

**CONSTRUCTION DOCUMENTS
FOR
JOB ORDER CONTRACT
JOC 2026
GENERAL CONTRACTOR (B LICENSE)**

**UNIVERSITY OF CALIFORNIA
UC DAVIS HEALTH
FACILITIES PLANNING AND DEVELOPMENT DIVISION
SACRAMENTO, SACRAMENTO COUNTY
CALIFORNIA**

DECEMBER 2025

CERTIFICATION

Name of Project:	JOB ORDER CONTRACT 2026
Bidding Documents Prepared By	
Name of Firm:	<u>Facilities Planning & Development</u>
Address:	<u>4800 2nd Avenue, Suite 3010</u>
City, State, Zip Code:	<u>Sacramento, CA 95817</u>
Signed:	<div><div>Signed by:</div><div><i>Matthew Pechman</i></div><div>AD06EEE92DFA4B2...</div><div>(Signature of an officer of the firm named above)</div></div>
Typed Name:	<u>Matt Pechman</u>
Title:	<u>Director of Infrastructure</u>

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ADVERTISEMENT FOR BIDS

Subject to conditions prescribed by UC Davis Health, sealed bids for a Job Order Contract are invited from Prequalified Bidders for the following work:

**PROJECT NO. JOC 2026
GENERAL CONTRACTOR****Description of Work:**

The University is seeking to hire a Contractor for renovation work that will be delivered by Job Order Contracting (JOC). The following contractors have been prequalified to submit bids for this project:

- Colin Construction Company
- Peacock Construction
- Roebbelen Contracting
- Streamline Construction
- Swinerton Builders

Procedures: Bidding Documents will only be available digitally at no cost to Bidders beginning December 1, 2025 from our website at: <https://health.ucdavis.edu/facilities/work-with-us/contractors/out-to-bid>

Prequalified bidders must attend a **MANDATORY** pre-bid conference at **1:00 p.m. on Thursday, December 4, 2025**. Bidders must be present at the pre-bid conference no later than five (5) minutes after the scheduled start time in order to bid as a General Contractor and must attend the virtual prebid conference in its entirety. Attendees should plan to login five minutes prior to the scheduled meeting start time to avoid any disruptions.

Bid Deadline: Sealed bids must be received on or before 2 p.m. Thursday, December 18, 2025. Bids will be received only at: Facilities Planning & Development (4800 2nd Ave, Suite 3010, Sacramento, CA 95817).

Bid Security in the amount of \$25,000 shall accompany each Bid. The surety issuing the Bid Bond shall be, on the Bid Deadline, an admitted surety insurer (as defined in California Code of Civil Procedure Section 995.120).

As described in more detail in the bidding documents, work under the JOC will be limited to the following:

The General Building Contractor will provide materials and services in support of renovation or remodel projects: 1) Inside operational OSHPD (HCAI) 1 regulated hospital, 2) Inside operational OSHPD 3 ambulatory clinics, 3) Inside operational educational, administrative, and non-clinical spaces, and 4) Site improvements.

Work under the JOC may include individual General Building contract project scopes between \$50,000 and \$300,000.

- This JOC specifically excludes projects that may require qualified specialized staff holding specific certifications or licenses as determined by the University Representative.
- This JOC specifically excludes work inside the Central Plant.
- This JOC contractor will be responsible for coordination with the University's established vendors for Fire Alarm, Water Quality, Industrial Hygiene, Lighting Controls and Building Management Controls.
- Specialty plumbing systems such as Reverse Osmosis, Deionized Water, Medical Vacuum, Medical Gas and Medical Air, etc. are excluded from this JOC.

Line items for this JOC shall include:

- Minor demolition
- Furniture, Fixtures & Equipment installation
- HVAC modification*
- Plumbing modification
- Ceiling system modification
- Installation or modification to existing lighting and lighting controls*
- Installation or modification of electrical & data*
- Modification or construction of interior walls
- Drywall patching and paint
- Flooring installation
- Door and hardware replacement
- Concrete and site work

** Associated with other line items in this section*

The University selected The Gordian Group's (Gordian) Job Order Contracting (JOC) Solution for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary JOC Information Management System ("JOC IMS"), JOC Applications, construction cost data, and Construction Task Catalog® which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Contract, including the preparation and submission of Job Order Proposals, Price Proposals, subcontractor lists, and other requirements specified by the University. The Contractor shall be required to execute Gordian's SaaS Terms of Use and pay a JOC System License Fee to obtain access to the Gordian JOC Solution™. The JOC System License Fee applies to all Job Orders issued to the Contractor under the terms of the Contract. The JOC System License Fee shall be equal to 1% of the Job Order Price. The JOG System License Fee applies to all Job Orders issued to the Contractor under the terms this Contract and shall be paid directly by the Contractor to The Gordian Group as set forth in 6.3.10 of the Supplementary Instructions to Bidders.

The successful Bidder will be required to have the following California current and active contractor's license at the time of submission of the Bid: B-General Building.

The Job Order Contract will have a Maximum Job Order Contract amount of \$ 5,000,000 for the initial term with two possible options for \$ 5,000,000 each. Individual Job Order Authorizations may range from \$50,000 to \$300,000.

Every effort will be made to ensure that all persons have equal access to contracts and other business opportunities with the University within the limits imposed by law or University policy. Each Bidder may be required to show evidence of its equal employment opportunity policy. The successful Bidder and its subcontractors will be required to follow the nondiscrimination requirements set forth in the Bidding Documents and to pay prevailing wages at the location of the work.

The work described in the contract is a public work subject to section 1771 of the California Labor Code.

No contractor or subcontractor, regardless of tier, may be listed on a Bid for, or engage in the performance of, any portion of this project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 and 1771.1. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The successful Bidder shall pay all persons providing construction services and/or any labor on site, including any University location, no less than the UC Fair Wage (defined as \$15 per hour) and shall comply with all applicable federal, state, and local working condition requirements.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

NOVEMBER 2025

PROJECT DIRECTORY

Project Name: JOB ORDER CONTRACT
GENERAL CONTRACTOR (B LICENSE)

Project Number: JOC 2026

Location: Facilities Planning & Development
UC Davis Health
4800 2nd Avenue, Suite 3010
Sacramento, CA 95817
T: 916-734-7024

University: The Regents of the University of California

University's Responsible Administrator: Jason Nietupski
Vice President, Facilities Planning & Development

University's Representative: Matthew Pechman, Director of Infrastructure

Address for Stop Notices: Holly Jacobson, Manager
Capital Finance
UC Davis Health HAS Building
10850 White Rock Road
Rancho Cordova, CA 95670

Address for Demand for Arbitration: Western Case Management Center
6795 N. Palm Avenue, 2nd Floor
Fresno, CA 93704

A copy of the Demand for Arbitration
must be sent to: University of California
Office of the General Counsel
1111 Franklin Street, 8th Floor
Oakland, CA 94607

Address for filing Bid Protests: Leila Couceiro, Contracts Manager
Facilities Planning & Development
UC Davis Health
4800 2nd Avenue, Suite 3010, Sacramento, CA 95817
Email: lcouceiro@health.ucdavis.edu

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ARTICLE 1 DEFINITIONS

1.1 Except as otherwise specifically provided, definitions set forth in the General Conditions or in other Contract Documents are applicable to all Bidding Documents.

1.2 The term “Addenda” means written or graphic instruments issued by University prior to the Bid Deadline which modify or interpret the Bidding Documents by additions, deletions, clarifications, or corrections.

1.3 “Adjustment Factor” – See Article 1, Subparagraph 1.1.1 of the General Conditions.

1.4 The term “Bid Deadline” means the date and time on or before which Bids must be received, as designated in the Advertisement for Bids and which may be revised by Addenda.

1.5 The term “Bidder” means a person or firm that submits a Bid.

1.6 The term “Bidding Documents” means the construction documents prepared and issued for bidding purposes including all Addenda thereto.

1.7 NOT USED

1.8 As used in these Instructions to Bidders, the term “Business Day” means any day other than a Saturday, a Sunday, and the holidays specified herein, and to the extent provided herein, if Facility or applicable office of University is closed for the whole of any day, insofar as the business of that office is concerned, that day shall be considered as a holiday for the purposes of computing time in these Instructions to Bidders. Holidays include January 1st and either December 31st or January 2nd, the third Monday in January, the third Monday in February, the last Friday in March, the last Monday in May, July 4th and either July 3rd or July 5th if it falls on a weekend, the first Monday in September, November 11th and either November 10th or November 12th if it falls on a weekend, Thanksgiving Day and the Friday after, December 25th and either December 24th or December 26th, and every day designated by University as a holiday.

1.9 NOT USED.

1.10 As used in these Instructions to Bidders, the term “Facility” means the University’s Facility office issuing the Bidding Documents

1.11 This Job Order Contract (JOC) is an indefinite quantity contract pursuant to which the Contractor will perform an ongoing series of individual Job Orders, consisting of specific construction tasks, at different locations. The scope of this JOC Contract is for general construction, repair, remodel and other repetitive related work to be performed for the University.

As jobs are identified, the University will prepare a Detailed Scope of Work and issue a Request for Schedule of Values to the Contractor. The Contractor will then prepare a Job Order Schedule of Values for the work including a Job Order Sum, drawings and sketches, a list of subcontractors and materialmen, construction schedule, and other requested documentation. The value of the Job Order Sum shall be calculated by summing the total of the calculation for each Pre-priced Task (Unit Price x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks.

1.12 The term “Planholder” means a person or entity known by the Facility to have received a complete set of Bidding Documents and who has provided a street address for receipt of any written pre-bid communications.

1.13 The Scope of Work for this Contract will be determined by the Detailed Scopes of Work issued in connection with individual Job Orders. The Scope of Work, for each job will be explained to the Contractor at a Joint Scope Meeting. The University will provide a Request for Job Order Schedule of Values and Detailed Scope of Work to the Contractor. The Contractor will be required to review the Detailed Scope of Work and develop a Schedule of Values using appropriate tasks, quantities and the applicable Adjustment Factor. A separate Job Order Authorization will be issued for each job. Extra work, credits, and deletions will be contained in a Supplemental Job Order. The University will review the

Contractor's Schedule of Values in detail and if found to be reasonable and acceptable, a Job Order may be issued. The agreed upon price will be a fixed price for the performance of the Detailed Scope of Work.

1.14 The term "Total Composite Bid" means the calculated amount in the Total Award Criteria Figure Calculation section in the Bid Form used to determine the low bid as determined therein.

ARTICLE 2 BIDDER'S REPRESENTATIONS

2.1 Bidder, by making a Bid, represents that:

2.1.1 Bidder has read, understood, and made the Bid in accordance with the provisions of the Bidding Documents.

2.1.2 Bidder is familiar with the conditions under which the Work is to be performed and the local conditions as related to the requirements of the Contract Documents.

2.1.3 The Bid is based upon the materials, equipment, and systems required by the Bidding Documents without exception.

2.1.4 At the time of submission of the Bid, Bidder shall have the appropriate current and active licenses issued by the State of California Contractors State License Board for the Work to be performed and any licenses specifically required by the Bidding Documents. If Bidder is a joint venture, at the time of submission of the Bid, Bidder shall have the licenses required by the preceding sentence in the name of the joint venture itself. The State of California Business and Professions Code, Division 3, Chapter 9, known as the "Contractor's License Law," establishes licensing requirements for contractors.

2.1.5 Bidder has read and shall abide by the nondiscrimination requirements contained in the Bidding Documents.

2.1.6 Bidder has the expertise and financial capacity to perform and complete all obligations under the Bidding Documents.

2.1.7 The person executing the Bid Form is duly authorized and empowered to execute the Bid Form on behalf of Bidder.

2.1.8 Bidder is aware of and, if awarded the Contract, will comply with Applicable Code Requirements in its performance of the Work.

ARTICLE 3 BIDDING DOCUMENTS

3.1 COPIES

3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Advertisement for Bids at no cost.

3.1.2 Bidders shall use a complete set of Bidding Documents in preparing Bids.

3.1.3 University makes copies of the Bidding Documents available, on the above terms, for the sole purpose of obtaining Bids for the Work and does not confer a license or grant permission for any other use of the Bidding Documents.

3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

3.2.1 Bidder shall, before submitting its Bid, carefully study and compare the components of the Bidding Documents; shall examine the local conditions; and shall at once report to University's Representative

errors, inconsistencies, or ambiguities discovered. If Bidder is awarded the Contract, Bidder waives any claim arising from any errors, inconsistencies or ambiguities, that Bidder, its subcontractors or suppliers, or any person or entity under Bidder on the Contract became aware of, or reasonably should have become aware of, prior to Bidder's submission of its Bid.

3.2.2 Requests for clarification or interpretation of the Bidding Documents shall be addressed only to the person or firm designated in the Supplementary Instructions to Bidders.

3.2.3 Clarifications, interpretations, corrections, and changes to the Bidding Documents will be made by Addenda issued as provided in Article 3.5. Clarifications, interpretations, corrections, and changes to the Bidding Documents made in any other manner shall not be binding and Bidders shall not rely upon them.

3.3 PRODUCT SUBSTITUTIONS

3.1.1 No substitutions will be considered prior to award of Contract. Substitutions will only be considered after award of the Contract and as provided for in the Contract Documents.

3.4 NOT USED

3.5 ADDENDA

3.5.1 Addenda will be issued only by University and only in writing. Addenda will be identified as such and will be mailed or delivered to all Planholders. At its sole discretion, the University may elect to deliver Addenda via facsimile to Planholders who have provided a facsimile number for receipt of Addenda.

3.5.2 Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for inspection.

3.5.3 Addenda will be issued such that Planholders should receive them no later than 3 full business days prior to the Bid Deadline. Addenda withdrawing the request for Bids or postponing the Bid Deadline may be issued any time prior to the Bid Deadline.

3.5.4 Each Bidder shall be responsible for ascertaining, prior to submitting a Bid, that it has received all issued Addenda.

3.6 BUILDER'S RISK PROPERTY INSURANCE

3.6.1 University will provide builder's risk property insurance subject to the deductibles in the policy as required by the General Conditions if the requirements of the Project are not excluded by such coverage. A summary of the provisions of the policy is included as an Exhibit to the Contract; the policy may be reviewed at the Facility office. Bidder agrees that the University's provision of builder's risk property insurance containing said provisions meets the University's obligation to provide builder's risk property insurance under the Contract and, in the event of a conflict between the provisions of the policy and any summary or description of the provisions contained herein or otherwise, the provisions of the policy shall control and shall be conclusively presumed to fulfill the University's obligation to provide such insurance.

ARTICLE 4 PRE-BID CONFERENCE

4.1 Bidder shall attend the Pre-Bid Conference at which the requirements of the Bidding Documents are reviewed by University, comments and questions are received from Bidders. University requires all Pre-Bid Conference attendees to arrive for the meeting on time and to sign an attendance list, which in turn is used to determine if Bidders meet this requirement. Any Bidder not attending the Pre-Bid Conference in its entirety will be deemed to have not complied with the requirements of the Bidding Documents and its Bid will be rejected.

ARTICLE 5 BIDDING PROCEDURES

5.1 FORM AND STYLE OF BIDS

5.1.1 Bids shall be submitted on the Bid Form included with the Bidding Documents. Bids not submitted on the University's Bid Form shall be rejected.

5.1.2 The Bid Form shall be filled in legibly in ink or by typewriter. All portions of the Bid Form must be completed and the Bid Form must be signed before the Bid is submitted. Failure to comply with the requirements of this Article 5.1.2 will result in the Bid being rejected as non-responsive.

5.1.3 Bidder's failure to submit an Adjustment Factor(s) will result in the Bid being considered as non-responsive.

5.1.4 Bidder shall make no stipulations on the Bid Form nor qualify the Bid in any manner.

5.1.5 The Bid Form shall be signed by a person or persons legally authorized to bind Bidder to a contract. Bidder's Representative shall sign and date the Declaration included in the Bid Form. Failure to sign and date the declaration will cause the Bid to be rejected.

5.2 BID SECURITY

5.2.1 Each Bid shall be accompanied by Bid Security in the amount of \$25,000 as security for Bidder's obligation to enter into a Contract with University on the terms stated in the Bid Form and to furnish all items required by the Bidding Documents. Bid Security shall be a Bid Bond on the form provided by University and included herein, or a certified check made payable to "The Regents of the University of California." When a Bid Bond is used for Bid Security, failure to use University's Bid Bond form will result in the rejection of the Bid. Bidder must use the Bid Bond form provided by the University or an exact, true and correct photocopy of such form. The Bid Bond form may not be retyped, reformatted, transcribed onto another form, or altered in any manner except for the purpose of completing the form.

5.2.2 If the apparent lowest responsible Bidder fails to sign the Agreement and furnish all items required by the Bidding Documents within the time limits specified in these Instructions to Bidders, University may reject such Bidder's Bid and select the next apparent lowest responsible Bidder until all Bids have been exhausted or University may reject all Bids. The Bidder whose Bid is rejected for such failure(s) shall be liable for and forfeit to University the amount of the difference, not to exceed the amount of the Bid Security, between the amount of the Bid of the Bidder so rejected and the greater amount for which University procures the Work.

5.2.3 If a Bid Bond is submitted, the signature of the person executing the Bid Bond must be notarized. If an attorney-in-fact executes the Bid Bond on behalf of the surety, a copy of the current power of attorney bearing the notarized signature of the appropriate corporate officer shall be included with the Bid Bond. Additionally, the surety issuing the Bid Bond shall be, on the Bid Deadline, an admitted surety insurer (as defined in the California Code of Civil Procedure Section 995.120).

5.2.4 Bid Security will be returned after the contract has been awarded. Notwithstanding the preceding, if a Bidder fails or refuses, within 10 days after receipt of notice of selection, to sign the Agreement or submit to University all of the items required by the Bidding Documents, the University will retain that Bidder's Bid Security. If the Bid Security is in the form of a Bid Bond, the Bid Security will be retained until the University has been appropriately compensated; if the Bid Security is in the form of certified check, the University will negotiate said check and after deducting its damages, return any balance to Bidder.

5.3 SUBMISSION OF BIDS

5.3.1 The Bid Form, Bid Security, and all other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the office designated in the Supplementary Instructions to Bidders for receipt of Bids. The envelope shall be identified with the Project name, Bidder's name and address, and, if applicable, the designated portion of the Project for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

5.3.2 Bids shall be deposited at the designated location on or before the Bid Deadline. A Bid received after the Bid Deadline will be returned to Bidder unopened.

5.3.3 Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

5.3.4 Oral, telephonic, electronic (e-mail), facsimile, or telegraphic Bids are invalid and will not be accepted.

5.4 MODIFICATION OR WITHDRAWAL OF BID

5.4.1 Prior to the Bid Deadline, a submitted Bid may be modified or withdrawn by notice to the Facility receiving Bids at the location designated for receipt of Bids. Such notice shall be in writing over the signature of Bidder and, in order to be effective, must be received on or before the Bid Deadline. A modification so made shall be worded so as not to reveal the amount of the original Bid.

5.4.2 A withdrawn Bid may be resubmitted on or before the Bid Deadline, provided that it then fully complies with the Bidding Requirements.

5.4.3 Bid Security shall be in an amount sufficient for the Bid as modified or resubmitted.

5.4.4 Bids may not be modified, withdrawn, or canceled within 60 days after the Bid Deadline unless otherwise provided in Supplementary Instructions to Bidders.

