.
- (3) Include a provision that the coverage will be primary and will not participate with nor be excess over any valid and collectible insurance or program of self-insurance carried or maintained by the University.

ARTICLE 18 - PERMITS. Seller agrees to procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the United States and of the state, territory and political subdivision in which the work under this order is performed. Seller shall be liable for all damages and shall indemnify and save University harmless from and against all damages and liability which may arise out of failure of Seller to secure and pay for any such licenses or permits or to comply fully with any and all applicable laws, ordinances and regulations.

ARTICLE 19 - COOPERATION. Seller and its subcontractors, if any, shall cooperate with University and other vendors and contractors on the premises and shall so carry on their work that other cooperating vendors and contractors shall

not be hindered, delayed or interfered with in the progress of their work, and so that all of such work shall be a finished and complete job of its kind.

ARTICLE 20 - WAIVER OF DEFAULT. Any failure of University at any time, or from time to time, to enforce or require the strict keeping and performance by Seller of any of the terms or conditions of this order shall not constitute a waiver by University of a breach of any such terms or conditions and shall not affect or impair such terms or conditions in any way, or the right of University at any time to avail itself of such remedies as it may have for any such breach or breaches of such terms or conditions.

ARTICLE 21 - TAXES. Seller shall pay all contributions, taxes and premiums payable under federal, state and local laws measured upon the payroll of employees engaged in the performance of work under this order, and all applicable sales, use, excise, transportation, privilege, occupational and other taxes applicable to materials and supplies furnished or work performed hereunder and shall save University harmless from liability for any such contributions, premiums, and taxes.

ARTICLE 22 - OTHER APPLICABLE LAWS. Any provision required to be included in a contract of this type by any applicable and valid federal, state or local law, ordinance, rule or regulations shall be deemed to be incorporated herein.

ARTICLE 23 - GOVERNING LAW. The law of the State of California shall control this Appendix and any document to which it is appended.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION--
LOWER TIER COVERED TRANSACTIONS**

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting his proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - -Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO
INFLUENCE CERTAIN FEDERAL TRANSACTIONS**

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989,---

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (FIRST TIER SUBCONTRACTOR)

(a)(1) The offerer certifies, to the best of its knowledge and belief, that –

(i)The offerer or any of its principals –

(A) Are are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have have not , within a a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(C) Are are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The offerer has, has not , within a three year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The Offerer shall provide immediate written notice to the University if, at any time prior to subcontract award, the Offerer learns that its certification was erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exist will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the University may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the University, the University may terminate the contract resulting from this solicitation for default.

Signature _____

Company Name _____

Date _____

University of California
SPECIAL TERMS AND CONDITIONS FOR FEDERAL GOVERNMENT CONTRACTS

Supplement 5

The clauses contained in the following paragraphs of the Federal Acquisition Regulations (FAR) are incorporated herein by reference. The date of this order determines the date of the FAR clause that is applicable. For purposes of this Purchase Order in the following clauses, the term "contract" shall mean "this order"; the term "Contractor" shall mean "Seller"; and the terms "Government" and "Contracting Officer" shall mean "University" (except with respect to clauses 52.215-2, 52.227-2, 52.227-11, 52.227-12, 52.227-14, 252.227-7013, 252.227-7037, 18-52.227-14, and 18-52.227-70 in which cases "Government" means "United States Government").

THE FOLLOWING PROVISIONS OF THE FAR APPLY REGARDLESS OF THE AMOUNT OF THIS ORDER:

- FAR 52.204-2 Security Requirements (Applies only if this order involves access to classified information)
- FAR 52.208-1 Required Sources for Jewel Bearings (Applicable only if this order requires the use of jewel bearings)
- FAR 52.219-1(c) Small Business Concern Representation (Applies only if business status is misrepresented for the purpose of obtaining a subcontract that is to be included as a part or all of a goal contained in a subcontracting plan)
- FAR 52.223-3 Hazardous Material Identification and Material Safety Data (Applicable only if this order involves hazardous material)
- FAR 52.227-10 Filing of Patent Applications - Classified Subject Matter (Applies only if this order involves access to classified information)
- FAR 52.227-11 Patent Rights - Retention by the Contractor (Short Form - For Sellers who are classified as a small business or a nonprofit organization)
- FAR 52.227-12 Patent Rights - Retention by the Contractor (Long Form - For all other Sellers)
- FAR 52.227-14 Rights in Data-General (With Alternate 4 if Seller is an educational institution)
- FAR 52.247-63 Preference for U.S. -- Flag Carriers (Applies only if this order involves international air transportation)