ARTICLE 6 CONSIDERATION OF BIDS

6.1 OPENING OF BIDS

6.1.1 Bids which have the required identification as stipulated in Article 5.3.1 and are received on or before the Bid Deadline will be opened publicly.

6.2 REJECTION OF BIDS

6.2.1 University will have the right to reject all Bids.

6.2.2 University will have the right to reject any Bid not accompanied by the required Bid Security or any other item required by the Bidding Documents, or a Bid which is in any other way incomplete or irregular.

6.3 AWARD

6.3.1 University will have the right, but is not required, to waive nonmaterial irregularities in a Bid. If the University awards the Contract, it will be awarded to the responsible Bidder submitting the lowest responsive Bid as determined by University and who is not rejected by University for failing or refusing, within 10 days after receipt of notice of selection, to sign the Agreement or submit to University all of the items required by the Bidding Documents.

6.3.2 NOT USED

6.3.3 NOT USED

6.3.4 University will determine the apparent low Bidder on the basis of the Total Composite Bids defined in Article 1 in these Instructions to Bidders.

6.3.5 The University will post the Bid results in a public place at the address where the Bids are received (unless another address is specified in the Bidding Documents).

6.3.6 University will select the apparent lowest responsive and responsible Bidder and notify such Bidder on University's form within 50 days (unless the number of days is modified in Supplementary Instructions to Bidders) after the Bid Deadline or reject all Bids. Within 10 days after receipt of notice of selection as the apparent lowest responsive and responsible Bidder, Bidder shall submit to University all of the following items:

- .1 Three originals of the Agreement signed by Bidder.

- .2 Three originals of the Payment Bond required under Article 11 of the General Conditions.
- .3 Three originals of the Performance Bond required under Article 11 of the General Conditions.
- .4 Certificates of Insurance on form provided by University required under Article 11 of the General Conditions.
- .5 Name of, qualifications of, and references for the Project Manager proposed for the Contract.

6.3.7 Prior to award of the Contract, University will notify Bidder in writing, if University, after due investigation, objects to Project Manager proposed by Bidder, in which case Bidder shall propose a substitute acceptable to University. Failure of University to object to a proposed Project Manager prior to award shall not preclude University from requiring replacement of the Project Manager based upon information received subsequent to award, information which cannot be properly evaluated prior to award due to time constraints, or information relating to a failure to comply with the requirements of the Contract.

6.3.8 If Bidder submits three originals of the signed Agreement and all other items required to be submitted to University within 10 days after receipt of notice of selection as the apparent lowest responsive and responsible Bidder, and if all such items comply with the requirements of the Bidding Documents and are acceptable to University, University will award the Contract to Bidder by signing the Agreement and returning a signed copy of the Agreement to Bidder.

6.3.9 If University consents to the withdrawal of the Bid of the apparent lowest responsive and responsible Bidder, or the apparent lowest responsive and responsible Bidder fails or refuses to sign the Agreement or submit to University all of the items required by the Bidding Documents, within 10 days after receipt of notice of selection, or that Bidder is not financially or otherwise qualified to perform the Contract, University may reject such Bidder's Bid and select the next apparent lowest responsible Bidder, until all Bids are exhausted, or reject all Bids. Any Bidder whose Bid is rejected because the Bidder has failed or refused, within 10 days after receipt of notice of selection, to sign the Agreement or submit to University all of the items required by the Bidding Documents, shall be liable to the University for all resulting damages.

ARTICLE 7 BID PROTEST

7.1 FILING A BID PROTEST

7.1.1 Any Bidder, person, or entity may file a Bid protest. The protest shall specify the reasons and facts upon which the protest is based and shall be in writing and received by the Facility not later than 5:00 pm on the 3rd business day following:

- .1 if the Bid Form does not contain any Alternate(s), the date of the Bid opening;
- .2 if the Bid Form contains any Alternate(s), the date of posting in a public place of Bid results.

7.1.2 If a Bid is rejected by the Facility, and such rejection is not in response to a Bid protest, any Bidder, person or entity may dispute that rejection by filing a Bid protest (limited to the rejection) in writing and received by the Facility not later than 5:00 pm on the 3rd business day following the rejected Bidder's receipt of the notice of rejection.

7.1.3 For the purpose of computing any time period in this Article 7, the date of receipt of any notice shall be the date on which the intended recipient of such notice actually received it. Delivery of any notice may be by any means, with verbal or written confirmation of receipt by the intended recipient.

7.2 RESOLUTION OF BID CONTROVERSY

7.2.1 Facility will investigate the basis for the Bid protest and analyze the facts. Facility will notify Bidder whose Bid is the subject of the Bid protest of evidence presented in the Bid protest and evidence found as a result of the investigation, and, if deemed appropriate, afford Bidder an opportunity to rebut such evidence, and permit Bidder to present evidence that it should be allowed to perform the Work. If deemed appropriate by Facility, an informal hearing will be held. Facility will issue a written decision within 15 days

following receipt of the Bid protest, unless factors beyond Facility's reasonable control prevent such a resolution, in which event such decision will be issued as expeditiously as circumstances reasonably permit. The decision will state the reasons for the action taken by Facility. A written copy of the decision will be furnished to the protestor, the Bidder whose Bid is the subject of the Bid protest, and all Bidders affected by the decision. As used in this Article 7, a Bidder is affected by the decision on a Bid protest if a decision on the protest could have resulted in the Bidder not being the lowest responsible and responsive Bidder for the Contract. A written copy of the Facility's decision must be received by the protestor, the Bidder whose Bid is the subject of the Bid protest, and all Bidders affected by the decision no later than 3 business days prior to award of the contract.

7.2.2 Notwithstanding the provisions of Article 7.2.1, at the election of Facility, a Bid protest may be referred directly to University's Construction Review Board without prior investigation and review by Facility. The Chair of the Construction Review Board will either decide the Bid protest or appoint a Hearing Officer. If a Hearing Officer is appointed, the Hearing Officer will review the Bid protest in accordance with the provisions of Article 7.2.4.

7.2.3 Bidder whose Bid is the subject of the protest, all Bidders affected by the Facility's decision on the protest, and the protestor have the right to appeal to the Construction Review Board if not satisfied with Facility's decision. The appeal must be in writing and shall specify the decision being appealed and all the facts and circumstances relied upon in support of the appeal. A copy of the appeal must be received by the Chair, Construction Review Board, not later than 5:00 pm on the 3rd business day following appellant's receipt of the written decision of Facility, at the following address:

Chair, Construction Review Board
University of California
Office of the President
1111 Franklin Street, 6th Floor
Oakland, CA 94607-5200
Attention: Director, Construction Services

and

constructionreviewboard@ucop.edu

A copy of the appeal must be sent to all parties involved in the Bid protest and to Facility, to the same address and in the same manner as the original protest. An appeal received after 5:00 pm is considered received as of the next business day. If the final date for receipt of an appeal falls on a Saturday, Sunday, or University holiday, the appeal will be considered timely only if received by 5:00 pm on the following business day. The burden of proving timely receipt of the appeal is on the appealing party.

7.2.4 The Chair of the Construction Review Board will review the Facility's decision and the appeal, and issue a written decision, or if appropriate, appoint a Hearing Officer to conduct a hearing and issue a written decision. If a hearing is held, the hearing shall be held not later than the 10th day following the appointment of the Hearing Officer unless the Hearing Officer for good cause determines otherwise. The written decision of the Chair or Hearing Officer will state the basis of the decision, and the decision will be final and not subject to any further appeal to University. The Chair or Hearing Officer may consult with the University's Office of the General Counsel on the decision as to legal form. The University will complete its internal Bid protest procedures before award of the Contract.

END OF INSTRUCTIONS TO BIDDERS

SUPPLEMENTARY INSTRUCTIONS TO BIDDERS

1. Requests for clarification or interpretation of the Bidding Documents must be in writing and received by 2 p.m. December 9, 2025. Questions received after the above noted deadline may be answered at the discretion of the University's Representative. Questions shall be addressed only to: lccouceiro@health.ucdavis.edu; nicquintero@health.ucdavis.edu.
2. The **MANDATORY** virtual pre-bid conference will be conducted on Thursday, December 4, 2025, beginning promptly at 1 p.m. Prequalified Bidders will receive a link to log in and must participate in the entire conference to be eligible to bid.
3. Bids will be received on or before the Bid Deadline and only at: **Facilities Planning & Development (4800 2nd Avenue, Suite 3010, Sacramento, CA 95817)**.
4. Bids will be opened at 2 p.m. Thursday, December 18, 2025, at: Facilities Planning & Development.
5. Bid results will be posted at our website on the following link: <https://health.ucdavis.edu/facilities/work-with-us/contractors/out-to-bid>
6. Contractor will be assessed liquidated damages for each day the Job Order Work remains incomplete beyond the expiration of the applicable Job Order Time. See Article 5 of the Agreement for detailed requirements.
7. The following shall be added at the end of section 1.13 in the Instructions to Bidders:

The bid documents include a Construction Task Catalog® (CTC) containing a series of construction tasks with preset Unit Prices. The CTC was developed using experienced labor and high quality materials. All Unit Prices are based on local labor, material and equipment prices including the current prevailing wages and are the direct cost of construction. The Contractor will bid Adjustment Factors to be applied to the Unit Prices. The price of an individual project will be determined by multiplying the preset Unit Prices and the appropriate quantities by the appropriate Adjustment Factor. The Adjustment Factors shall apply to every Pre-priced Task in the Construction Task Catalog®.

The following shall be added as section 6.3.10 in the Instructions to Bidders:

6.3.10 The Contractor shall be required to execute Gordian's SaaS Terms of Use (Exhibit 24) and pay a JOC System License Fee to obtain access to the Gordian JOC Solution™. A Contractor License Fee of 1% of the Job Order Sum, for every Job Order, shall be paid directly by the Contractor to The Gordian Group. Any checks or other forms of payment will be made payable to The Gordian Group, Inc. Any such payment shall not be administered through the University or become an obligation of this Contract.
8. The University has negotiated contracts with certain suppliers (listed in the "Information Available to Bidders") to supply materials to University construction projects. Bidders may be able to obtain favorable pricing from the listed suppliers for materials required for this Contract. Bidders are not obligated to obtain any required materials from the listed suppliers. Use of any of the listed suppliers is at the bidder's risk, and the University does not provide any warranties, express or implied, with respect to the listed suppliers, their products and/or services. In particular, University does not warrant that the listed suppliers, their products and/or services are suitable for this project.

INFORMATION AVAILABLE TO BIDDERS

The following information is made available for the convenience of bidders and is not a part of the Contract. The information is provided subject to the provisions of Article 3 of the General Conditions.

A schedule of the general prevailing per diem wage rates is available on the web at:

<https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

The University of California has contracts for materials, equipment and/or services with the suppliers listed on the Office of the President Procurement Services website at <https://www.ucop.edu/procurement-services/for-suppliers/construction-supplier-resources.html>

General Contractors or others submitting bids for University construction projects may enter into agreements with these suppliers that utilize the pricing and terms contained in the University-supplier agreements. The university does not represent or warrant that materials/equipment/services of these suppliers meet the requirements of the University's construction contracts.

Use of such suppliers shall not relieve Contractor from its obligation to meet all contractual requirements in any contracts with the University. The university will not be a party to any agreements with such suppliers and accepts no performance obligations or liability with respect to such agreements.

[End]

BID FORM

**FOR: PROJECT NO. JOC 2026
JOB ORDER CONTRACTING
GENERAL CONTRACTOR (B LICENSE)
UNIVERSITY OF CALIFORNIA
UC DAVIS HEALTH
SACRAMENTO, CALIFORNIA**

**BID TO: Facilities Planning & Development
4800 2nd Avenue, Suite 3010
Sacramento, CA 95817
Telephone: 916-734-7024**

BID FROM: _____
(Name of Bidder)

(Address)

_____, _____
(City) (State) (Zip Code)

(Telephone Number)

(Date Bid Submitted)

Note: All portions of this Bid Form must be completed and the Bid Form must be signed before the Bid is submitted. Failure to do so will result in the Bid being rejected as non-responsive.

1.0 BIDDER'S REPRESENTATIONS

Bidder, represents that a) Bidder has the appropriate current and active Contractor's license required by the State of California and the Bidding Documents; b) it has carefully read and examined the Bidding Documents for the proposed Work on this Project; c) it has examined all Information Available to Bidders; d) it has become familiar with all the conditions related to the proposed Work, including the availability of labor, materials, and equipment; e) Bidder and all Subcontractors, regardless of tier, are currently registered with the California Department of Industrial Relations pursuant to California Labor Code Section 1725.5 and 1771.1. Bidder hereby offers to furnish all labor, materials, equipment, tools, transportation, and services necessary to complete the proposed Work for this Contract in accordance with the Contract Documents using the Bid Adjustments quoted in this Bid Form. Bidder further agrees that it will not withdraw its Bid within 60 days after the Bid Deadline, and that, if it is selected as the apparent lowest responsive and responsible Bidder, that it will, within 10 days after receipt of notice of selection, sign and deliver to University the Agreement in triplicate and furnish to University all items required by the Bidding Documents. If awarded the Contract, Bidder agrees to complete the Work of each Job Order within the applicable Job Order Time.

2.0 ADDENDA

Bidder acknowledges that it is Bidder's responsibility to ascertain whether any Addenda have been issued and if so, to obtain copies of such Addenda from University's facility at the appropriate address stated on Page 1 of this Bid Form. Bidder therefore agrees to be bound by all Addenda that have been issued for this Bid.

3.0 PRICING SCHEDULE

- A. Adjustment Factor: Bidders shall provide the following coefficients for the base term and option term(s):_

(Bidders Write Adjustment Factors Here)

ADJUSTMENT FACTORS

WORKING HOURS	Job Order Cost Subtotal	
	Job Orders \$50,000 to \$99,999	Job Orders \$100,000 +
Business 7am – 5pm M – F	<div> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> </div> (Adjustment Factor 1*)	<div> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> </div> (Adjustment Factor 2*)

*** The Adjustment Factors are to be carried no further than 4 decimal places**

B. Bid Award Criteria Figure: For purposes of comparing Bids, the Adjustment Factors provided above will be weighted and aggregated as follows to form a number referred to as the Bid Award Criteria. The University will calculate the Adjustment Factor times the percentages shown. These percentages have been chosen for the purpose of evaluating bids only and in no way should they be construed to represent or guarantee the actual or expected value of work under this contract.

(Do Not Complete, For University Use Only)

TOTAL AWARD CRITERIA FIGURE CALCULATION
TO CALCULATE LOW BIDDER (SAMPLE)

(Adjustment Factor 1)	X	60%	=
(Adjustment Factor 2)	X	40%	=
Total Composite Bid			=

C. If two or more bids are equal, award shall be made by a drawing by lot limited to those bidders. If time permits, the bidders involved shall be given an opportunity to attend the drawing. The drawing shall be witnessed by at least three persons, and the contract file shall contain the names and addresses of the witnesses and the person supervising the drawing.

D. When a Job Order specifies work to be performed during Non-Business Hours (weekdays from 5:00pm to 7:00am, all hours on weekends, and on holidays), the Adjustment Factor shall be increased by 35%.

4.0 SELECTION OF APPARENT LOW BIDDER

Refer to the Instructions to Bidders for selection of apparent low bidder.

5.0 BIDDER INFORMATION

TYPE OF ORGANIZATION:

(Corporation, Partnership, Individual, Joint Venture, etc.)

IF A CORPORATION, THE CORPORATION IS ORGANIZED UNDER THE LAWS OF:

THE STATE OF _____
(State)

NAME OF PRESIDENT OF THE CORPORATION:

(Insert Name)

NAME OF SECRETARY OF THE CORPORATION:

(Insert Name)

IF A PARTNERSHIP, NAMES OF ALL GENERAL PARTNERS:

(Insert Names)

CALIFORNIA CONTRACTORS LICENSE(S):

(Classification)

(License Number)

(Expiration Date)

(For Joint Venture, list Joint Venture's license and licenses for all Joint Venture partners.)

6.0 REQUIRED COMPLETED ATTACHMENTS

The following documents are submitted with and made a condition of this Bid:

1. Bid Security in the form of _____
(Bid Bond or Certified Check)

7.0 DECLARATION

I, _____, hereby declare that I am the
(Printed Name)

_____ of _____
(Title) (Name of Bidder)

submitting this Bid Form; that I am duly authorized to execute this Bid Form on behalf of Bidder; and that all information set forth in this Bid Form and all attachments hereto are, to the best of my knowledge, true, accurate, and complete as of its submission date.

I further declare that this bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of

anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed at: _____(Name of City if within a City, otherwise Name of County), in the State of _____, on _____.
(State) (Date)

(Signature)

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____, as Principal, and _____, _____, as Surety, are held and firmly bound unto THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, hereinafter called THE REGENTS, in the sum of \$25,000 for payment of which in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT, WHEREAS, Principal has submitted a Bid for the work described as follows:

PROJECT NO. JOC 2026
PROJECT NAME: JOB ORDER CONTRACTING - GENERAL CONTRACTOR

NOW, THEREFORE, if Principal shall not withdraw said Bid within the time period specified after the Bid Deadline, as defined in the Bidding Documents, or within sixty (60) days after the Bid Deadline if no time period be specified, and, if selected as the apparent lowest responsible Bidder, Principal shall, within the time period specified in the Bidding Documents, do the following:

- (1) Enter into a written agreement, in the prescribed form, in accordance with the Bid.
- (2) File two bonds with THE REGENTS, one to guarantee faithful performance and the other to guarantee payment for labor and materials, as required by the Bidding Documents.
- (3) Furnish certificates of insurance and all other items as required by the Bidding Documents.

In the event of the withdrawal of said Bid within the time period specified, or within sixty (60) days if no time period be specified, or the disqualification of said Bid due to failure of Principal to enter into such agreement and furnish such bonds, certificates of insurance, and all other items as required by the Bidding Documents, if Principal shall pay to THE REGENTS an amount equal to the difference, not to exceed the amount hereof, between the amount specified in said Bid and such larger amount for which THE REGENTS procure the required work covered by said Bid, if the latter be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect.

In the event suit is brought upon this bond by THE REGENTS, Surety shall pay reasonable attorneys' fees and costs incurred by THE REGENTS in such suit.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 20____.

Principal: _____ Surety: _____
(Name of Firm) (Name of Firm)

By: _____ By: _____
(Signature) (Signature)

(Printed Name)

(Printed Name)

Title: _____ Title: _____

Address for Notices:

NOTE: NOTARY ACKNOWLEDGEMENT FOR SURETY AND SURETY'S POWER OF ATTORNEY MUST BE ATTACHED.