THE FOLLOWING PROVISIONS OF THE FAR ALSO APPLY IF THE AMOUNT OF THIS ORDER EXCEEDS \$10,000:

- FAR 52.222-35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era
- FAR 52.222-36 Affirmative Action for Workers with Disabilities
- FAR 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era

THE FOLLOWING PROVISIONS OF THE FAR ALSO APPLY IF THE AMOUNT OF THIS ORDER EXCEEDS \$25,000

- FAR 52.225-13 Restrictions on Certain Foreign Purchases

THE FOLLOWING PROVISIONS OF THE FAR ALSO APPLY IF THE AMOUNT OF THIS ORDER EXCEEDS \$100,000:

- FAR 52.203-6 Restrictions on Subcontractor Sales to the Government
- FAR 52.203-7 Anti-Kickback Procedures (Excluding subparagraph (c) (1) of the clause)
- FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
- FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- FAR 52.215-2 Audit and Records --Negotiation (Applies only if this order was entered into by negotiation)
- FAR 52.219-8 Utilization of Small Business Concerns (Does not apply to small business concerns)
- FAR 52.223-14 Toxic Chemical Reporting (Applies only to noncommercial, first tier subcontracts and only if the subcontractor is in SIC Classification 20-39)
- FAR 52.227-1 Authorization & Consent
- FAR 52.227-2 Notice of Assistance Regarding Patent & Copyright Infringement

THE FOLLOWING PROVISIONS OF THE FAR ALSO APPLY IF THE AMOUNT OF THIS ORDER EXCEEDS \$500,000:

- FAR 52.219-9 Small Business Subcontracting Plan (Does not apply to small business concerns)

THE FOLLOWING PROVISIONS OF THE DEFENSE FEDERAL ACQUISITION REGULATIONS (DFARS) APPLY ONLY TO ORDERS FUNDED BY THE DEPARTMENT OF DEFENSE (DOD):

- DFARS 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (Applicable only if the amount of this order exceeds \$100,000)
- DFARS 252.225-7001 Buy American Act and Balance of Payments Program (Applies if contract includes deliverable supplies)
- DFARS 252.225-7009 Duty Free Entry - Qualifying Country End Products and Components (Applicable only if contract includes deliverable supplies)
- DFARS 252.225-7026 Reporting of Contract Performance Outside the United States (Applicable only to first tier subcontractors and only if this order exceeds \$500,000)
- DFARS 252.227-7013 Rights in Technical Data Noncommercial Items (Applicable only if the prime DOD contract contains this clause and only if noncommercial technical data or computer software are to be obtained under this order; the same alternates or additions/deletions, if any, that are in the prime DOD contract clause also apply, suitably modified, to this order)
- DFARS 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Applicable only if this order requires delivery of noncommercial software)
- DFARS 252.227-7015 Technical Data--Commercial Items (Applicable only if this order requires delivery of technical data pertaining to commercial items)
- DFARS 252.227-7016 Rights in Bid or Proposal Information
- DFARS 252.227-7019 Validation of Asserted Restrictions--Computer Software (Applicable only if this order involves delivery of computer software)
- DFARS 252.227-7037 Validation of Restrictive Markings on Technical Data (Applicable only if DFARS 252.227-7013 applies)
- DFARS 252.245-7001 Reports of Government Property (Applicable only if this order involves acquisition of Government property)
- DFARS 252.247-7023 Transportation of Supplies by Sea (Applicable only if this order involves acquisition of noncommercial items and the amount of this order exceeds \$25,000)
- DFARS 252.249-7002 Notification of Proposed Contract Termination or Reduction (Applicable only if this order exceeds \$500,000)

THE FOLLOWING PROVISIONS OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) FEDERAL ACQUISITION REGULATIONS (NFAR) APPLY ONLY TO ORDERS FUNDED BY NASA:

- NFAR 18-52.219-75 Small Business Subcontracting Reporting (Applicable only if this order includes FAR 52.219-9)
- NFAR 18-52.227-14 Rights in Data-General (Applies only if the prime NASA contract contains this clause and Seller is not an educational institution performing research under this order)
- NFAR 18-52.227-70 New Technology (Applicable only to for profit firms)
- NFAR 18-52.227-72 Designation of New Technology Representative and Patent Representative (Applicable only if 18-52.227-70 applies)
- NFAR 1852.228-72 Cross-Waiver of Liability for Space Shuttle Services (Applicable only if this order involves Space Shuttle services)
- NFAR 1852.228-76 Cross-Waiver of Liability for Space Station Activities (Applicable only if this order involves Space Station activities)
- NFAR 1852.228-78 Cross-Waiver of Liability for NASA Expendable Launch Vehicle Launches (Applicable only if this order involves NASA ELV launches)
- NFAR 1852.242-73 NASA Contractor Financial Management Reporting (Applicable only if the amount of this order exceeds \$500,000)
- NFAR 18-52.244-70 Geographic Participation in the Aerospace Program (Applicable only if the prime NASA contract is \$500,000 or more and the amount of this order is \$100,000 or more)
- NFAR 18-52.245-73 Financial Reporting of NASA Property in the Custody of Contractors (Applies only if this order involves the acquisition or furnishing of property)