AGREEMENT

THIS AGREEMENT is made as of the { } day of { }, 20{ }, between
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ("University"),

whose Facility is:

UC DAVIS HEALTH

whose address for notices is:

Facilities Planning & Development
UC Davis Health
4800 2nd Avenue, Suite 3010
Sacramento, CA 95817

and Contractor:

NAME

whose address for notices is:

Street Address
City, State, Zip
T: ###-###-####
F: ###-###-####

for the Project:

JOC 2026
JOB ORDER CONTRACTING
GENERAL CONTRACTOR
Facilities Planning & Development
UC Davis Health
Sacramento, Sacramento County, California 95817

University's Responsible Administrator:

Jason Nietupski
Vice President
Facilities Planning & Development

University's Representative is:

whose address for notices is:

Matthew Pechman, Director of Infrastructure
Facilities Planning & Development
UC Davis Health
4800 2nd Avenue, Suite 3010
Sacramento, CA 95817

Contract Documents for the Work Prepared by:

- Facilities Planning & Development
- Gordian

University and Contractor hereby agree as follows:

ARTICLE 1 WORK

Contractor shall provide all work required by the Contract Documents (the "Work"). Contractor shall (1) pay all sales, consumer and other taxes and (2) obtain and pay for any governmental licenses and permits necessary for the work, other than building and utility permits.

University hereby awards this Job Order Contract (JOC) for the performance of multiple individual construction jobs at facilities owned, leased or managed by UC Davis Health. The JOC will have a Base Term of 1 year with University holding an option to renew for up to two additional 1-year periods ("Option Terms"). The specific scope of each construction job will be defined in a separate Job Order and shall be performed as specified in Article 3 below. Contractor may be requested to perform several Job Orders concurrently. Individual Job Orders will not exceed a value of \$300,000 before supplemental job orders. The total combined cost for all Job Orders issued will not exceed the Maximum Contract Value of \$5,000,000 during the 1-year Base Term, and \$5,000,000 during each 1-year Option Term, if exercised by University. The minimum value of work to be purchased under this Contract will be \$50,000. The Maximum Contract Value is not guaranteed. During the Base Term and any extended term of the JOC, Contractor shall perform the work described in the Advertisement for Bids, ranging in cost (exclusive of changes) from \$50,000 to \$15,000,000 (not to exceed a maximum combined cost of \$5,000,000 for any term) on the UC Davis Health campus.

Any work required under this Contract shall be authorized by issuance of formal, written Job Orders.



ARTICLE 2 CONTRACT DOCUMENTS

"Contract Documents" means the Advertisement for Bids, Instructions to Bidders, Supplementary Instructions to Bidders, Bid Form, this Agreement, General Conditions, Supplementary Conditions, Exhibits, Specifications, the Construction Task Catalog®, Drawings, Addenda, Notices to Proceed, Job Order Schedule of Values, Detailed Scope of Work, Job Order Authorizations, Change Orders, Notices of Completion, and all other documents identified in this Agreement that together form the contract between University and Contractor for the Work (the "Contract"). The Contract constitutes the complete agreement between University and Contractor and supersedes any previous agreements or understandings.

ARTICLE 3 JOB ORDER SUM

Subject to the provisions of the Contract Documents, University will pay to Contractor for the performance of Job Order Work, the total dollar amount specified in each Job Order ("Job Order Sum"), which will be determined by applying Adjustment Factors to Pre-priced Items (items that have Unit Prices in the Construction Task Catalog®). A Job Order will not be authorized for any Job where, at the time the Job Order is issued, the value of NonPre-priced Items exceeds the lesser of the following: (a) 10% of the value of the work to be performed under the Job Order or (b) \$100,000. Adjustment Factors used to determine the Job Order Sum for the base term and option term(s) shall be as follows:

ADJUSTMENT FACTORS

Small Projects Business Hours Adjustment Factor (\$50,000 to \$99,999 / 7:00 a.m. to 5:00 p.m.)	
Large Project Business Hours Adjustment Factor (\$100,000 + / 7:00 a.m. to 5:00 p.m.)	

When a Job Order specifies work to be performed during Non-Business Hours (weekdays from 5:00 p.m. to 7:00 a.m., all hours on weekends, and on holidays), the Adjustment Factor shall be increased by 35%.

ARTICLE 4 TERM FOR ISSUANCE AND IMPLEMENTATION OF JOB ORDERS AND JOB ORDER TIME

Base Term: The Base Term of this Job Order Contract commences on the effective date of the Notice to Proceed for the Contract. The term of this Contract is either for one year or when Job Orders totaling the Maximum Contract Value have been completed, whichever comes first. All Job Orders must be issued during the term of the Contract, but all Job Order Work must not necessarily be completed during the term of the Contract. A Job Order is issued when the University submits a written Job Order Authorization to the Contractor to perform the Work of the Job Order.

Option Term(s):

- 1) University may, at its sole discretion extend its right to issue and/or implement Job Orders to Contractor for up to two additional 1-year periods, provided University gives Contractor written notice of such extension at least 30 days prior to the expiration of the Base Term and, if exercised, the first Option Term. Election of the Option Term(s), if made, will be accomplished by Unilateral Change Order.
- 2) The Adjustment Factors will be modified according to General Conditions Article 4.5.3. at the same time Option Term(s) are exercised.

Job Order Time: The individual Job Order Authorization will specify a reasonable time limit for completion of the Job Order Work.

ARTICLE 5 LIQUIDATED DAMAGES

If Contractor fails to complete any Job Order Work within the applicable Job Order Time, Contractor shall pay to University, as liquidated damages and not as a penalty, the applicable below-listed sum for each day after the expiration of the Job Order Time that the Job Order Work remains incomplete. University and Contractor agree that if the Job Order Work is not completed within the applicable Job Order Time, University's damages would be extremely difficult or impracticable to determine and that the below stated amounts are reasonable estimates of and reasonable sums for such damages. University may deduct any liquidated damages due from Contractor from any amounts otherwise due to Contractor under the Contract Documents. This provision shall not limit any right or remedy of University in the event of any other default of Contractor other than failing to complete the Job Order Work within the applicable Job Order Time. Liquidated Damages will be assessed on a Job Order by Job Order basis.

1. \$250.00 per day for Job Orders with a Job Order Sum of \$100,000.00 or less.
2. \$500.00 per day for Job Orders with a Job Order Sum between \$100,000 and \$250,000.00.
3. \$1,000.00 per day for Job Orders with a Job Order Sum greater than \$250,000.00.

ARTICLE 6 DUE AUTHORIZATION

The person or persons signing the Agreement on behalf of Contractor hereby represent and warrant to University that this Agreement is duly authorized, signed and delivered by Contractor.

[THIS SPACE LEFT INTENTIONALLY BLANK]

THIS AGREEMENT is entered into by University and Contractor as of the date set forth above.

CONTRACTOR:

(Name of Firm)

a _____
(Type of Organization)

by: _____
(Signature)

(Printed Name)

(Title)

UNIVERSITY:

The Regents of the University of California

UC Davis Health
(Facility)

by: _____
(Signature)

Jason Nietupski
(Printed Name)

Vice President
Facilities Planning & Development
(Title)

California Contractor License(s):

(Name of Licensee)

(License Number and Classification)

(Expiration Date)

Department of Industrial Relations:

(Registration Number)

(Expiration Date)

UCDH FP&D USE ONLY
Reviewed by Project Manager
Reviewed by Project Manager Supervisor
Reviewed by Contracts Manager

[End]

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ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 ADJUSTMENT FACTOR

The "Adjustment Factor" means the Contractor's competitively bid price adjustment to the unit prices as published in the Job Order Contract (JOC) Vendors)Unit Price Book (UPB). At a minimum, the Adjustment Factors must contain all Contractor's costs, including but not limited to home office overhead; insurance, bonds, and indemnification; project meetings, training, management and supervision; mobilization and close-out for the contract and each Job Order; project office staff and equipment; profit; subcontractor's overhead and profit; all taxes for which a waiver is not available including material sales tax and equipment rental; employee or subcontractor's wage rates; fringe benefits, payroll taxes, worker's compensation, insurance costs and any other payment mandated by law in connection with labor; cost of financing the work, and business risks such as the risk of a lower than expected volume of work, smaller than anticipated Job Orders, poor Subcontractor performance, and inflation or material cost fluctuations. The Adjustment Factor shall also include costs described by General Requirements (Division 1) listed in the project specifications and specifically excluded by the UPB, interface with University's Representatives, coordination with occupants, costs associated with removal, protection and repositioning of room contents, cleanup, and all other costs incurred in performing the Job Order Contract except costs covered by the UPB.

1.1.2 APPLICABLE CODE REQUIREMENTS

The term "Applicable Code Requirements" means all laws, statutes, the most recent building codes, ordinances, rules, regulations, and lawful orders of all public authorities having jurisdiction over University, Contractor, any Subcontractor, the Project, the Job Order Work site(s), the Work, or the prosecution of the Work including without limitation the requirements set forth in Article 3.7.

1.1.3 APPLICATION FOR PAYMENT

The term "Application For Payment" means the submittal from Contractor wherein payment for certain portions of the completed Work is requested in accordance with Article 9.

1.1.4 BASE TERM

The term "Base Term" means the initial one-year period, beginning with the date of Contract award, during which the University may issue and/or implement Job Orders to the Contractor

1.1.5 BENEFICIAL OCCUPANCY

The term "Beneficial Occupancy", which shall apply only to each individual Job Order, means the University's occupancy or use of any part of the Job Order Work in accordance with Article 9.

1.1.6 CERTIFICATE FOR PAYMENT

The term "Certificate For Payment" means the form signed by University's Representative attesting to the Contractor's right to receive payment for certain completed portions of the Work in accordance with Article 9.

1.1.7 CHANGE ORDER

See Article 7.2 of the General Conditions.

1.1.8 CLAIM

See Article 4.6 of the General Conditions.

1.1.9 Not Used.

1.1.10 CONTRACT

The term "Contract", also referred to as "Job Order Contract", means the written Agreement between Contractor and University set forth in the Contract Documents.

1.1.11 CONTRACT DOCUMENTS

The term "Contract Documents" means all documents listed in Article 2 of the Agreement, as modified by Change Order, including but not limited to the Specifications and Job Orders.

1.1.12 CONTRACTOR

The term "Contractor", also referred to as "Job Order Contractor", means the person or firm identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number.

1.1.13 COST OF EXTRA WORK

See Article 7.3 of the General Conditions.

1.1.14 DAY

The term "day," as used in the Contract Documents, shall mean calendar day, unless otherwise specifically provided.

1.1.15 DEFECTIVE WORK

The term "Defective Work" means work that is unsatisfactory, faulty, omitted, incomplete, deficient, or does not conform to the requirements of the Contract Documents, directives of University's Representative, or the requirements of any inspection, reference standard, test, or approval specified in the Contract Documents.

1.1.16 DETAILED SCOPE OF WORK

The term "Detailed Scope of Work" means the complete description of services to be provided by the Contractor pursuant to an individual Job Order. The Detailed Scope of Work will include documentation for the individual Job Order. Documentation may include a narrative description of the Work and/or partial or full design documents depending on the complexity of the individual Job Order. The Detailed Scope of Work may also be referred to as the DSW.

1.1.17 DRAWINGS

The term "Drawings" means the graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Job Order Work, generally including plans, elevations, sections, details, schedules, and diagrams.

1.1.18 EXCUSABLE DELAY

The term "Excusable Delay" means a delay that entitles the Contractor to an adjustment of the Job Order Time but not an adjustment of the Job Order Sum, pursuant to Articles 7 and 8 of the General Conditions.

1.1.19 EXTRA WORK

The term "Extra Work" means Work beyond or in addition to the Work required by the Contract Documents. Extra Work specifically excludes work identified as scope of any and all existing Job Order Authorizations.

1.1.20 FIELD ORDER

See Article 7.2 of the General Conditions.

1.1.21 FINAL COMPLETION

The term "Final Completion" shall apply to only each individual Job Order and means the date at which the Job Order Work has been fully completed in accordance with the requirements of the Contract Documents pursuant to Article 9.5.1 of the General Conditions.

1.1.22 GUARANTEE TO REPAIR PERIOD

See Article 12.2 of the General Conditions.

1.1.23 HAZARDOUS MATERIAL

The term "Hazardous Material" means any substance or material identified as hazardous under any California or federal statute governing handling, disposal and/or cleanup of any such substance or material.

1.1.24 JOB ORDER

The term "Job Order" means a construction document relating to a specific scope of Job Order Work under the Contract as defined by the Detailed Scope of Work, Job Order Sum, and Job Order Time, and any special conditions that might apply to the specific Job Order such as Liquidated Damages, all as stated in the Job Order. A Job Order may constitute all or part of the work.

1.1.25 JOB ORDER AUTHORIZATION

The term "Job Order Authorization" means the document issued by the University authorizing Contractor to perform the Job Order Work.

1.1.26 JOB ORDER MILESTONE

The term "Job Order Milestone" means any requirement in a Job Order that reflects a planned point in time for the start or completion of a portion of the Job Order Work measured from i) the date of the Job Order Authorization or ii) the date of another Job Order Milestone defined in said Job Order, as applicable.

1.1.27 JOB ORDER SCHEDULE OF VALUES

The term "Job Order Schedule of Values", also referred to as "Schedule of Values", is the Contractor's irrevocable offer to perform Work associated with a Job Order. It refers to the Contractor's prepared document quoting a firm fixed-price and schedule for the completion of a specific Scope of Work. The Job Order Schedule of Values shall include a detailed cost Schedule of Values comprised of line items from the UPB, supporting documentation for any Non-Pre-priced items, a construction schedule, a list of subcontractors and any other documentation that may be required by the University prior to the issuance of a Job Order including, but not limited to shop drawings, sketches, permits, and submittals as necessary.

1.1.28 JOB ORDER SCHEDULE

The term "Job Order Schedule" means the graphical representation of a practical plan, in accordance with the Specifications, to perform and complete the Work of a Job Order within the Job Order Time in accordance with Article 3.

1.1.29 JOB ORDER SUM

The term "Job Order Sum" means the amount of compensation stated in a Job Order for the performance of the applicable Job Order, or as modified by any Supplemental Job Order or Change Order.

1.1.30 JOB ORDER TIME

The term "Job Order Time" means the number of days set forth in a Job Order within which Contractor must achieve Final Completion, or as modified by any Supplemental Job Order or Change Order.

1.1.31 JOB ORDER WORK

The term "Job Order Work" means the Work of one or more Job Orders as may be modified.

1.1.32 JOINT SCOPE MEETING

The term "Joint Scope Meeting" means the meeting at the Work site attended by the University and the Contractor, at a minimum, to jointly prepare the scope of the work on a Job Order.

1.1.33 MAXIMUM CONTRACT VALUE

The term "Maximum Contract Value" means the maximum dollar value of Work specified in Article 1 of the Agreement that the University may order during the Base Term, and if exercised by the University, one or both Option Terms, of the Job Order Contract.

1.1.34 MINIMUM CONTRACT VALUE

The term "Minimum Contract Value" means the minimum dollar value of Work specified in Article 1 of the Agreement that the University must order under this Contract.

1.1.35 NON PRE-PRICED TASK/WORK

The term "Non Pre-Priced Task/Work", also referred to as NPP, means the Unit of Work that is not set forth in the Unit Price Book but which is in the general scope and intent of this Contract.

1.1.36 OPTION TERM

The term "Option Term" means the additional time period beyond the expiration of the Base Term during which University may extend its right to implement and/or issue Job Orders to the Contractor.

1.1.37 PRE-PRICED TASK/WORK

The Term "Pre-Priced Task/Work" means an item of work included in the Unit Price Book for which a Unit Price is set forth.

1.1.38 PROJECT

The term "Project" means the Work of the Contract and all other work, labor, equipment, and materials necessary.

1.1.39 PROJECT SITE

The term "Project Site" or "Project site" or "Site" or "site" means lands and facilities upon which the Work pertaining to physical construction operations is performed, including such access and other lands and facilities designated in the Contract Documents for use by Contractor.

1.1.40 REIMBURSABLE TASK OR FEE

The term "Reimbursable Task" or Fee are Permits or other reimbursable fees as listed as the Reimbursable Fee in the Unit Price Book.

1.1.41 SEPARATE CONTRACTOR

The term "Separate Contractor" means a person or firm under separate contract with University performing other work related to the Project.

1.1.42 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

See Article 3.12 of the General Conditions.

1.1.43 SPECIFICATIONS

The term "Specifications" means that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.

1.1.44 SUBCONTRACTOR

The term "Subcontractor" means a person or firm that has a contract with Contractor or with a Subcontractor to perform a portion of the Job Order Work. Unless otherwise specifically provided, the term Subcontractor includes Subcontractors of all tiers.

1.1.45 SUPERINTENDENT

The term "Superintendent" means the person designated by Contractor to represent Contractor at the Job Order Work site in accordance with Article 3.

1.1.46 SUPPLEMENTAL JOB ORDER

See Article 7.2 of the General Conditions

1.1.47 TIER

The term "tier" means the contractual level of a Subcontractor or supplier with respect to Contractor. For example, a first-tier Subcontractor is under subcontract with Contractor, a second-tier Subcontractor is under subcontract with a first-tier Subcontractor, and so on.

1.1.48 UNEXCUSABLE DELAY

The term "Unexcusable Delay" means a delay that does not entitle the Contractor to an adjustment of the Job Order Sum and does not entitle the Contractor to an adjustment of the Job Order Time.

1.1.49 UNILATERAL CHANGE ORDER

See Article 7.2 of the General Conditions.

1.1.50 UNIT PRICE

The term "Unit Price" means the price published in the Unit Price Book for a specific construction, repair or refurbishment task. The Unit Prices are fixed for the duration of the Contract. Each Unit Price is comprised of the Labor, Equipment and Materials cost to accomplish that specific task.

1.1.51 UNIT PRICE BOOK

The term "Unit Price Book" mean the proprietary source of the Unit Prices published by the JOC vendor to be used in conjunction with this contract.

1.1.52 UNIVERSITY

The term "University" means The Regents of the University of California.

1.1.53 UNIVERSITY'S BUILDING OFFICIAL

The term "University's Building Official," or "Certified Building Official," means the individual the University has designated to act in the capacity as the "Building Official" as defined by the California Building Standards

Code. The University's Building Official will determine whether the Work complies with Applicable Code Requirements and will determine whether and when it is appropriate to issue a Certificate of Occupancy.

1.1.54 UNIVERSITY'S REPRESENTATIVE

The term "University's Representative" means the person identified as such in the Agreement or in the Job Order, as applicable.

1.1.55 UNIVERSITY'S RESPONSIBLE ADMINISTRATOR

The term "University's Responsible Administrator" means the person, or his or her authorized designee, who is authorized to execute the Agreement, Job Order Authorizations, Change Orders, Field Orders and other applicable Contract Documents on behalf of the University.

1.1.56 WORK

The term "Work" means all construction, services and other requirements of the Contract Documents as modified by Change Order, whether completed or partially completed, and includes all labor, materials, equipment, tools, and services provided or to be provided by Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.

1.2 OWNERSHIP AND USE OF CONTRACT DOCUMENTS

1.2.1 The Contract Documents and all copies thereof furnished to or provided by Contractor are the property of the University and are not to be used on other work.

1.3 INTERPRETATION

1.3.1 The Contract Documents are complementary and what is required by one shall be as binding as if required by all. In the case of conflict between terms of the Contract Documents, the following order of precedence shall apply:

- .1 The Agreement,
- .2 The Supplementary Conditions,
- .3 The General Conditions,
- .4 The Specifications,
- .5 Drawings,
- .6 The individual Job Order,
- .7 The Unit Price Book.

1.3.2 With respect to the Drawings, figured dimensions shall control over scaled measurements and specific details shall control over typical or standard details.