University of California

SPECIAL TERMS AND CONDITIONS MAINTENANCE

1. LICENSE REQUIREMENTS.

1.1 The State of California Business and Professions Code, Division 3, Chapter 9, known as the "Contractor's License Law," establishes licensing requirements for contractors. Seller and all Subcontractors shall comply with the requirements of the Contractor's License Law and at all times in the performance of any work under the Purchase Order that is the subject of this solicitation, shall have the appropriate current licenses issued by the State of California Contractor's State License Board for the work to be performed. In addition to the foregoing, and without limitation, at the time of submission of any Bid for the Purchase Order that is the subject of this solicitation, Seller and all Subcontractors, regardless of tier, shall have the appropriate current licenses. Additionally, if Seller is a joint venture, at the time of submission of the Bid, the Seller shall have a joint venture license appropriate for the performance of the work, and each member of the joint venture shall likewise have the appropriate license. If a Seller, that is a specialty contractor, submits a Bid involving 3 or more specialized building trades, the work of which is more than incidental and supplemental to the performance of the Work for which Seller holds a specialty contractor license, Seller must also hold either (1) a specialty contractor "C" license in each such trade, (2) a General Engineering contractor "A" license, or (3) a General Building contractor "B" license.

2. STATUTORY REQUIREMENTS.

2.1 Not Used

2.2 Nondiscrimination

2.2.1 For purposes of this Paragraph 2, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

2.2.2 Seller shall comply and shall ensure that all Subcontractors comply with Section 12900, and the applicable sections that follow, of the State of California Government Code.

2.2.3 Seller agrees as follows during the performance of the Work:

2.2.3.1 Seller shall not willfully discriminate against any employee or applicant for employment because of race, color, religion, sex, age, ancestry, national origin, local custom, habit, sexual orientation, handicap, veteran's status, medical condition (as defined in Section 12926 of the State of California Government Code), marital status, or citizenship (within the limits imposed by law or University's policy). All applicants for employment and employees are to be treated without regard to their race, color, religion, sex, age, ancestry, national origin, local custom, habit, sexual orientation, handicap, veteran's status, medical condition (as defined in Section 12926 of the State of California Government Code), marital status, or citizenship (within the limits imposed by law or University's policy). Such equal treatment shall apply, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2.2.3.2 Not used.

2.2.3.3 Seller and all Subcontractors will permit access to their records of employment, employment advertisements, application forms, and other pertinent data and records by University or any appropriate agency of the State of California designated by University for the purposes of investigation to ascertain compliance with this Paragraph 2. The outcome of the investigation may result in the following:

2.2.3.3.1 A finding of willful violation of the provisions of this Contract or of the Fair Employment Practices Act may be regarded by University as (1) a basis for determining that Seller is not a "responsible bidder" as to future contracts or purchase orders for

which such Seller may submit bids or (2) a basis for refusing to accept or consider the bids of Seller for future contracts or purchase orders.

2.2.3.3.2 University may deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has (1) investigated and determined that Seller has violated the Fair Employment Practices Act and (2) issued an order under the State of California Government Code Section 12970 or obtained an injunction under Government Code Section 12973.

2.2.3.3.3 Upon receipt of such written notice from the Fair Employment Practices Commission, University may notify Seller that, unless it demonstrates to the satisfaction of University within a stated period that the violation has been corrected, Seller's bids on future contracts and purchase orders will not be considered.

2.2.3.3.4 Seller agrees that, should University determine that Seller has not complied with this Paragraph 2, Seller shall forfeit to University, as a penalty, for each day or portion thereof, for each person who was denied employment as a result of such noncompliance, the penalties provided in Paragraph 3 for violation of prevailing wage rates. Such penalty amounts may be recovered from Seller; and University may deduct any such penalty amounts from the Contract Sum.

2.2.3.3.5 Nothing contained in this Paragraph 2 shall be construed in any manner so as to prevent University from pursuing any other remedies that may be available at law.

2.2.3.3.6 Seller shall meet the following standards for compliance and provide University with satisfactory evidence of such compliance upon University's request, which shall be evaluated in each case by University:

(a) Seller shall notify its Superintendent and other supervisory personnel of the nondiscrimination requirements of the Contract Documents and their responsibilities thereto.

(b) Seller or its representative shall, through all unions with whom it may have agreements, develop agreements that (1) define responsibilities for nondiscrimination in hiring, referrals, upgrading, and training and (2) implement an affirmative nondiscrimination program, in terms of the unions' specific areas of skill and geography, such that qualified minority women, non-minority women, and minority men shall be available and given an equal opportunity for employment.

(c) Seller shall notify University of opposition to the nondiscrimination requirements of the Contract Documents by individuals, firms, or organizations during the term of the Contract.

(d) Seller shall include the provisions of the foregoing Subparagraphs 2.2.3.3.1 through 2.2.3.3.6 in all subcontracts with Subcontractors, so that such provisions will be binding upon each such Subcontractor.

3. PREVAILING WAGE RATES

3.1 For purposes of this Paragraph 3, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

3.2 Seller shall comply and shall ensure that all Subcontractors comply with Section 1770, and the applicable sections that follow, including Section 1775 of the State of California Labor Code.

3.3 The State of California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality in which the Work is to be performed for each craft, classification, or type of worker required to perform the Work. A schedule of the general prevailing per diem wage rates will be on file at University's principal facility office and will be made available to any interested party upon request. By reference, such schedule is made part of the Contract Documents. Seller shall pay not less than the prevailing wage rates, as specified in the schedule and any amendments thereto, to all workers employed by Seller in the execution of the Work. Seller shall cause all subcontracts to include the provision that all Subcontractors shall pay not less than the prevailing rates to all workers employed by such Subcontractors in the execution of the Work. Seller and any subcontractor under him shall, as a penalty to the University, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the Director of the Department of Industrial Relations, for the work or craft in which the worker is employed by him or her or, except as provided in subdivision (b) of Section 1775 of the California Labor Code, by any subcontractor under him or her. The amount of this penalty shall be determined by the California Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Seller or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Seller in meeting his or her prevailing wage obligations, or the willful failure by the Seller or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Seller or subcontractor had knowledge of his or her obligations under this part. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Seller or subcontractor.

4. PAYROLL RECORDS

4.1 For purposes of this Paragraph 4, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

4.2 Seller and each subcontractor under Seller shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with this order. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

4.2.1 The information contained in the payroll record is true and correct.

4.2.2 The employer has complied with the requirements of Sections 1771, 1811, and 1815 of the California Labor Code for any work performed by his or her employees on this order.

4.3 The payroll records enumerated under paragraph 4.2 shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Seller on the following basis:

4.3.1 A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

4.3.2 A certified copy of all payroll records enumerated in paragraph 4.2 shall be made available for inspection or furnished upon request to a representative of the University, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

4.3.3 A certified copy of all payroll records enumerated in paragraph 4.2 shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the University, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph 4.3.2, the requesting party shall, prior to being provided the records, reimburse the costs of preparation by Seller,

subcontractors, and University of other entity through which the request was made. The public shall not be given access to the records at the principal office of the Seller.

4.4 The certified payroll records shall be on forms provided by the California Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.

4.5 Seller or subcontractor shall file a certified copy of the records enumerated in paragraph 4.2 with the entity that requested the records within ten 10 days after receipt of a written request.

4.6 Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the University, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in a manner so as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Seller awarded the order or the subcontractor performing the order shall not be marked or obliterated.

4.7 The Seller shall inform the University of the location of the records enumerated in paragraph 4.2, including the street address, city and county, and shall, within five working days, provide a notice of change of location and address.

4.8 The Seller or subcontractor shall have ten 10 days in which to comply subsequent to a receipt of a written notice requesting the records enumerated in paragraph 4.2. In the event that the Seller or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the University, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A Seller is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

5. APPRENTICES

5.1 For purposes of this Paragraph 5, the term Subcontractor shall not include suppliers, manufacturers, and distributors.

5.2 Only appendices, as defined in Section 3077, who are in training under standards and written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 of the California Labor Code are eligible to be employed on this order. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training.

5.3 When Seller, or any subcontractor under him or her, in performing any of he work under this order, employs workers in any apprenticeable craft or trade, the Seller and subcontractors shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site where the order is to be performed for a certificate approving the Seller or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject Seller to the Seller or subcontractor in order to comply with California Labor Code section 1777.5. Every Seller and subcontractor shall submit order award information to the applicable joint apprenticeship committee that includes an estimate of journeyman hours to be performed under the order, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There is an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the craft or trade in the area of the site where the order is to be performed to ensure equal employment and affirmative action in apprenticeship for women and minorities. The Seller and its subcontractors shall not be required to submit

individual applications for approval to joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen who shall be employed in the craft or trade on the order may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided herein, in no case shall the ratio be less than one hour of apprentices work for every five hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for every five journeymen.