1.3.3 With respect to the Contract Documents, Addenda shall govern over other portions of the Contract Documents to the extent specifically noted; subsequent Addenda shall govern over prior Addenda only to the extent specifically noted.

1.3.4 Organization of the Specifications into various subdivisions and the arrangement of the Drawings shall not control Contractor in dividing the Work among Subcontractors or in establishing the extent of work to be performed by any trade.

1.3.5 Unless otherwise stated in the Contract Documents, technical words and abbreviations contained in the Contract Documents are used in accordance with commonly understood construction industry meanings; and non-technical words and abbreviations are used in accordance with their commonly understood meanings.

1.3.6 The Contract Documents may omit modifying words such as "all" and "any," and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. The use of the word "including," when following any general statement, shall not be construed to limit such statement to specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation," "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible

scope of such general statement.

1.3.7 Whenever the context so requires, the use of the singular number shall be deemed to include the plural and vice versa. Each gender shall be deemed to include any other gender, and each shall include corporation, partnership, trust, or other legal entity whenever the context so requires. The captions and headings of the various subdivisions of the Contract Documents are intended only for reference and convenience and in no way define, limit, or prescribe the scope or intent of the Contract Documents or any subdivision thereof.

ARTICLE 2 UNIVERSITY

2.1 INFORMATION AND SERVICES PROVIDED BY UNIVERSITY

2.1.1 If required for performance of Job Order Work, as determined by University's Representative, University will make available a survey describing known physical characteristics, boundaries, easements, and utility locations for the Job Order Work site.

2.1.2 University is not subject to any requirement to obtain or pay for local building permits, inspection fees, plan checking fees, or certain utility fees. Except as otherwise provided in the Contract Documents, University will obtain and pay for any utility permits, demolition permits, easements, and government approvals for the use or occupancy of permanent structures required in connection with the Work.

2.1.3 Contractor will be furnished, free of charge, such copies of the Contract Documents as University deems reasonably necessary for execution of the Work.

2.2 ACCESS TO JOB ORDER WORK SITE

2.2.1 University will provide, no later than the date designated in the Job Order Schedule accepted by University's Representative, access to the lands and facilities upon which the Work is to be performed, including such access and other lands and facilities designated in the Contract Documents for use by Contractor.

2.3 UNIVERSITY'S RIGHT TO STOP THE JOB ORDER WORK

2.3.1 If Contractor fails to correct Defective Work as required by Article 12.2 or fails to perform Job Order Work in accordance with the Contract Documents, University or University's Representative may direct Contractor to stop said Job Order Work, or any portion thereof, until the cause for such order has been eliminated by Contractor. Contractor shall not be entitled to any adjustment of Job Order Time or Job Order Sum as a result of any such order. University and University's Representative have no duty or responsibility to Contractor or any other party to exercise the right to stop the Job Order Work.

2.4 UNIVERSITY'S RIGHT TO CARRY OUT THE JOB ORDER WORK

2.4.1 If Contractor fails to carry out Work in accordance with the Contract Documents, fails to provide sufficient labor, materials, equipment, tools, and services to maintain the Job Order Schedule, or otherwise fails to comply with any material term of the Contract Documents, and, after receipt of written notice from University, fails within 2 days, excluding Saturdays, Sundays and legal holidays, or within such additional time as the University may specify, to correct such failure, University may, without prejudice to other remedies University may have, correct such failure at Contractor's expense. In such case, University will be entitled to deduct from payments then or thereafter due Contractor the cost of correcting such failure, including without limitation compensation for the additional services and expenses of University's consultants made necessary thereby. If payments then or thereafter due Contractor are not sufficient to cover such amounts, Contractor shall pay the additional amount to University.

2.5 UNIVERSITY'S RIGHT TO REPLACE UNIVERSITY'S REPRESENTATIVE

2.5.1 University may at any time and from time to time, without prior notice to or approval of Contractor, replace University's Representative with a new University's Representative. Upon receipt of notice from

University informing Contractor of such replacement and identifying the new University's Representative, Contractor shall recognize such person or firm as University's Representative for all purposes under the Contract Documents.

ARTICLE 3 CONTRACTOR

3.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.1.1 Contractor and its Subcontractors shall review and compare each of the Contract Documents with the others and with information furnished or made available by University, and shall promptly report in writing to University's Representative any errors, inconsistencies, or omissions in the Contract Documents or inconsistencies with Applicable Code Requirements observed by Contractor or its Subcontractors.

3.1.2 Contractor and its Subcontractors shall take field measurements, verify field conditions, and carefully compare with the Contract Documents such field measurements, conditions, and other information known to Contractor before commencing Job Order Work. Errors, inconsistencies, or omissions discovered at any time shall be promptly reported in writing to University's Representative.

3.1.3 If Contractor and its Subcontractors performs any construction activity involving an error, inconsistency, or omission referred to in Articles 3.1.1 and 3.1.2, without giving the notice required in those Articles and obtaining the written consent of University's Representative, Contractor shall be responsible for the resultant losses, including, without limitation, the costs of correcting Defective Work.

3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

3.2.1 Contractor shall supervise, coordinate, and direct the Work using Contractor's best skill and attention. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures, and the coordination of all portions of the Work.

3.2.2 Contractor shall be responsible to University for acts and omissions of Contractor's agents, employees, and Subcontractors, and their respective agents and employees.

3.2.3 Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by acts or omissions of University or University's Representative in the administration of the Contract, or by tests, inspections, or approvals required or performed by persons or firms other than Contractor.

3.2.4 Contractor shall be responsible for inspection of all portions of the Work, including those portions already performed under this Contract, to determine that such portions conform to the requirements of the Contract and are ready to receive subsequent Work.

3.2.5 Contractor shall at all times maintain good discipline and order among its employees and Subcontractors. Contractor shall provide competent, fully qualified personnel to perform the Work.

3.3 LABOR AND MATERIALS

3.3.1 Unless otherwise provided in the Contract, Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and Final Completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4 CONTRACTOR'S WARRANTY

3.4.1 Contractor warrants to University that all materials and equipment used in or incorporated into the Work will be of good quality, new, and free of liens, claims, and security interests of third parties; that the Work will be of good quality and free from defects; and that the Work will conform with the requirements of the Contract. If required by University's Representative, Contractor shall furnish satisfactory evidence as to the

kind and quality of materials and equipment.

3.5 TAXES

3.5.1 Contractor shall pay all sales, consumer, use, and similar taxes for the Work or portions thereof provided by Contractor.

3.6 PERMITS, FEES, AND NOTICES

3.6.1 Except for the permits and approvals which are to be obtained by University or the requirements with respect to which University is not subject as provided in Article 2.1.2, Contractor shall secure and pay for all permits, approvals, government fees, licenses, and inspections necessary for the proper execution and performance of the Work. Contractor shall deliver to University all original licenses, permits, and approvals obtained by Contractor in connection with the Work prior to the final payment or upon termination of the Contract, whichever is earlier. Contractor shall be reimbursed for the direct cost of all permits.

3.7 APPLICABLE CODE REQUIREMENTS

3.7.1 Contractor shall perform the Work in accordance with the following Applicable Code Requirements:

- .1 All laws, statutes, the most recent building codes, ordinances, rules, regulations, and lawful orders of all public authorities having jurisdiction over University, Contractor, any Subcontractor, the Job Order, the Job Order Work site, the Work, or the prosecution of the Work.
- .2 All requirements of any insurance company issuing insurance required hereunder.
- .3 The Federal Occupational Safety and Health Act and all other Applicable Code Requirements relating to safety.
- .4 Applicable titles in the State of California Code of Regulations.
- .5 Applicable sections in the State of California Labor Code.
- .6 All Applicable Code Requirements relating to nondiscrimination, payment of prevailing wages, payroll records, apprentices, and work day.

Without limiting the foregoing, Contractor shall comply with the provisions regarding nondiscrimination, payment of prevailing wages, payroll records, apprentices, and work day set forth in Article 14.

3.7.2 Contractor 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). Contractor shall promptly notify University's Representative in writing if Contractor becomes aware during the performance of the Work that the Contract Documents are at variance with Applicable Code Requirements.

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

3.8 CONTRACTOR STAFF

3.8.1 Contractor shall employ a competent staff satisfactory to University. At minimum, a superintendent shall be in attendance at the Job Order Work site at all times during the performance of Job Order Work. Contractor shall include the name of the proposed Superintendent as part of each Job Order Schedule of Values. With prior written authorization by the University, the Contractor may have a Superintendent supervise multiple jobs within close proximity. Superintendent shall represent Contractor and communications given to and received from Superintendent shall be binding on Contractor.

3.8.2 Failure to maintain a Superintendent on the Job Order Work site at all times Work is in progress shall be considered a material breach of this Contract, entitling University to terminate the Contract or alternatively, issue a stop Work order until the Superintendent is on the Job Order Work site. If, by virtue of issuance of said stop Work order, Contractor fails to complete the Job Order Work on time, Contractor will be assessed

Liquidated Damages in accordance with the Agreement.

3.8.3 The Superintendent approved for each Job Order must be able to read, write and verbally communicate in English.

3.8.4 The Superintendent may not perform the Work of any trade, pick-up materials, or perform any Work not directly related to the supervision and coordination of the Work at the Job Order Work site when Job Order Work is in progress.

3.8.5 The Contractor must also employ an individual who is competent in performing Job Order pricing and preparation of Job Order Schedule of Values. This individual may also be the Superintendent providing that Job Order Schedule of Values preparation does not interfere with supervision and coordination of Job Order Work in progress.

3.9 SCHEDULES REQUIRED OF CONTRACTOR

3.9.1 Not Used.

3.9.2 For each Job Order, Contractor shall submit a Job Order Schedule and updated Job Order Schedules to University's Representative in the form and within the time limits required by the Specifications and acceptable to University's Representative. University's Representative will determine acceptability of the Job Order Schedule and updated Job Order Schedules within the time limits required by the Specifications.

3.9.3 The Job Order Schedule, and updated Job Order Schedules, shall represent a practical plan to complete the Job Order Work within the Job Order Time. Schedules showing the Job Order Work completed in less than the Job Order Time may be acceptable if judged by University's Representative to be practical. Schedules showing the Work completed beyond the Job Order Time may be submitted under the following circumstances:

- .1 If accompanied by a Supplemental Job Order Request seeking an adjustment of the Job Order Time consistent the requirements of paragraph 8.4 for Adjustment of the Job Order Time for Delay; or
- .2 If the Job Order Time has passed, or if it is a practical impossibility to complete the Work within the Job Order Time, then the updated Job Order Schedule or fragnet schedule shall show completion at the earliest practical date.

University's Representative will timely review the updated Job Order Schedule or Fragnet Schedule submitted by Contractor. If University's Representative determines that additional supporting data are necessary to fully evaluate the updated Job Order Schedule or Fragnet Schedule, University's Representative will request such additional supporting data in writing. Such data shall be furnished no later than 10 days after the date of such request. University's Representative will render a decision promptly and in any case within 30 days after the later of the receipt of the updated Job Order Schedule or Fragnet Schedule or the deadline for furnishing such additional supporting data. Failure of University's Representative to render a decision by the applicable deadline will be deemed a decision denying approval of the updated Job Order Schedule or Fragnet Schedule. Acceptance of any schedule showing completion beyond the Contract Time by University's Representative shall not change the Job Order Time and shall be without prejudice right of the University. The Job Order Time, not the Job Order Schedule, shall control in the determination of liquidated damages payable by Contractor under Article 4 and Article 5 of the Agreement and in the determination of any delay under Article 8 of the General Conditions.

3.9.4 If a schedule showing the Job Order Work completed in less than the Job Order Time is accepted, Contractor shall not be entitled to extensions of the Job Order Time for Excusable Delays or Compensable Delays or to adjustments of the Job Order Sum for Compensable Delays until such delays extend the Final Completion of the Work beyond the expiration of the Job Order Time.

3.9.5 Contractor shall prepare and keep current, to the reasonable satisfaction of University's Representative, a Submittal Schedule, in the form contained in the Exhibits, for each submittal, as required by the Specifications, and that are coordinated with the other activities in the Job Order Schedule.

3.9.6 The Job Order Schedule, and the Updated Job Order Schedules shall meet the following requirements:

- .1 Schedules must be suitable for monitoring progress of the Job Order Work.
- .2 Schedules must provide necessary data about the timing for University decisions and University furnished items.
- .3 Schedules must be in sufficient detail to demonstrate adequate planning for the Job Order Work.
- .4 Schedules must represent a practical plan to perform and complete the Job Order Work within the Job Order Time.

3.9.7 University's Representative's review of the form and general content of the Job Order Schedule, and Updated Job Order Schedules is for the purpose of determining if the above-listed requirements have been satisfied.

3.9.8 Contractor shall plan, develop, supervise, control, and coordinate the performance of the Job Order Work so that its progress and the sequence and timing of Job Order Work activities will permit completion within Job Order Time.

3.9.9 In preparing the Job Order Schedule and updated Job Order Schedules, Contractor shall obtain such information and data from Subcontractors as may be required to develop a reasonable and appropriate schedule for performance of the work and shall provide such information and data to the University's Representative upon request. Contractor shall continuously obtain from Subcontractors information and data about the planning for and progress of the Job Order Work and the delivery of equipment, shall coordinate and integrate such information and data into updated Job Order Schedules, as appropriate, and shall monitor the progress of the Job Order Work and the delivery of equipment.

3.9.10 Contractor shall act as the expeditor of potential and actual delays, interruptions, hindrances, or disruptions for its own forces and those forces of Subcontractors, regardless of tier.

3.9.11 Contractor shall cooperate with University's Representative in the development of the Job Order Schedule and updated Job Order Schedules. University's Representative's acceptance of or its review comments about any schedule or scheduling data shall not relieve Contractor from its sole responsibility to plan for, perform, and complete the Job Order Work within the Job Order Time. Acceptance of or review comments about any schedule shall not transfer responsibility for any schedule to University's Representative or University nor imply their agreement with (1) any assumption upon which such schedule is based or (2) any matter underlying or contained in such schedule. Failure of University's Representative to discover errors or omissions in schedules that it has reviewed, or to inform Contractor that Contractor, Subcontractors, or others are behind schedule, or to direct or enforce procedures for complying with the Job Order Schedule shall not relieve Contractor from its sole responsibility to perform and complete the Job Order Work within the Job Order Time and shall not be a cause for an adjustment of the Job Order Time or the Job Order Sum.

3.10 AS-BUILT DOCUMENTS

3.10.1 Contractor shall maintain one set of As-built drawings and specifications for each Job Order, which shall be kept up to date during the Work of said Job Order. All changes which are incorporated into the Job Order which differ from the documents as drawn and written shall be noted on the As-built set. Notations shall reflect the actual material, equipment and installation methods used for the Job Order Work and each revision shall be initialed and dated by Superintendent. Prior to filing of the Notice of Completion each drawing and the specification cover of the applicable Job Order shall be signed by Contractor and dated attesting to the completeness of the information noted therein. As-built Documents shall be turned over to the University's Representative and shall become part of the Record Documents.

3.11 DOCUMENTS AND SAMPLES AT JOB ORDER WORK SITE

3.11.1 Contractor shall maintain the following at the Job Order Work site:

- .1 One as-built copy of the Job Order Documents, in good order and marked to record current changes and selections made during construction.
- .2 The current accepted Job Order Schedule.

- .3 Shop Drawings, Product Data, and Samples.
- .4 All other required submittals.

These shall be available to University's Representative and shall be delivered to University's Representative for submittal to University upon the earlier of Final Completion or termination of the Contract and/or Job Order(s).

3.12 SHOP DRAWINGS, PRODUCT DATA, SAMPLES AND ENVIRONMENTAL PRODUCT DECLARATIONS

3.12.1 Definitions:

- .1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Job Order Work by Contractor or a Subcontractor to illustrate some portion of the Job Order Work.
- .2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by Contractor to illustrate or describe materials or equipment for some portion of the Job Order Work.
- .3 Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Job Order Work will be judged.
- .4 Environmental Product Declarations are those documents and other submissions required to be furnished by Contractor or a Subcontractor pursuant to California Public Contract Code Section 3500 et seq., the Buy Clean California Act (BCCA), as further described in Article 3.12.9 below

3.12.2 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate, for those portions of the Job Order Work for which submittals are required, how Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents.

3.12.3 Contractor shall review, approve, and submit to University's Representative Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Job Order Work or in the activities of University or of Separate Contractors. Submittals made by Contractor which are not required by the Contract Documents may be returned without action by University's Representative.

3.12.4 Contractor shall perform no portion of the Job Order Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been reviewed by University's Representative and no exceptions have been taken by University's Representative. Such Job Order Work shall be in accordance with approved submittals and the Contract Documents.

3.12.5 By approving and submitting Shop Drawings, Product Data, Samples, and similar submittals, Contractor represents that it has determined or verified materials and field measurements and conditions related thereto, and that it has checked and coordinated the information contained within such submittals with the requirements of the Contract Documents and Shop Drawings for related Work.

3.12.6 If Contractor discovers any conflicts, omissions, or errors in Shop Drawings or other submittals, Contractor shall notify University's Representative and receive instruction before proceeding with the affected Work.

3.12.7 Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by University's Representative's review of Shop Drawings, Product Data, Samples, or similar submittals, unless Contractor has specifically informed University's Representative in writing of such deviation at the time of submittal and University's Representative has given written approval of the specific deviation. Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by University's Representative's review, acceptance, comment, or approval thereof.

3.12.8 Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data,

Samples, or similar submittals, to revisions other than those requested by University's Representative on previous submittals.

3.12.9 Environmental Product Declarations

3.12.9.1 Contractor shall comply with California Public Contract Code Section 3500 et seq., the Buy Clean California Act ("BCCA").

3.12.9.2 Compliance with the BCCA and this Article applies to all Eligible Materials for the Project.

See Supplementary Conditions

3.13 USE OF SITE AND CLEAN UP

3.13.1 Contractor shall confine operations at the Job Order Work site to areas permitted by law, ordinances, permits, and the Contract Documents. Contractor shall not unreasonably encumber the Job Order Work site with materials or equipment.

3.13.2 Contractor shall, during performance of the Job Order Work, keep the Job Order Work site and surrounding area free from the accumulation of excess dirt, waste materials, and rubbish caused by Contractor. Contractor shall remove all excess dirt, waste material, and rubbish caused by the Contractor; tools; equipment; machinery; and surplus materials from the Job Order Work site and surrounding area at the completion of the Job Order Work.

3.13.3 Personnel of Contractor and Subcontractors shall not occupy, live upon, or otherwise make use of the Job Order Work site during any time that Work is not being performed at the Job Order Work site, except as otherwise provided in the Contract Documents.

3.14 CUTTING, FITTING, AND PATCHING

3.14.1 Contractor shall do all cutting, fitting, or patching of the Work required to make all parts of the Work come together properly and to allow the Work to receive or be received by work of Separate Contractors shown upon, or reasonably implied by, the Contract Documents.

3.14.2 Contractor shall not endanger the Work, the Project, or adjacent property by cutting, digging, or otherwise. Contractor shall not cut or alter the work of any Separate Contractor without the prior consent of University's Representative.

3.15 ACCESS TO WORK

3.15.1 University, University's Representative, their consultants, and other persons authorized by University will at all times have access to the Work wherever it is in preparation or progress. Contractor shall provide safe and proper facilities for such access and for inspection.

3.16 ROYALTIES AND PATENTS

3.16.1 Contractor shall pay all royalties and license fees required for the performance of the Work. Contractor shall defend suits or claims resulting from Contractor's or any Subcontractor's infringement of patent rights and shall Indemnify, defend and hold harmless University and University's Representative from losses on account thereof.

3.17 DIFFERING SITE CONDITIONS

3.17.1 If Contractor encounters any of the following conditions at the site, Contractor shall immediately notify the University's Representative in writing of the specific differing conditions before they are disturbed and before any affected Job Order Work is performed, and permit investigation of the conditions:

- .1 Subsurface or latent physical conditions at the site (including Hazardous Materials) which differ materially from those indicated in this Contract, or if not indicated in this Contract, in a specific

- Job Order Notification; or
- .2 Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract or specific Job Order.

3.17.2 Contractor shall be entitled to an adjustment to the Job Order Sum and/or Job Order Time as the result of extra costs and/or delays resulting from a materially differing site condition, if and only if Contractor fulfills the following conditions:

- .1 Contractor fully complies with Article 3.17.1; and
- .2 Contractor fully complies with Article 4 (including the timely filing of a Supplemental Job Order Request and all other requirements for Supplemental Job Order Requests and Claims).

3.17.3 Adjustments to the Job Order Sum and/or Job Order Time shall be subject to the procedures and limitations set forth in Articles 7 and 8.

3.18 CONCEALED, UNFORESEEN, OR UNKNOWN CONDITIONS OR EVENTS

3.18.1 Except and only to the extent provided otherwise in Articles 3.17, 7 and 8 of the General Conditions, by signing the Agreement, Contractor agrees:

- .1 To bear the risk of concealed, unforeseen or unknown conditions or events, if any, which may be encountered in performing the Contract; and
- .2 That Contractor's bid for the Contract was made with full knowledge of this risk.

In agreeing to bear the risk of concealed, unforeseen or unknown conditions or events, Contractor understands that, except and only to the extent provided otherwise in Articles 3.17, 7 and 8, concealed, unforeseen or unknown conditions or events shall not excuse Contractor from its obligation to achieve Final Completion of the Job Order Work within the Job Order Time, and shall not entitle the Contractor to an adjustment of the Job Order Sum.

3.18.2 If Contractor encounters concealed, unforeseen or unknown conditions or events that may require a change to the design shown in the Contract Documents, Contractor shall immediately notify University's Representative in writing such that University's Representative can determine if a change to the design is required. Contractor shall be liable to University for any extra costs incurred as the result of Contractor's failure to immediately give such notice.

3.18.3 If, as the result of concealed, unforeseen or unknown conditions or events, the University issues a Change Order or Field Order that changes the design from the design depicted in the Contract Documents, Contractor shall be entitled, subject to compliance with all the provisions of the Contract, including those set forth in Articles 4, 7 and 8, to an adjustment of the Job Order Sum and/or Job Order Time, for the cost and delay resulting from implementing the changes to the design. Except as provided in this Article 3.18.3, or as may be expressly provided otherwise in the Contract, there shall be no adjustment of the Job Order Sum and/or Job Order Time as a result of concealed, unforeseen or unknown conditions or events. .

3.18.4 Contractor shall, as a condition precedent to any adjustment in Job Order Sum or Job Order Time under Article 3.18.3, fully comply with Article 4 (including the timely filing of a Change Order Request and all other requirements for Change Orders Requests and Claims).

3.19 HAZARDOUS MATERIALS

3.19.1 The University shall not be responsible for any Hazardous Material brought to the site by the Contractor.

3.19.2 If the Contractor: (i) introduces and/or discharges a Hazardous Material onto the site in a manner not specified by the Contract Documents; and/or (ii) disturbs a Hazardous Material identified in the Contract Documents, the Contractor shall hire a qualified remediation contractor at Contractor's sole cost to eliminate the condition as soon as possible. Under no circumstance shall the Contractor perform Work for which it is not qualified. University, in its sole discretion, may require the Contractor to retain at Contractor's cost an independent testing laboratory.

3.19.3 If the Contractor encounters a Hazardous Material which may cause foreseeable injury or damage, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such material or substance (except in an emergency situation); and (iii) notify University (and promptly thereafter confirm such notice in writing).

3.19.4 Subject to Contractor's compliance with Article 3.19.3, the University shall verify the presence or absence of the Hazardous Material reported by the Contractor, except as qualified under Section 3.19.1 and 3.19.3, and, in the event such material or substance is found to be present, verify that the levels of the hazardous material are below OSHA Permissible Exposure Levels and below levels which would classify the material as a state of California or federal hazardous waste. When the material falls below such levels, Work in the affected area shall resume upon direction by the University. The Contract Time and Sum shall be extended appropriately as provided in Articles 7 and 8.

3.19.5 The University shall indemnify and hold harmless the Contractor from and against claims, damages, losses and expenses, arising from a Hazardous Material on the Project site, if such Hazardous Material: (i) was not shown on the Contract Documents or Information Available to Bidders; (ii) was not brought to the site by Contractor; and (iii) exceeded OSHA Permissible Exposure Levels or levels which would classify the material as a state of California or federal hazardous waste. The indemnity obligation in this Article shall not apply to:

.1 claims, damages, losses or expenses arising from the breach of contract, negligence or willful misconduct of Contractor, its suppliers, its Subcontractors of all tiers and/or any persons or entities working under Contractor; and

.2 claims, damages, losses or expenses arising from a Hazardous Material subject to Article 3.19.2.

3.19.6 In addition to the requirements in Article 3.22, Contractor shall indemnify and hold harmless the University from and against claims, damages, losses and expenses, arising from a Hazardous Material on the Project site, if such Hazardous Material exceeded OSHA Permissible Exposure Levels or levels which would classify the material as a state of California or federal hazardous waste, and was either i) shown on the Contract Documents or Information Available to Bidders; or (ii) brought to the site by Contractor. Nothing in this paragraph shall obligate the Contractor to indemnify University in the event of the sole negligence of the University, its officers, agents, or employees.

3.20 INFORMATION AVAILABLE TO BIDDERS

3.20.1 Any information provided pursuant to INFORMATION AVAILABLE TO BIDDERS is subject to the following provisions:

- .1 The information is made available for the convenience of Bidders and is not a part of the Contract.
- .2 The Contractor may rely on written descriptions of physical conditions included in the information to the extent such reliance is reasonable.
- .3 Other components of the information, including but not limited to recommendations, may not be relied upon by Contractor. University shall not be responsible for any interpretation of or conclusion drawn from the other components of the information by the Contractor.

3.21 LIABILITY FOR AND REPAIR OF DAMAGED WORK

3.21.1 Contractor shall be liable for any and all damages and losses to any Job Order Work (whether by fire, theft, vandalism, earthquake, or otherwise) prior to University's acceptance of the Job Order Work as fully completed except that Contractor shall not be liable for earthquake in excess of 3.5 on the Richter Scale, tidal wave, or flood, provided that the damages or losses were not caused in whole or in part by the negligent acts or omissions of Contractor, its officers, agents or employees (including all Subcontractors and suppliers of all tiers). As used herein, "flood" shall have the same meaning as in the builder's risk property insurance.

3.21.2 Contractor shall promptly repair and replace any Work or materials damaged or destroyed for which the Contractor is liable under Article 3.21.1.

3.22 INDEMNIFICATION

3.22.1 Contractor shall indemnify, defend and hold harmless University, University's consultants, University's Representative, University's Representative's consultants, and their respective directors, officers, agents, and employees from and against losses (including without limitation the cost of repairing defective work and remedying the consequences of defective work) arising out of, resulting from, or relating to the following:

- .1 The failure of Contractor to perform its obligations under the Contract.
- .2 The inaccuracy of any representation or warranty by Contractor given in accordance with or contained in the Contract Documents.
- .3 Any claim of damage or loss by any Subcontractor against University arising out of any alleged act or omission of Contractor or any other Subcontractor, or anyone directly or indirectly employed by Contractor or any Subcontractor.
- .4 Any claim of damage or loss resulting from Hazardous Materials introduced, discharged, or disturbed by Contractor as required per Article 3.19.6.

3.22.2 The University shall not be liable or responsible for any accidents, loss, injury (including death) or damages happening or accruing during the term of the performance of the Work herein referred to or in connection therewith, to persons and/or property, and Contractor shall fully indemnify, defend and hold harmless University and protect University from and against the same as provided in paragraph 3.22.1 above. In addition to the liability imposed by law upon the Contractor for damage or injury (including death) to persons or property by reason of the negligence of the Contractor, its officers, agents, employees or Subcontractors, which liability is not impaired or otherwise affected hereby, the Contractor shall defend, indemnify, hold harmless, release and forever discharge the University, its officers, employees, and agents from and against and waive any and all responsibility of same for 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 negligent act, omission, or willful misconduct of the Contractor, its officers, agents, employees, or any of its Subcontractors, or anyone directly or indirectly employed by either of them or from the condition of the premises or any part of the premises while in control of the Contractor, its officers, agents, employees, or any of its Subcontractors or anyone directly or indirectly employed by either of them, arising out of the performance of the Work called for by this Contract. Contractor agrees that this indemnity and hold harmless shall apply even in the event of negligence of University, its officers, agents, or employees, regardless of whether such negligence is contributory to any claim, demand, loss, damage, injury, expense, and/or liability; but such indemnity and hold harmless shall not apply (i) in the event of the sole negligence of University, its officers, agents, or employees; or (ii) to the extent that the University shall indemnify and hold harmless the Contractor for Hazardous Materials pursuant to Article 3.19.5.

3.22.3 In claims against any person or entity indemnified under this Article 3.22 that are made by an employee of Contractor or any Subcontractor, a person indirectly employed by Contractor or any Subcontractor, or anyone for whose acts Contractor or any Subcontractor may be liable, the indemnification obligation under this Article 3.22 shall not be limited by any limitation on amount or type of damages, compensation, or benefits payable by or for Contractor or any Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

3.22.4 The indemnification obligations under this Article 3.22 shall not be limited by any assertion or finding that the person or entity indemnified is liable by reason of a non-delegable duty.

3.22.5 Contractor shall indemnify University from and against Losses resulting from any claim of damage made by any Separate Contractor against University arising out of any alleged acts or omissions of Contractor, any Subcontractor, anyone directly or indirectly employed by either of them, or anyone for whose acts either of them may be liable.

3.22.6 Contractor shall indemnify Separate Contractors from and against Losses arising out of the negligent acts, omissions, or willful misconduct of Contractor, any Subcontractor, anyone directly or indirectly employed by either of them, or anyone for whose acts either of them may be liable.

3.23 UNIVERSITY-DESIGNATED DATA SYSTEMS

3.23.1 Contractor is required to use University-designated data systems, which may include but is not limited

to those for document review workflows, document retention, labor compliance software, and supplier diversity software.

ARTICLE 4 ADMINISTRATION OF THE CONTRACT

4.1 ADMINISTRATION OF THE CONTRACT BY UNIVERSITY'S REPRESENTATIVE

4.1.1 University's Representative will provide administration of the Contract as provided in the Contract Documents and will be the representative of University. University's Representative will have authority to act on behalf of University only to the extent provided in the Contract Documents.

4.1.2 University's Representative will have the right to visit the Job Order Work site at such intervals as deemed appropriate by the University's Representative. However, no actions taken during such Job Order Work site visit by University's Representative shall relieve Contractor of its obligations as described in the Contract Documents.

4.1.3 University's Representative will not have control over, will not be in charge of, and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely Contractor's responsibility.

4.1.4 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, University and Contractor shall communicate through University's Representative. Except when direct communication has been specifically authorized in writing by University Representative, communications by Contractor with University's consultants and University's Representative's consultants shall be through University's Representative. Communications by University and University's Representative with Subcontractors will be through Contractor. Communications by Contractor and Subcontractors with Separate Contractors shall be through University's Representative. Contractor shall not rely on oral or other non-written communications.

4.1.5 Based on University's Representative's Job Order Work site visits and evaluations of Contractor's Applications For Payment, University's Representative will recommend amounts, if any, due Contractor and will issue Certificates For Payment in such amounts.

4.1.6 University's Representative will have the authority to reject the Work, or any portion thereof, which does not conform to the Contract Documents. University's Representative will have the authority to stop the Work or any portion thereof. Whenever University's Representative considers it necessary or advisable for implementation of the intent of the Contract Documents, University's Representative will have the authority to require additional inspection or testing of the Work in accordance with the Contract Documents, whether or not such Work is fabricated, installed, or completed. However, no authority of University's Representative conferred by the Contract Documents nor any decision made in good faith either to exercise or not exercise such authority, will give rise to a duty or responsibility of University or University's Representative to Contractor, or any person or entity claiming under or through Contractor.

4.1.7 University's Representative will have the authority to conduct inspections as provided in the Contract Documents, to take Beneficial Occupancy and to determine the date of Final Completion; will receive for review and approval any records, written warranties, and related documents required by the Contract Documents and assembled by Contractor; and will issue a final Certificate For Payment upon Contractor's compliance with the requirements of the Contract Documents.

4.1.8 University's Representative will be, in the first instance, the interpreter of the requirements of the Contract Documents and the judge of performance thereunder by Contractor. Should Contractor discover any conflicts, omissions, or errors in the Contract Documents; have any questions about the interpretation or clarification of the Contract Documents; question whether Work is within the scope of the Contract Documents; or question that Work required is not sufficiently detailed or explained, then, before proceeding with the Work affected, Contractor shall notify University's Representative in writing and request interpretation, clarification, or furnishing of additional detailed instructions. University's Representative's response to questions and requests for interpretations, clarifications, instructions, or decisions will be made with reasonable promptness. Should Contractor proceed with the Work affected before receipt of a response from University's Representative, any portion of the Work which is not done in accordance with University's Representative's

interpretations, clarifications, instructions, or decisions shall be removed or replaced and Contractor shall be responsible for all resultant losses.

4.2 JOB ORDER PROCEDURES

4.2.1 As the need exists for performance under the terms of this Contract, the University will notify the Contractor of an existing Job Order requirement. Upon receipt of this notification, the Contractor shall respond to the needs of the University within two working days by establishing verbal contact with the University to further define the scope of the requirement and visiting the proposed work site in the company of the University's Representative, and participating in a Joint Scope Meeting which will include discussion and establishment of the following:

- .1 Project number and title
- .2 Staging area
- .3 Existing site conditions
- .4 Methods and alternatives for accomplishing work
- .5 Definition and refinement of requirements
- .6 Detailed scope of work
- .7 Requirements for plans, sketches, shop drawing etc.
- .8 Tentative work schedule
- .9 Preliminary quantity estimates

4.2.2 Upon completion of the Joint Scope Meeting, the University's Representative will issue a Request for Job Order Schedule of Values (RFP) and Detailed Scope of Work. The Detailed Scope of Work, unless modified by both the Contractor and the University, will be the basis on which the Contractor will develop its Job Order Schedule of Values and the University will evaluate the same. The Contractor does not have the right to refuse to perform any task or any work in connection with a particular Project.

4.2.3 The Job Order Sum shall be the value of the approved Job Order Schedule of Values. The Contractor will prepare a Job Order Schedule of Values which shall include but not be limited to:

- .1 Firm fixed-price proposal based on units for the Detailed Scope of Work and the related Unit Price
- .2 Schedule in a form required by the University
- .3 Subcontractor List which includes (a) the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the work or improvement, or a subcontractor licensed by the state of California who, under subcontract to the Contractor, specifically fabricates and installs a portion of the work or improvement according to Detailed Scope of Work, in an amount in excess of 1/2 of 1 percent of the Contractor's total bid, (b) the portion of the work which will be done by each subcontractor. The Contractor shall list only one subcontractor for each such portion as is defined by the Contractor in its Job Order Schedule of Values. By submitting the Job Order Schedule of Values, Contractor represents that each Subcontractor, regardless of tier, has the appropriate current and active license(s) issued by the State of California Contractor's State License Board for the Work to be performed.
- .4 Any Drawings or other information required for the University to be able to review items .1 to .3 above.

4.2.4 The firm fixed-price Schedule of Values shall be calculated from either Pre-Priced Work/Tasks or Non Pre-Priced Work/Tasks.

4.2.5 Pre-priced Work/Tasks shall identify the type and number of work units required from the Unit Price Book. The price per unit set forth in the Unit Price Book shall serve as the base price for the purpose of the operation of this article. The Contractor's Schedule of Values shall include support documentation to indicate that adequate engineering and planning for the requirement has been done, and that the work units proposed are reasonable for the tasks to be performed. Documentation to be submitted with the Schedule of Values shall include, but not be limited to, drawings, calculations, catalog cuts, specifications, and architectural renderings.

4.2.6 See Supplementary Conditions

4.2.7 The University reserves the right to reject a Contractor's Schedule of Values based on unjustifiable quantities, performance periods, inadequate documentation, or other inconsistencies on the Contractor's part. The Contractor has the obligation to confirm the quantities shown in the Contractor's Schedule of Values. The University has the right to require the Contractor to prove the quantities shown in the Schedule of Values by providing additional documentation such as sketches, drawings or plans as necessary. The University also reserves the right to not award a Job Order if University's requirement is no longer valid. In these instances, the Contractor has no right of claim to recoup Schedule of Values expenses.

4.2.8 By submitting a signed Job Order Schedule of Values to the University, the Contractor is agreeing to accomplish the Detailed Scope of Work outlined in the Request for Job Order Schedule of Values for that particular Job Order at the Job Order Sum, pending approval by the University. It is the Contractor's responsibility to include any necessary scope items in the Schedule of Values prior to issuing it to the University. Errors and omissions in the Schedule of Values shall be the responsibility of the Contractor. The Contractor's Schedule of Values shall be valid for the entire term of the Contract.

4.2.9 Before ordering any material or doing any work, the Contractor shall verify all measurements at the site of a specific Job Order, and shall be responsible for the correctness of same. No extra charge or compensation will be allowed on account of difference between actual dimensions and the measurements indicated in the Request for Job Order Schedule of Values and Detailed Scope of Work. Any difference which may be found shall be submitted to the University for review and consideration before proceeding with the work.

4.2.10 When the word approximate is used in conjunction with measurements, quantities, dimensions, etc., it is the Contractors' responsibility to verify any and all such items prior to submission of the Schedule of Values. Any Job Order awarded is for all services or work, as necessary, to construction, repair, and remodel the facilities covered by the Job Order in accordance with all Contract terms and conditions. It shall also be the duty and responsibility of the Contractor to manage, and conduct the required work in the most effective and efficient manner possible and meet or exceed minimum critical rates or standards. No claims for additional moneys will be entertained when such claim is based upon a contention the Contract or Job Order fails to mention a specific item or component of facility covered by contract and the work is required in the normal course of operations.

4.2.11 Prior to issuing a Job Order Authorization, University will notify Contractor in writing, if University, after due investigation, objects to a Subcontractor or Superintendent proposed by Contractor, in which case Contractor shall propose a substitute acceptable to University. Substitution of Superintendent shall be made in accordance with Article 3 of the General Conditions. Substitution of a Subcontractor shall be made in accordance with Article 5 of the General Conditions. Failure of University to object to a proposed Subcontractor or Superintendent prior to authorization shall not preclude University from requiring replacement of the Subcontractor or Superintendent based upon information received subsequent to authorization, information which cannot be properly evaluated prior to authorization due to time constraints, or information relating to a failure to comply with the requirements of the Contract.