5.4 Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the site where the order is to be performed and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Seller shall employ apprentices for the number of hours computed as above before the completion of the order. However, the Seller shall endeavor, to the greatest extent possible, to employ apprentices during the same period that the journeymen in the same craft or trade are employed at the site where the order is to be performed. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

5.5 The Seller or subcontractor, if he or she is covered by California Labor Code section 1777.5, upon the issuance of the approval certificate, or if he or she has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by Seller that he or she employs apprentices in the craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by a journeyman or, in the land surveyor classification, one apprentice for each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting Seller from the 1-to-5 hourly ratio as set forth in this section. This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000) or 20 working days. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the hourly ratio required by this section.

5.6 "Apprenticeable craft or trade," as used herein, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. The joint apprenticeship committee has the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a Seller from the 1-to-5 ratio set forth herein when it finds that any one of the following conditions is met:

5.6.1 Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

5.6.2 The number of apprentices in training in the area exceeds a ration of 1 to 5.

5.6.3 There is a showing that the apprenticeable craft or trade is replacing at least on-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

5.6.4 Assignment of an apprentice to any work performed under a public work contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

5.7 When exemptions are granted to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide

basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

5.8 A Seller to whom this order is awarded, or any subcontractor under him or her, who, in performing any of the work under the order, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any craft or trade in the area of the site where the order is to be performed, to which fund or funds other contractors in the area of the site where the order is to be performed are contributing, shall contribute to the fund or funds in each craft or trade in which he or she employs journeymen or apprentices on the order in the same amount or upon the same basis and in the same manner as the other contractors do, but, where the trust fund administrators are unable to accept the funds, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. The Seller or subcontractors may add the amount of the contributions in computing his or her bid for the order. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Section 227 of the California Labor Code.

5.9 Seller shall be responsible for compliance with this paragraph 5 for all apprenticeable occupations.

6. WORKDAY

6.1 Seller shall not permit any worker to labor more than 8 hours during any I day or more than 40 hours during any I calendar week, except as permitted by law and in such cases only upon such conditions as are provided by law. Seller shall forfeit to University, as a penalty, \$50 for each worker employed in the execution of this Contract by Seller, or any Subcontractor, for each day during which such worker is required or permitted to work more than 8 hours in any I day and 40 hours in any I calendar week in violation of the terms of this Paragraph 6 or in violation of the provisions of any law of the State of California. Such forfeiture amounts may be deducted from the Contract Sum. Seller and each Subcontractor shall keep, or cause to be kept, an accurate record showing the actual hours worked each day and each calendar week by each worker employed on the Project, which record shall be kept open at all reasonable hours to the inspection of University, its officers and agents, and to the inspection of the appropriate enforcement agency of the State of California.

7. TIME OF THE ESSENCE.

7.1 Any time limits stated in the Purchase Order for Seller's performance are of the essence.

8. APPLICABLE CODE REQUIREMENTS

8.1 Seller shall perform the Work in accordance with the following Applicable Code Requirements:

8.1.1 All laws, statutes, the most recent building codes, ordinances, rules, regulations, and lawful orders of all public authorities having jurisdiction over University, Seller, any Subcontractor, the Project, the Project site, the Work, or the prosecution of the Work.

8.1.2 All requirements of any insurance company issuing insurance required hereunder.

8.1.3 The Federal Occupational Safety and Health Act and all other Applicable Code Requirements relating to safety.

8.1.4 Applicable titles in the State of California Code of Regulations.

8.1.5 Applicable sections in the State of California Labor Code.

8.1.6 All Applicable Code Requirements relating to nondiscrimination, payment of prevailing wages, payroll records, apprentices, and work day.

8.2 Seller shall comply with and give notices required by all Applicable Code Requirements, including all environmental laws and all notice requirements under the State of California Safe Drinking Water and Enforcement Act of 1986 (State of California Health and Safety Code Section 25249.5 and applicable sections that follow). Seller shall promptly notify University's Representative in writing if Seller becomes aware during the performance of the Work that the Purchase Order is at variance with Applicable Code Requirements.

8.3 If Seller performs Work which it knows or should know is contrary to Applicable Code Requirements, without prior notice to University, Seller shall be responsible for such Work and any resulting damages including, without limitation, the costs of correcting Defective Work.