4.3 PROCESSING TIME LIMITS

4.3.1 After receiving the Request for Job Order Schedule of Values Submittal, Contractor shall submit the Schedule of Values for the Job Order on or before the due date stated in the Request for Schedule of Values (14 days maximum unless otherwise specified).

4.3.2 Contractor shall make a thorough analysis of each Job Order and submit all Requests For Information (RFI's) within 7 days after issuance of any RFP. Submission of RFI's shall in no way extend the Schedule of Values due date unless deemed necessary by the University.

4.3.3 Contractor's project manager or agent shall be available for Schedule of Values review meetings within 48 hours of being notified by the University (via fax, e-mail, telephone, etc.). After review of the Schedule of Values, Contractor shall remove all inappropriate line items and adjust quantities as directed by the University.

4.3.4 Contractor shall submit a revised Schedule of Values within 24 hours of Schedule of Values review meeting. Upon review of revised Schedule of Values by the University's Representative, the Contractor shall

remove all line items or adjust quantities deemed inappropriate by the University's Representative and re-submit the Schedule of Values within 24 hours. No new line items, quantity increases or added modifiers will be accepted unless agreed to by the University during the second Schedule of Values review meeting.

4.3.5 Failure to comply may result in the Contractor being deemed non-responsive and could result in termination of the Contract. The University may also deem the Contractor to be non-responsive in regard to any future JOC Contracts.

4.4 CONTRACTOR SUPPLEMENTAL JOB ORDER REQUESTS

4.4.1 Contractor may request changes to the Job Order Sum and/or Job Order Time for Extra Work or delays for completion of Job Order Work caused by the acts, errors, or omissions of the University, University's Representative, their agents or employees, materially differing site conditions, or Delays to Final Completion of the Work.

4.4.2 Conditions precedent to obtaining an adjustment of the Job Order Sum and/or Job Order Time, payment of money, or other relief with respect to the Contract Documents, for any other reason, are:

- .1 Timely submission of a Supplemental Job Order Request that meets the requirements of Articles 4.4.3.1, 4.4.3.2 and 4.4.3.3; and
- .2 If requested, timely submission of additional information requested by the University Representative pursuant to Article 4.2.3.3.

4.4.3 Supplemental Job Order Request:

- .1 Any changes to the Work of a Job Order will be done by issuance of a Supplemental Job Order. Any additions or deletions are therefore calculated using the appropriate item in the Unit Price Book (UPB), multiplied by the quantity to be adjusted, multiplied by the appropriate Adjustment Factor. Time will be adjusted as appropriate.
- .2 A Supplemental Job Order Request will be deemed timely submitted if, and only if, it is submitted within 7 days of the date the Contractor discovers, or reasonably should discover the circumstances giving rise to the Supplemental Job Order Request, unless additional time is allowed in writing by University's Representative for submission of the Supplemental Job Order Request, provided that if:
 - .1 the Supplemental Job Order Request includes compensation sought by a Subcontractor; AND
 - .2 the Contractor requests in writing to the University's Representative, within the 7-day time period, additional time to permit Contractor to conduct an appropriate review of the Subcontractor Supplemental Job Order Request,

The time period for submission of the actual Supplemental Order Request shall be extended by the number of days specified in writing by the University's Representative.

- .3 A Supplemental Job Order Request must state that it is a Supplemental Job Order Request, state and justify the reason for the request, and specify the amount of any requested adjustment of the Job Order Sum, Job Order Time, and/or other monetary relief. If the Contractor requests an adjustment to the Job Order Sum or other monetary relief, the Contractor shall submit the following with the Supplemental Job Order Request:
 - .1 a completed Schedule of Values with pricing from the UPB meeting the requirements of Article 7; OR
 - .2 a partial Schedule of Values with pricing from the UPB and a declaration of what required information is not then known to Contractor. If Contractor failed to submit a completed Schedule of Values with the Job Order Request, Contractor shall submit a completed Schedule of Values meeting the requirements of Article 7 within 7 days of the date the Contractor submitted the Job Order Request unless additional time is allowed by the University's Representative.

- .4 Upon request of University's Representative, Contractor shall submit such additional information as may be requested by University's Representative for the purpose of evaluating the Supplemental Job Order Request. Such additional information may include:
 - .1 If Contractor seeks an adjustment of the Job Order Time, written documentation demonstrating Contractor's entitlement to a time extension under Article 8.4, which shall be submitted within 15 days of the date requested. If requested, Contractor may submit a fragnet in support of its request for a time extension. The University may, but is not obligated to, grant a time extension on the basis of a fragnet alone which, by its nature, is not a complete schedule analysis. If deemed appropriate by University's Representative, Contractor shall submit a more detailed schedule analysis in support of its request for a time extension.
 - .2 If Contractor seeks an adjustment of the Job Order Sum or other monetary relief for delay, written documentation demonstrating Contractor's entitlement to such an adjustment under Article 7.3.1, which shall be submitted within 15 days of the date requested.
 - .3 Any other information requested by the University's Representative for the purpose of evaluating the Supplemental Job Order Request, which shall be submitted by the deadline established by the University's Representative.

4.4.4 University's Representative will make a decision on a Supplemental Job Order Request, within a reasonable time, after receipt of a Supplemental Job Order Request. In the event the Supplemental Job Order Request is submitted pursuant to Article 8.4.1, the University's Representative shall promptly review and accept or reject it within thirty (30) days. A final decision is any decision on a Supplemental Job Order Request which states that it is final. If University's Representative issues a final decision denying a Supplemental Job Order Request in whole or in part, Contractor may contest the decision by filing a timely Claim under the procedures specified in Article 4.7.

4.4.5 Contractor may file a written demand for a final decision by University's Representative on all or part of any Supplemental Job Order Request as to which the University's Representative has not previously issued a final decision pursuant to Article 4.4.4; such written demand may not be made earlier than the 30th day after submission of the Supplemental Job Order Request. Within 30 days of receipt of the demand, University's Representative will issue a final decision on the Supplemental Job Order Request. The University's Representative's failure to issue a decision within the 30-day period shall be treated as the issuance, on the last day of the 30-day period, of a final decision to deny the Supplemental Order Request in its entirety.

4.5 CHANGE ORDERS TO THE CONTRACT

4.5.1 The University and the Contractor may modify the Contract only by Change Order or by Job Order Authorization.

4.5.2 Contract Change Orders shall include, but are not limited to, additions to the Unit Price Book and University's unilateral option to extend the Contract.

4.5.3 The University has two (2) unilateral options which may be exercised at any time subject to the following:

- .1 Each University Option Term is for a maximum time period of one year, or the full expenditure of the Maximum Contract Value given for then current Option Term.
- .2 This provision provides a means by which to make adjustments to the Base Term Adjustment Factors for use on subsequent Option Term Adjustment Factors by using actual escalation/de-escalation as measured by the Construction Cost Index (CCI) published in the ENR (formally known as Engineering News Record). The CCI for closest published City shall be applied in the operation of this provision.
- .3 The "base index" is determined by averaging the monthly CCI indices for the 12 months prior to the month of the Base Term bid due date.

- .4 The "first option term index" is determined by averaging the last 12-month period just prior to the month in which the first Option Term is exercised.
The "second option term index" is determined by averaging the last 12-month period just prior to the month in which the second Option Term is exercised.
- .5 The Adjustment Factor for the first Option Term is determined by dividing the "first option term index" by the "base index" and then by multiplying by the original Adjustment Factor.
The Adjustment Factor for the second Option Term is determined by dividing the "second option term index" by the "first term option index" and then by multiplying by the Adjustment Factor for the first Option Term.
- .6 All the above computations shall be rounded to four (4) decimal places.
- .7 The Contractor cannot delay submission of the Job Order Schedule of Values past the due date to take advantage of a scheduled update of the Adjustment Factors. In that event, the Contractor shall use the Adjustment Factors that would have been in effect without the delay.

4.6 CLAIMS

4.6.1 The term "Claim" means a written demand or assertion by Contractor seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time, or other relief with respect to the Contract Documents, including a determination of disputes or matters in question between University and Contractor arising out of or related to the Contract Documents or the performance of the Work. However, the term "Claim" shall not include, and the Claims procedures provided under this Article 4, including but not limited to arbitration, shall not apply to the following:

- .1 Claims respecting penalties for forfeitures prescribed by statute or regulation which a government agency is specifically authorized to administer, settle, or determine.
- .2 Claims respecting personal injury, death, reimbursement, or other compensation arising out of or resulting from liability for personal injury or death.
- .3 Claims by University, except as set forth in Articles 4.8, 4.9, and 4.10.
- .4 Claims respecting stop payment notices.

4.6.2 A Claim arises upon the issuance of a written final decision denying in whole or in part Contractor's Supplemental Job Order Request pursuant to Articles 4.4.4 and 4.4.5.

4.6.3 A Claim must include the following:

- .1 A statement that it is a Claim and a request for a decision pursuant to Article 4.4.
- .2 A detailed factual narrative of events fully describing the nature and circumstances giving rise to the Claim, including but not limited to, necessary dates, locations, and items of work affected.
- .3 A certification, executed by Contractor, that the claim is filed in good faith. The certification must be made on the Claim Certification form, included in the Exhibits to the Contract. The language of the Claim Certification form may not be modified.
- .4 A certification, executed by each Subcontractor claiming not less than 5% of the total monetary amount sought by the claim, that the subcontractor's portion of the claim is filed in good faith. The certification must be made on the Claim Certification form, included in the Exhibits to the Contract. The language of the Claim Certification form may not be modified.
- .5 A statement demonstrating that a Supplemental Job Order Request was timely submitted as required by Article 4.4.3.
- .6 If a Schedule of Values or declaration was required by Article 4.4.3, a statement demonstrating that the Schedule of Values or the declaration was timely submitted as required by Article 4.4.3.
- .7 A detailed justification for any remedy or relief sought by the Claim, including to the extent applicable, the following:
 - .1 If the Claim involves Extra Work, a detailed cost breakdown of the amounts claimed, including the items specified in Article 7.3.2. An estimate of the costs must be provided even if the costs claimed have not been incurred when the Claim is

submitted. To the extent costs have been incurred when the Claim is submitted, the Claim must include actual cost records (including without limitation, payroll records, material and rental invoices and the like) demonstrating that costs claimed have actually been incurred. To the extent costs have not yet been incurred at the time the Claim is submitted, actual cost records must be submitted on a current basis not less than once a month during any periods costs are incurred. A cost record will be considered current if submitted within 30 days of the date the cost reflected in the record is incurred. At the request of the University's Representative, claimed extra costs may be subject to further verification procedures (such as having an inspector verify the performance of alleged Extra Work on a daily basis). The cost breakdown must include an itemization of costs for i) labor including workers' names, classifications, regular hours and overtime hours worked, dates worked, and other pertinent information; ii) materials stored or incorporated in the work including invoices, purchase orders, location of materials either stored or incorporated into the Work, dates materials were transported to the Job Order Work site or incorporated into the Work, and other pertinent information; and iii) itemization of machinery and equipment including make, model, hours of use, dates of use and equipment rental rates of any rented equipment.

- .2 If the Claim involves an extension of the Job Order Time, written documentation demonstrating the Contractor's entitlement to a time extension under Article 8.4, including the specific dates for which a time extension is sought and the specific reasons for entitlement of a time extension.
- .3 If the Claim involves an adjustment of the Job Order Sum for delay, written documentation demonstrating the Contractor's entitlement to such an adjustment, including but not limited to, a detailed time impact analysis of the Job Order Schedule. The Job Order Schedule must demonstrate Contractor's entitlement to such an adjustment.

4.7 ASSERTION OF CLAIMS

4.7.1 Claims by Contractor shall be first submitted to University's Representative for decision.

4.7.2 Notwithstanding the making of any Claim or the existence of any dispute regarding any Claim, unless otherwise directed by University's Representative, Contractor shall not cause any delay, cessation, or termination in or of Contractor's performance of the Work, but shall diligently proceed with performance of the Work in accordance with the Contract Documents.

4.7.3 Contractor shall submit a Claim in writing, together with all supporting data specified in Article 4.6.3, to University's Representative as soon as possible but not later than 30 days after the date the Claim arises under Article 4.6.2, provided that after written notification to the University's Representative within such time period, the time period for submission of the Claim shall be extended by the number of days specified in writing by the University's Representative where the Claim includes compensation sought by a Subcontractor and the Contractor requests an extension of time to permit it to discharge its responsibilities to conduct an appropriate review of the Subcontractor claim.

4.7.4 Strict compliance with the requirements of Articles 4.2, 4.3 and 4.4 are conditions precedent to Contractor's right to an informal conference to meet and confer to resolve a Claim, mediate a Claim, or arbitrate or litigate a Claim. Contractor specifically agrees to assert no Claims via an informal conference, mediation, arbitration or litigation unless there has been strict compliance with Articles 4.2, 4.3, and 4.4. The failure of Contractor to strictly comply with the requirements of Articles 4.2, 4.3 and 4.4 constitutes a failure by Contractor to exhaust its administrative remedies with the University, thereby denying any court or arbitration panel of jurisdiction to adjudicate the Claim.

4.8 DECISION OF UNIVERSITY'S REPRESENTATIVE ON CLAIMS

4.8.1 University's Representative will timely review Claims submitted by Contractor. If University's Representative determines that additional supporting data are necessary to fully evaluate a Claim, University's Representative will request such additional supporting data in writing. Such data shall be furnished no later than 10 days after the date of such request. University's Representative will render a decision promptly and

in any case within 30 days after the later of the receipt of the Claim or the deadline for furnishing such additional supporting data; provided that, if the amount of the Claim is in excess of \$50,000, the aforesaid 30-day period shall be 45 days. Failure of University's Representative to render a decision by the applicable deadline will be deemed a decision denying the Claim on the date of the deadline, unless, upon receipt of a Claim, Contractor and University mutually agree to extend the time periods provided herein, or unless otherwise extended by law. The decision of University's Representative will be final and binding unless appealed in accordance with Articles 4.8.2, 4.9, and 4.10. The University's Representative's decision on a Claim or dispute will include a written statement both identifying all disputed and undisputed portions of the Claim and substantially including the following:

"This is a decision under Article 4.8 of the General Conditions of your contract. If you are dissatisfied with the decision, and if you complied with the procedural requirements for asserting claims specified in Article 4 of the General Conditions of your contract, you may have the right to demand in writing an informal conference to meet and confer for settlement of any remaining issues in dispute, following which, if still dissatisfied, you may demand in writing a further resolution via nonbinding mediation, after which you have the right to arbitrate or litigate this decision. If you fail to take appropriate action within 30 days of the date of this decision, the decision shall become final and binding and not subject to further appeal."

4.8.2 If either Contractor or University disputes University's Representative's decision on a Claim, then, within 30 days after the decision of University's Representative on the Claim, or, if no decision has been issued, within 30 days from the date of the applicable deadline in Article 4.5.1 for University Representative to render a decision, such party (the "Disputing Party") must provide written notice demanding an informal conference to meet and confer. University shall schedule the conference within 30 days upon receipt of the notice demanding an informal conference. The parties will attempt in good faith to resolve any controversy or Claim arising out of or relating to this Contract by negotiation at the conference.

4.9 MEDIATION

4.9.1 Within 10 business days following the informal conference to meet and confer stated in Article 4.5.2, if the Claim or any portion of the Claim remains in dispute, the University shall provide a written statement identifying the disputed and undisputed portions of the Claim. Within 30 days of receipt of the statement, if either Contractor or University disputes any portion of the Claim, then the Disputing Party must provide written notice to the non-disputing party demanding non-binding mediation. The Contractor and the University shall share the associated costs equally and shall mutually agree to a mediator within 10 business days. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim, with each party bearing the fees and costs of its respective mediator. Mediation shall include, but not be limited to, neutral evaluation, a dispute review board, or other negotiation or evaluation through an independent third party or board. The Contractor and the University may mutually agree to waive any individual mediation in writing and proceed to arbitration or litigation pursuant to this Contract.

4.10 LITIGATION AND ARBITRATION

4.10.1 Either party may provide a written notice of its election to arbitrate or provide written notice of its election to litigate the Claim within 30 days after the mediation pursuant to Article 4.6.1, or, if the parties mutually agreed in writing to waive mediation, within 30 days after the agreement is signed by both parties.

4.10.2 If a notice of election to arbitrate or litigate is not given by either party within 30 days pursuant to Article 4.7.1, University's Representative's decision on the Claim will be final and binding and not subject to appeal or challenge.

4.10.3 If the Disputing Party gives timely notice of its election to arbitrate the University's Representative's decision on a Claim, Disputing Party shall have the right, within 120 days after a Notice of Completion, or a Notice of Cessation, as applicable, is filed for the Contract, to make a demand for arbitration in accordance with Article 4.7. Failure to perfect a Claim for which a timely election to arbitrate has been made by the timely filing of a demand for arbitration and timely payment of all applicable and required fees to the American Arbitration Association ("AAA") shall result in the University's Representative's decision on said Claim

becoming final and binding and not subject to appeal or challenge. If the Disputing Party makes a timely demand for arbitration, and the amount of the Claim in question, when combined with all other Claims, if any, which are the subject of previously filed demands for arbitration that have not been resolved by settlement or arbitration award, is \$100,000 or more, then the other party may elect to litigate all such Claims by filing a written notice with the AAA within 30 days after its receipt of notice from AAA of the Disputing Party's demand for arbitration of the Claim that raises the total amount of Claims subject to arbitration to \$100,000 or more. If the other party fails to give notice of its election to litigate within such 30-day period, it shall be deemed to have consented to arbitration and waived the right to litigate. If after commencement of arbitration the amount of unresolved Claims in arbitration are allowed to be increased to \$100,000 or more, through an AAA-allowed amendment or otherwise, either party may elect to litigate within 30 days following the date that the electing party first receives written notification from the AAA that total Claims in arbitration equal or exceed \$100,000. If neither party gives notice of its election to litigate within such 30-day period as applicable, then both parties shall be deemed to have consented to arbitration and waived the right to litigate.

4.10.4 A demand for arbitration pursuant to Article 4.10.3 shall include a copy of the Claim presented to University's Representative pursuant to Article 4.6, a copy of the decision of University's Representative pursuant to Article 4.7, if any, a copy of the University's written statement identifying the portion of the Claim that remained in dispute following the informal conference pursuant to Article 4.9.1, and a summary of the remaining portions of the Claim in dispute. The demand shall state the amount in controversy, if any, and state the remedy sought. The demand shall identify the University's Responsible Administrator as the representative of the responding party and the Office of the General Counsel as counsel for the responding party. The demand shall be filed with the AAA and shall not be deemed to have been made until all applicable fees have been paid to the AAA by the demanding party. Copies of the demand and attachments shall be sent to University's Responsible Administrator as the representative of the responding party and the University's Office of General Counsel as attorney for the responding party, at the addresses set forth in the Project Directory, at the time the demand for arbitration is initiated with the AAA.

4.10.5 Except as modified by this Article 4.10, arbitration shall be initiated and conducted in accordance with the Construction Industry Arbitration Rules of the AAA then in effect. The following additional modifications shall be made to the aforesaid AAA rules:

- .1 Civil discovery shall be permitted for the production of documents and taking of depositions. Other discovery may be permitted at the discretion of the arbitrator. All disputes regarding discovery shall be decided by the arbitrator.
- .2 University's Representative and/or University's consultants, shall if required by agreement with University, upon demand by University join in and be bound by the Arbitration. University's Representative and University's consultants will have the same rights in any arbitration proceeding as are afforded by the AAA rules to Contractor and University.
- .3 Contractor's sureties shall be bound by any arbitration award and may join in any arbitration proceeding.
- .4 Except as provided in Articles 4.10.5.2. and 4.10.5.3 above, no Subcontractor or other person shall have a right or obligation to join in or be a party to any arbitration proceeding provided for in this Article 4 either directly, by joinder, by consolidation or actions, by counterclaim or cross-claim, or otherwise without the express written consent of University, Contractor, and the joining party.
- .5 If more than one demand for arbitration is made by a party with respect to Claims referred to University's Representative, all such Claims shall be consolidated into a single arbitration unless the parties otherwise agree in writing.
- .6 If total Claims are less than \$50,000, AAA expedited procedures as modified by this Article 4 shall apply. If total Claims are between \$50,000 and \$100,000 they shall be heard by a single arbitrator who shall be an attorney. If total Claims are in excess of \$100,000 and are submitted to arbitration, either by agreement or by failure to elect litigation the controversy shall be heard by a panel of three arbitrators, one of which shall be an attorney.
- .7 No arbitrator shall be appointed and no discovery may be commenced prior to the date of Final Completion unless University and Contractor otherwise agree.
- .8 The exclusive forum for determining arbitrability shall be the Superior Court of the State of California. The AAA shall not submit to any arbitrator any matter concerning the arbitrability of the dispute if the arbitrability is contested.
- .9 If the expedited procedures of the AAA are applicable, the AAA shall submit simultaneously to each party an identical list of 7 proposed arbitrators drawn from the National Panel of

- Commercial Arbitrators, and each party may strike 3 names from the list on a peremptory basis and return the list to the AAA within 10 days from the date of receipt.
- .10 Except as provided herein, the arbitration shall be conducted and enforced under California law, including the California Arbitration Act (California Code of Civil Procedure section 1280 and following). The Federal Arbitration Act shall not apply to the arbitration.

4.10.6 Unless University and Contractor otherwise agree in writing, the arbitration decision shall be binding upon the parties, made under and in accordance with the laws of the State of California, supported by substantial evidence, and in writing. If the total of all Claims or cross Claims submitted to arbitration is in excess of \$50,000, the award shall contain the basis for the decision, findings of fact, and conclusions of law. Any arbitration award shall be subject to confirmation, vacation, or correction under the procedures and on the grounds specified in the California Code of Civil Procedure including without limitation Section 1296. The expenses and fees of the arbitrators and the administrative fees of the AAA shall be divided among the parties equally. Each party shall pay its own counsel fees, witness fees, and other expenses incurred for its own benefit.

4.10.7 University may, but is not required, to assert as a counterclaim any matter arising out of the claims asserted by Contractor in the arbitration. University's failure to assert any such counterclaim in an arbitration shall be without prejudice to the University's right to assert the counterclaim in litigation or other proceeding.

4.10.8 Any litigation shall be filed in the Superior Court of the State of California for the County in which the contract was to be performed.

4.11 WAIVER

4.11.1 A waiver of or failure by University or University's Representative to enforce any requirement in this Article 4 in connection with any Claim shall not constitute a waiver of, and shall not preclude the University or University's Representative from enforcing such requirements in connection with any other Claims.

4.11.2 The Contractor agrees and understands that no oral approval, either express or implied, of any Claim shall be binding upon University unless and until such approval is ratified by execution of a written Supplemental Job Order.

ARTICLE 5 SUBCONTRACTORS

5.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.1.1 Contractor shall list in each Job Order Schedule of Values all Subcontractors that will perform work, labor, or render such services having a dollar value in excess of 0.5% of the Job Order. A Job Order Schedule of Values shall include the following information when listing Subcontractors: 1) Work Activity; 2) name of Subcontractor; 3) city of Subcontractor's business location and 4) Subcontract Dollar Value. The failure to list, on the Job Order Schedule of Values, any one of the items set forth above will result in the University treating the Job Order as if no Subcontractor was listed for the Work Activity and Contractor will thereby represent to University that Contractor agrees that it is fully qualified to perform that portion of the Work and shall perform that Work Activity.

5.1.2 Any Subcontractor may be disqualified if University or University's Representative determines that such Subcontractor fails to meet the requirements of the Contract Documents or for any other reason.

5.1.3 In accordance with the Subletting and Subcontracting Fair Practices Act, nothing herein shall be deemed to entitle Contractor, without the approval of University, to substitute other subcontractors for those named in Contractor's List of Subcontractors contained in the completed Job Order; and, except with such approval, no such substitution shall be made.

5.1.4 Except as hereinafter provided, any increase in the cost of the Job Order Work resulting from the replacement or substitution of a Subcontractor, as required by University or University's Representative pursuant to Article 5.1.3 shall be borne solely by Contractor and Contractor shall not be entitled to any increase

in Job Order Sum or extension of Job Order Time on account of such replacement or substitution.

5.2 SUBCONTRACTUAL RELATIONS

5.2.1 Any part of the Work performed for Contractor by a first-tier Subcontractor shall be pursuant to a written subcontract. Each such subcontract shall require the Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to Contractor by the terms of the Contract Documents, to assume toward Contractor all the obligations and responsibilities which Contractor assumes towards University by the Contract Documents, and to perform such portion of the Work in accordance with the Contract Documents. Each such subcontract shall preserve and protect the rights of University under the Contract Documents, with respect to the Work to be performed by Subcontractor, so that subcontracting thereof will not prejudice such rights. Contractor shall cause each such subcontract to expressly include the following requirements:

- .1 Subcontractor waives all rights that Subcontractor may have against University for damages caused by fire or other perils covered by builder's risk property insurance carried by Contractor or University, except for such rights Subcontractor may have to the proceeds of such insurance held by University under Article 11.
- .2 University and entities and agencies designated by University will have access to and the right to audit and the right to copy at University's cost all of Subcontractor's books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work. Subcontractor shall preserve all such records and other items for a period of at least 3 years after Final Completion.
- .3 Subcontractor recognizes the rights of University under Article 5.3, Contingent Assignment of Subcontracts, and agrees, upon notice from University that University has elected to accept said assignment and to retain Subcontractor pursuant to the terms of the subcontract, to complete the unperformed obligations under the subcontract and, if requested by University, to execute a written agreement confirming that Subcontractor is bound to University under the terms of the subcontract.

5.2.2 Upon the request of University, Contractor shall promptly furnish to University a true, complete, and executed copy of any subcontract.

5.2.3 Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and University, except when, and only to the extent that, University elects to accept the assignment of the subcontract with such Subcontractor pursuant to Article 5.3, Contingent Assignment of Subcontracts.

5.3 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.3.1 Contractor hereby assigns to University all its interest in first-tier subcontracts now or hereafter entered into by Contractor for performance of any part of the Work. The assignment will be effective upon acceptance by University in writing and only as to those subcontracts which University designates in writing. University may accept said assignment at any time during the course of the Work and prior to Final Completion of the last Job Order in the event of a suspension or termination of Contractor's rights under the Contract Documents. Such assignment is part of the consideration to University for entering into the Contract with Contractor and may not be withdrawn prior to Final Completion.

ARTICLE 6 CONSTRUCTION BY UNIVERSITY OR BY SEPARATE CONTRACTORS

6.1 UNIVERSITY'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 University reserves the right to award separate contracts for, or to perform with its own forces, construction or operations related to Job Order Work or other construction or operations at or affecting the Job Order Work site, including portions of Project or other construction or operations at or affecting the Project. Contractor shall cooperate with University's forces and Separate Contractors.

6.1.2 University will provide coordination of the activities of University's forces and of each Separate Contractor with Job Order Work of Contractor. Contractor shall participate with University and Separate Contractors in joint review of construction schedules and Project requirements when directed to do so. Contractor shall make necessary revisions to the Job Order Schedule after such joint review.

6.2 MUTUAL RESPONSIBILITY

6.2.1 Contractor shall afford University and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities. Contractor shall connect, schedule, and coordinate its construction and operations with the construction and operations of University and Separate Contractors as required by the Contract Documents.

6.2.2 If a portion of Job Order Work is dependent upon the proper execution or results of other construction or operations by University or Separate Contractors, Contractor shall inspect such other construction or operations before proceeding with that portion of Job Order Work. Contractor shall promptly report to University's Representative apparent discrepancies or defects which render the other construction or operations unsuitable to receive Job Order Work. Unless otherwise directed by University's Representative, Contractor shall not proceed with the portion of Job Order Work affected until apparent discrepancies or defects have been corrected. Failure of Contractor to so report within a reasonable time after discovering such discrepancies or defects shall constitute an acknowledgment that the other construction or operations by University or Separate Contractors is suitable to receive Job Order Work, except as to defects not then reasonably discoverable.

6.3 UNIVERSITY'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises between Contractor and Separate Contractors as to the responsibility under their respective contracts for maintaining the Job Order Work site and surrounding areas free from waste materials and rubbish, University may clean up and allocate the cost between those firms it deems to be responsible.

ARTICLE 7 CHANGES IN THE WORK

7.1 CHANGES

7.1.1 University may, from time to time, order or authorize additions, deletions, and other changes in Job Order Work by Supplemental Job Order or Field Order and modifications to any Contract Term or Condition by Change Order without invalidating the Contract and without notice to sureties. Absence of such notice shall not relieve such sureties of any of their obligations to University.

7.1.2 Contractor may request a Supplemental Job Order under the procedures specified in Article 4.2.

7.1.3 A Field Order may be issued by University, does not require the agreement of Contractor, and shall be valid with or without the signature of Contractor.

7.1.4 Contractor shall proceed promptly with any changes in the Work, unless otherwise provided in the relevant Supplemental Job Order or Field Order.

7.2 DEFINITIONS

7.2.1 A Supplemental Job Order is developed for the purpose of changing, deleting, or adding work to the initial Scope of Work after the initial Job Order has been issued or for changing the Job Order Time or Job Order Sum.

7.2.2 A Change Order is a Contract Document (as shown in the Exhibits) which has been signed by both University and Contractor, and states their agreement, as applicable, to modification to any Contract term or condition.

7.2.3 A Unilateral Change Order may be issued by University, without the Contractor's signature, where

the University determines that a modification to a Contract Term or Condition is required, even though no agreement has been reached between University and Contractor with regard to such change in the Work.

7.2.4 A Field Order (as shown in the Exhibits) is a Contract Document issued by the University that orders the Contractor to perform Work. A Field Order may, but need not, constitute a change in the Work and may, but need not, entitle Contractor to an adjustment of the Job Order Sum or Job Order Time.

7.3 SUPPLEMENTAL JOB ORDER PROCEDURES

7.3.1 Contractor shall provide a Supplemental Job Order Request and Schedule of Values pursuant to Article 4.4 and this Article 7.3 of the General Conditions. Adjustments of the Job Order Sum resulting from Extra Work and Deductive Work shall be determined using one of the methods described in this Article 7.3. All changes to the work shall be priced in the same manner as the original Job Order. Adjustments of the Job Order Time shall be subject to the provisions in Article 8. Contractor's obligation to provide Schedule of Values shall be subject to the following:

- .1 The obligation of Contractor to provide Schedule of Values is not Extra Work, and shall not entitle the Contractor to an adjustment of the Job Order Sum or Job Order Time.
- .2 The failure of Contractor to timely provide a Schedule of Values pursuant to Article 4.4 and this Article 7.3.1 is a material breach of the Contract. Contractor shall be responsible for any delay in implementing a change for which Contractor failed to timely provide a Schedule of Values consistent with the requirements of Article 4.4 and this Article 7.3.1.

7.3.2 The term "Cost of Extra Work" as used in this Article 7.3 shall mean costs incurred or to be incurred by Contractor and each Subcontractor, regardless of tier involved, in the performance of Work scope not specified in an applicable Job Order. The Cost of Extra Work shall be determined using the same procedures in pricing the original Job Order. Any additions or deletions are therefore calculated by using the appropriate item(s) from the Unit Price Book multiplied by the quantity to be adjusted multiplied by the appropriate Adjustment Factor.

7.3.3 Modifications to a specified scope of Job Order Work shall utilize the Adjustment Factors in effect when the Job Order was drafted.

7.3.4 For Work to be deleted by Supplemental Job Order, the reduction of the Job Order Sum shall be computed on the basis of one or more of the following:

- .1 If scope stated on the narrative scope of Work and detailed cost estimate is deleted by University, the cost of the Work will be deducted by Supplemental Job Order. The deduction will include the Contractor's Adjustment Factor for all work not performed or deleted from the original Job Order.

7.3.5 Except as provided in Articles 7 and 8, Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.

7.4 FIELD ORDERS

7.4.1 Field Orders issued by the University's Representative shall be subject to the following:

- .1 A Field Order may state that it does or does not constitute a change in the Job Order Work.
- .2 If the Field Order states that it does not constitute a change in the Job Order Work and the Contractor asserts that the Field Order constitutes a change in the Job Order Work, in order to obtain an adjustment of the Job Order Sum or Job Order Time for the Work encompassed by the Field Order, Contractor must follow all procedures set forth in Article 4, starting with the requirement of submitting a timely Supplemental Job Order or Change Order Request within 7 days of Contractor's receipt of the Field Order; failure to strictly follow those procedures is a bar to any Claim for an adjustment of the Job Order Sum or Job Order Time arising from performance of the Work described in the Field Order.
- .3 If the Field Order states that it does constitute a change in the Job Order Work, the Work described in the Field Order shall be considered Extra Work and the Contractor shall be entitled to an adjustment of the Work as set forth by the Job Order Sum and Job Order

Time, calculated under and subject to Contractor's compliance with the procedures for verifying and substantiating costs and delays in Articles 7 and 8.

- .4 In addition, if the Field Order states that it does constitute a change in Job Order Work, the Field Order may or may not contain University's estimate of adjustment of Job Order Sum and/or Job Order Time. If the Field Order contains an estimate of adjustment of Job Order Sum or Job Order Time, the Field Order is subject to the following:

- .1 The Contractor shall not exceed the University's estimate of adjustment to Job Order Sum or Job Order Time without prior written notification to the University's Representative.
- .2 If the Contractor asserts that the change in the Work encompassed by the Field Order may entitle Contractor to an adjustment of Job Order Sum or Job Order Time in excess of the University's estimate, in order not to be bound by University's estimate Contractor must follow all procedures set forth in Article 4, starting with the requirement of submitting a timely Supplemental Job Order or Change Order Request within 7 days of Contractor's receipt of the Field Order; failure to strictly follow those procedures is a bar to any Claim for an adjustment of the Job Order Sum or Job Order Time, in excess of the University's estimate, arising from performance of the Work described in the Field Order.

7.4.2 Upon receipt of a Field Order, Contractor shall promptly proceed to perform the Work as ordered in the Field Order notwithstanding any disagreement by the Contractor concerning whether the Work is extra.

7.5 WAIVER

7.5.1 A waiver of or failure by University or University's Representative to enforce any requirement in this Article 7 in connection with any adjustment of the Job Order Sum will not constitute a waiver of, and will not preclude the University or University's Representative from enforcing, such requirements in connection with any other adjustments of the Job Order Sum.

7.5.2 The Contractor agrees and understands that no oral approval, either express or implied, of any adjustment of the Job Order Sum by University or its agents shall be binding upon University unless and until such approval is ratified by execution of a written Supplemental Job Order.

ARTICLE 8 CONTRACT TIME

8.1 COMMENCEMENT OF THE JOB ORDER WORK

8.1.1 The date of commencement of Job Order Work shall be set forth in the Job Order Authorization for such Job Order. The date of commencement of Job Order Work shall not be postponed by the failure of Contractor, Subcontractors, or of persons or firms for whom Contractor is responsible, to act.

8.2 PROGRESS AND COMPLETION

8.2.1 By signing the Job Order Schedule of Values:

- .1 Contractor represents to University that the Job Order Time is reasonable for performing the Work and that Contractor is able to perform the Work within the Job Order Time.
- .2 Contractor agrees that University is purchasing the right to have the Contractor present on the Job Order Work site for the full duration of the Job Order Time, even if Contractor could finish the Job Order Work in less than the Job Order Time.

8.2.2 Contractor shall not, except by agreement or instruction of University in writing, commence operations on the Job Order Work site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by Contractor. The dates of commencement and Final Completion of the Work shall not be changed by the effective date of such insurance.

8.2.3 Contractor shall proceed expeditiously with adequate forces and shall achieve full completion of the

Job Order Work within the Job Order Time. If University's Representative determines and notifies Contractor that Contractor's progress is such that Contractor will not achieve full completion of Job Order Work within the Job Order Time, Contractor shall immediately and at no additional cost to University, take all measures necessary, including working such overtime, additional shifts, Sundays, or holidays as may be required to ensure that the Work is fully completed within the Job Order Time. Upon receipt of such notice from University's Representative, Contractor shall immediately notify University's Representative of all measures to be taken to ensure full completion of Job Order Work within the Job Order Time. Contractor shall reimburse University for any extra costs or expenses (including the reasonable value of any services provided by University's employees) incurred by University as the result of such measures.

8.3 DELAY

8.3.1 Except and only to the extent provided otherwise in Articles 7 and 8, by signing the Agreement, Contractor agrees:

- .1 to bear the risk of delays to Job Order Work; and
- .2 that Contractor's bid for the Contract was made with full knowledge of this risk.

In agreeing to bear the risk of delays to Job Order Work, Contractor understands that, except and only to the extent provided otherwise in Articles 7 and 8, the occurrence of events that delay Job Order Work shall not excuse Contractor from its obligation to achieve Final Completion of the Job Order Work within the Job Order Time, and shall not entitle the Contractor to an adjustment of the Job Order Sum.

8.4 ADJUSTMENT OF THE JOB ORDER TIME FOR DELAY

8.4.1 Subject to Article 8.4.2, the Job Order Time will be extended for each day of delay for which Contractor demonstrates that all of the following four conditions have been met; a time extension will not be granted for any day of delay for which Contractor fails to demonstrate compliance with the four conditions:

- .1 Condition Number One: The delay is critical. A delay is critical if and only to the extent it delays a work activity that cannot be delayed without delaying Final Completion of the Job Order Work beyond the Job Order Time. Under this Article 8.4.1.2, if the Job Order Schedule shows Final Completion of the Work before expiration of the Job Order Time, a delay is critical if and only to the extent the delay pushes Final Completion of the Job Order Work to a date that is beyond the Job Order Time.
- .2 Condition Number Two: Within 7 days of the date the Contractor discovers or reasonably should discover an act, error, omission or unforeseen condition or event causing the delay is likely to have an impact on the critical path of the Project, (even if the Contractor has not yet been delayed when the Contractor discovers or reasonably should discover the critical path impact of the act, error, omission or unforeseen condition giving rise to the delay) the Contractor submits both a timely and complete Supplemental Job Order Request that meets the requirements of Article 4.4.
- .3 Condition Number Three: The delay is not caused by:
 - .1 A concealed, unforeseen or unknown condition or event except for a materially differing site condition pursuant to Article 3.17; or
 - .2 The financial inability, misconduct or default of the Contractor, a Subcontractor or supplier; or
 - .3 The unavailability of materials or parts.
- .4 Condition Number Four: The delay is caused by:
 - .1 Fire; or
 - .2 Strikes, boycotts, or like obstructive actions by labor organizations; or
 - .3 Acts of God (As used herein, "Acts of God" shall include only earthquakes in excess of a magnitude of 3.5 on the Richter Scale and tidal waves); or
 - .4 A materially differing site condition pursuant to Article 3.17; or
 - .5 An error or omission in the Contract; or
 - .6 The University's decision to change the scope of the Job Order Work, where such decision is not the result of any default or misconduct of the Contractor; or
 - .7 The University's decision to suspend the Job Order Work, where such decision is not the result of any default or misconduct of the Contractor; or
 - .8 The failure of the University (including the University acting through its consultants,

Design Professionals, Separate Contractors or the University's representative) to perform any Contract obligation unless such failure is due to Contractor's default or misconduct.

- .9 "Adverse weather," but only for such days of adverse weather, or on-site conditions caused by adverse weather, that are in excess of the number of days specified in the Supplementary Conditions. In order for a day to be considered a day of adverse weather for the purpose of determining whether Contractor is entitled to an adjustment in Job Order Time, both of the following conditions must be met:
- .1 the day must be a day in which, as a result of adverse weather, less than one half day of critical path work is performed by Contractor; and
 - .2 the day must be identified in the Job Order Schedule as a scheduled work day.

8.4.2 If and only if a delay meets all four conditions prescribed in Article 8.4.1, then a time extension will be granted for each day that Final Completion of the Job Order Work is delayed beyond the Job Order Time, subject to the following:

- .1 When two or more delays (each of which meet all four conditions prescribed in Article 8.4.1) occur concurrently on the same day, and each such concurrent delay by itself without consideration of the other delays would be critical, then all such concurrent delays shall be considered critical. For the purpose of determining whether and to what extent the Job Order Time should be adjusted pursuant to Article 8.4.2, such concurrent critical delays shall be treated as a single delay for each such day.
- .2 Contractor shall be entitled to a time extension for a day of delay that meets all four requirements of Article 8.4.1 if the delay is concurrent with a delay that does not meet all four conditions of Article 8.4.1.

8.4.3 If for any reason one or more of the four conditions prescribed in Article 8.4.1 is held legally unenforceable, then all remaining conditions must be met as a condition to obtaining an extension of the Job Order Time under Article 8.4.2.

8.5 WAIVER

8.5.1 A waiver of or failure by University or University's Representative to enforce any requirement in this Article 8, including without limitation the requirements in Article 8.4, in connection with any or all past delays shall not constitute a waiver of, and shall not preclude the University or University's Representative from enforcing, such requirements in connection with any present or future delays.

8.5.2 Contractor agrees and understands that no oral approval, either express or implied, of any time extension by University or its agents shall be binding upon University unless and until such approval is ratified by execution of a written Supplemental Job Order or Change Order.

ARTICLE 9 PAYMENTS AND COMPLETION

9.1 PROGRESS PAYMENT

9.1.1 University agrees to pay monthly to Contractor, subject to Article 9.3.3, an amount equal to 95% of the sum of the following for each applicable Job Order, Contractor's total payment will be limited to:

- .1 Cost of the Job Order Work in permanent place as of the date of the Contractor's Application For Payment.
- .2 Plus cost of materials not yet incorporated in the Work, subject to Article 9.2.5.
- .3 Less amounts previously paid.

Under this Article 9.1.1, University may, but is not required to, pay Contractor more frequently than monthly.

9.1.2 After Final Completion of each Job Order and subject to Article 9.3.3, University will make any of the remaining progress payments for each applicable Job Order in full.

9.2 APPLICATION FOR PAYMENT

9.2.1 On or before the 10th day of the month or such other date as is established by the Contract Documents, Contractor shall submit to University's Representative an itemized Application For Payment for each Job Order, for the cost of the Work in permanent place, as approved by University's Representative, which has been completed in accordance with the Contract Documents, less amounts previously paid.

The Application For Payment shall be prepared as follows:

- .1 Use the form contained in the Exhibits.
- .2 Itemize in accordance with the sections of the Schedule of Values Summary (as contained in the Job Order Schedule of Values) based upon the percentage complete for each section.
- .3 Itemize retention.

9.2.2 Applications For Payment shall not include requests for payment on account of (1) changes which have not been authorized by Job Order Authorizations or Supplemental Job Orders or Change Orders or (2) amounts Contractor does not intend to pay a Subcontractor because of a dispute or other reason.

9.2.3 If required by University, an Application For Payment shall be accompanied by (1) Certified Payroll, (2) a summary showing payments that will be made to Subcontractors covered by such application and conditional releases upon progress payment or final payment and (3) unconditional waivers and releases of claims and stop payment notices, in the form contained in the Exhibits, from each Subcontractor listed in the preceding Application For Payment covering sums disbursed pursuant to that preceding Application For Payment.

9.2.4 Contractor warrants that, upon submittal of an Application For Payment, all Job Order Work, for which Certificates For Payment have been previously issued and payment has been received from University, shall be free and clear of all claims, stop payment notices, security interests, and encumbrances in favor of Contractor, Subcontractors, or other persons or firms entitled to make claims by reason of having provided labor, materials, or equipment relating to the Work.

9.2.5 At the sole discretion of University, University's Representative may approve for inclusion in the Application For Payment the cost of materials not yet incorporated in Job Order Work but already delivered and suitably stored either at the Job Order Work site or at some other appropriate location acceptable to University's Representative. In such case, Contractor shall furnish evidence satisfactory to University's Representative (1) of the cost of such materials and (2) that such materials are under the exclusive control of Contractor. Only materials to be incorporated in the Work will be considered for payment. Any payment shall not be construed as acceptance of such materials nor relieve Contractor from sole responsibility for the care and protection of such materials; nor relieve Contractor from risk of loss to such materials from any cause whatsoever; nor relieve Contractor from its obligation to complete the Job Order Work in accordance with the Contract; nor act as a waiver of the right of University to require fulfillment of all terms of the Contract. Nothing contained within this Article 9.2.5 shall be deemed to obligate University to agree to payment for any non-incorporated materials or any part thereof, payment being in the sole and absolute discretion of University.

9.3 CERTIFICATE FOR PAYMENT

9.3.1 If Contractor has submitted an Application For Payment in accordance with Article 9.2, University's Representative shall, not later than 5 working days after the date of receipt of the Application For Payment, issue to University, with a copy to Contractor, a Certificate For Payment for such amount as University's Representative determines to be properly due.

9.3.2 If any such Application For Payment is determined not to be in accordance with Article 9.2, University will inform Contractor as soon as practicable, but not later than 5 working days after receipt. Thereafter, Contractor shall have 3 days to revise and resubmit such Application For Payment; otherwise University's Representative may issue a Certificate For Payment in the amount that University's Representative determines to be properly due without regard to such Application For Payment.

9.3.3 Approval of all or any part of an Application For Payment may be withheld, a Certificate For Payment may be withheld, and all or part of a previous Certificate For Payment may be nullified and that amount

withheld from a current Certificate For Payment on account of any of the following:

- .1 Defective Job Order Work not remedied.
- .2 Third-party claims against Contractor or University arising from the acts or omissions of Contractor or Subcontractors.
- .3 Stop payment notices, including without limitations stop payment notices pertaining to prior Job Orders.
- .4 Failure of Contractor to make timely payments due Subcontractors for material or labor.
- .5 A reasonable doubt that the Work can be completed for the balance of the Job Order Sum then unpaid.
- .6 Damage to University or Separate Contractor for which Contractor is responsible.
- .7 Reasonable evidence that the Job Order Work will not be completed within the Job Order Time; and that the unpaid balance of the Job Order Sum would not be adequate to cover University's damages for the anticipated delay.
- .8 Failure of Contractor to maintain and update as-built documents.
- .9 Failure of Contractor to submit schedules or their updates as required by the Contract Documents.
- .10 Failure to provide conditional or unconditional releases from any Subcontractor or supplier, if such waiver(s) have been requested by University's Representative.
- .11 Performance of Job Order Work by Contractor without properly processed Shop Drawings.
- .12 Liquidated damages assessed in accordance with Article 5 of the Agreement.
- .13 Failure to provide updated Reports of Subcontractor Information and Self-Certifications, as applicable.
- .14 Failure to provide a Final Distribution of Contract Dollars with final Application for Payment.
- .15 Any other failure of Contractor to perform its obligations under the Contract Documents.

9.3.4 Subject to the withholding provisions of Article 9.3.3, University will pay Contractor the amount set forth in the Certificate For Payment no later than 10 days after the issuance of the Certificate For Payment.

9.3.5 Neither University nor University's Representative will have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

9.3.6 Neither a Certificate For Payment nor a progress payment made by University will constitute acceptance of Defective Work.

9.4 BENEFICIAL OCCUPANCY

9.4.1 University reserves the right, at its option and convenience, to occupy or otherwise make use of any part of the Job Order Work at any time prior to Final Completion upon 10 days' notice to Contractor. Such occupancy or use is herein referred to as "Beneficial Occupancy." Beneficial Occupancy shall be subject to the following conditions:

- .1 University's Representative will make an inspection of the portion of the Job Order Work to be beneficially occupied and prepare a list of items to be completed or corrected prior to Final Completion. Prior to Beneficial Occupancy, University will issue a Certificate of Beneficial Occupancy on University's form.
- .2 Beneficial Occupancy by University shall not be construed by Contractor as an acceptance by University of that portion of the Job Order Work which is to be occupied.
- .3 Beneficial Occupancy by University shall not constitute a waiver of existing claims of University or Contractor against each other.
- .4 Contractor shall provide, in the areas beneficially occupied and on a 24 hour and 7 day week basis as required, utility services, heating, and cooling for systems which are in operable condition at the time of Beneficial Occupancy. All responsibility for the operation and maintenance of equipment shall remain with Contractor while the equipment is so operated. Contractor shall submit to University an itemized list of each piece of equipment so operated with the date operation commences.
- .5 The Guarantee to Repair Periods, as defined in Article 12.2, will commence upon the occupancy date stated in the Certificate of Beneficial Occupancy except that the Guarantee to Repair Periods for that part of equipment or systems that serve portions of the Job Order Work for which University has not taken Beneficial Occupancy or issued a Certificate of

- Substantial Completion shall not commence until the University has taken Beneficial Occupancy for that portion of the Job Order Work or has issued a Certificate of Substantial Completion with respect to the entire Job Order.
- .6 University will pay all normal operating and maintenance costs resulting from its use of equipment in areas beneficially occupied.
 - .7 University will pay all utility costs which arise out of the Beneficial Occupancy.
 - .8 Contractor shall not be responsible for providing security in areas beneficially occupied.
 - .9 University will use its best efforts to prevent its Beneficial Occupancy from interfering with the conduct of Contractor's remaining Job Order Work.
 - .10 Contractor shall not be required to repair damage caused by University in its Beneficial Occupancy.
 - .11 Except as provided in this Article 9.4, there shall be no added cost to University due to Beneficial Occupancy.
 - .12 Contractor shall continue to maintain all insurance required by the Contract in full force and effect.

9.5 FINAL COMPLETION, FINAL PAYMENT AND RELEASE OF RETENTION

9.5.1 Upon receipt of notice from Contractor that the Job Order Work is ready for final inspection, University's Representative will make such inspection. Final Completion shall be when University's Representative determines that the Job Order Work is fully completed and in accordance with the Contract Documents including without limitation satisfaction of all "punch list" items and determines that a Certificate of Occupancy has been issued by the University. University will execute an Inspection Acceptance form for such Job Order within 10 days after Final Completion of such Job Order. After receipt of the final Application for Payment for such Job Order, if University's Representative determines that Final Completion of such Job Order has occurred, University's Representative will issue the final Certificate for Payment of such Job Order.

9.5.2 Neither final payment nor any retention shall become due for any Job Order until Contractor submits the following items to University's Representative for such Job Order:

- .1 The final Application for Payment and all submittals required in accordance with Article 9.3.
- .2 All guarantees and warranties procured by Contractor from Subcontractors, all operating manuals for equipment installed in the Job Order Work, as-built documents, and all other submittals required by the Contract Documents.
- .3 The Final Distribution of Contract Dollars in the form contained in the Exhibits.
- .4 University's representative issues the final Certificate for Payment of such Job Order

At its sole discretion, after Final Completion of such Job Order, University may waive the requirement that Contractor submit a final Application for Payment before making final payment and/or release of retention to Contractor for such Job Order.

9.5.3 The final payment for such Job Order shall be paid not more than 10 days after University's Representative issues the final Certificate for Payment of such Job Order. Retention for such Job Order shall be released to Contractor 35 days after University's execution of an Inspection Acceptance form for such Job Order.

9.5.4 Acceptance of final payment by Contractor with regard to a Job Order shall constitute a waiver of all claims with regard to such Job Order, except those previously made in writing and identified by Contractor as unsettled at the time of submission of the final Application for Payment with regard to such Job Order.

9.5.5 If requested in writing by Contractor at the time of the Final Completion of such Job Order, University will file a Notice of Completion within 15 days after Final Completion.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 Contractor shall be solely responsible for initiating, maintaining, and supervising all safety

precautions and programs in connection with the performance of the Contract.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 Contractor shall take adequate precautions for safety of and shall provide adequate protection to prevent damage, injury, or loss to the following:

- .1 Employees involved in the Job Order Work and other persons who may be affected thereby.
- .2 The Job Order Work in place and materials and equipment to be incorporated therein, whether in storage on or off the Job Order Work site, under care, custody, or control of Contractor or Subcontractors.
- .3 Other property at the Job Order Work site and adjoining property.

10.2.2 Contractor shall erect and maintain, as required by existing conditions and performance of the Job Order Work, adequate safeguards for safety and protection, including providing adequate lighting and ventilation, posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

10.2.3 When use or storage of explosives, other hazardous materials, equipment, or unusual methods are necessary for execution of Job Order Work, Contractor shall exercise the utmost care and carry on such activities only under the supervision of properly qualified personnel.

10.2.4 Contractor shall designate a responsible member of Contractor's organization at the Work Order Work site whose duty shall be the prevention of accidents. That person shall be the Superintendent, unless otherwise designated by Contractor in writing to University and University's Representative.

10.2.5 Contractor shall not load or permit any part of the Job Order Work or the Job Order Work site to be loaded so as to endanger the safety of persons or property.

10.3 EMERGENCIES

10.3.1 In an emergency affecting the safety of persons or property, Contractor shall act to prevent or minimize damage, injury, or loss. Contractor shall promptly notify University's Representative, which notice may be oral followed by written confirmation, of the occurrence of such an emergency and Contractor's action.

ARTICLE 11 INSURANCE AND BONDS

11.1 CONTRACTOR'S INSURANCE

11.1.1 Contractor shall, at its expense, purchase and maintain in full force and effect such insurance as will protect itself and University from claims, such as for bodily injury, wrongful death, and property damage, which may arise out of or result from the Work required by the Contract Documents, whether such Work is done by Contractor, by any Subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The amounts of such insurance and any additional insurance requirements are specified in the Supplementary Conditions. See Article 3.21 regarding the scope and extent of Contractor's liability for repair of damaged Work.

11.1.2 The following policies and coverages shall be furnished by Contractor:

- .1 **COMMERCIAL GENERAL LIABILITY INSURANCE** subject to terms no less broad than the Insurance Services Office's (ISO) form CG 0001 (2004 or later edition), or a substitute form providing coverage at least as broad as the ISO form specified, covering all Work done by or on behalf of Contractor and providing insurance for bodily injury, wrongful death, personal injury, property damage, and contractual liability. There shall be no limitations or exclusions of coverage beyond those contained in the standard ISO form CG 0001 (2004 or later edition). Except with respect to bodily injury and property damage included within the products and completed operations hazards, the aggregate limit shall apply separately to Work

required of Contractor by these Contract Documents. Contractor shall continue to maintain Products/Completed Operations liability insurance coverage for a minimum completed operations period of 10 year(s) or the applicable Statute of Repose as provided by the law of the jurisdiction where the project is located as shown in the policy(ies), whichever is less. All terms and conditions of such coverage shall be maintained during this completed operations period, including the required minimum coverage limits and the requirement to provide the University with coverage as an additional insured for completed operations as specified under this Article 11.1 and the Supplementary Conditions.

- .2 BUSINESS AUTOMOBILE LIABILITY INSURANCE subject to terms no less broad than the Insurance Services Office's (ISO) form CA 0001 (1990 or later edition), or a substitute form providing coverage at least as broad as the ISO form specified, covering owned, hired, leased, and non-owned automobiles used by or on behalf of Insured, and providing liability insurance for bodily injury and property damage arising from the use or operation of such auto(s) with a minimum combined single limit of not less than \$1,000,000 per accident. The minimum limits required may be satisfied by combination of primary and umbrella/excess policies. The Commercial Automobile Liability Insurance shall be provided by Contractor for all on site and off site Work.
- .3 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE as required by Federal and State of California law. Contractor shall also require all of its Subcontractors to maintain this insurance coverage.

11.1.3 The coverages required under this Article 11 shall not in any way limit the liability of Contractor.

11.1.4 Contractor's Certificates of Insurance, executed by a duly authorized representative of each broker of record or each insurer as evidence of the insurance required by these Contract Documents and on the form contained in the Exhibits, shall be submitted by Contractor to University prior to the commencement of Work by the Contractor. The Certificates of Insurance shall provide for no cancellation or modification of coverage without prior written notice to University, in accordance with policy provisions.

11.1.5 In the event Contractor does not comply with these insurance requirements, University may, at its option, provide insurance coverage to protect University; and the cost of such insurance shall be paid by Contractor and may be deducted from the Job Order Sum.

11.1.6 Contractor's insurance as required by Article 11.1.2, shall, by endorsement to the policies, include the following:

- .1 The Regents of the University of California, The University of California, University, and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants, regardless of whether or not identified in the Contract Documents or to the Contractor in writing, will be included as additional insureds on the Contractor's General Liability insurance for and relating to the Work to be performed by the Contractor and Subcontractors. Additional Insured provision or endorsement shall be at least as broad as the CG 20 10 07 04 in combination with the CG 20 37 07 04 (or earlier versions of CG 20 10 and CG 20 37 or Form B - CG 20 10 11 85 by itself), as published by Insurance Services Offices (ISO) and shall be included with Certificates of Insurance. The additional insured requirement shall not apply to Worker's Compensation and Employer's Liability insurance.
Further, the amount of insurance available to the University shall be for the full amount of the loss up to the available policy limits and shall not be limited to any minimum requirements stated in the Contract Documents.
- .2 University, University's consultants, University's Representative, and University's Representative's consultants will not by reason of their inclusion as insureds incur liability to the insurance carriers for payment of premiums for such insurance.
- .3 Coverage provided is primary and is not in excess of or contributing with any insurance or self-insurance maintained by University, University's consultants, University's

Representative, and University's Representative's consultants. This provision, however, shall only apply as per the stipulations of Article 11.1.6.1.

11.1.7 The form and substance of all insurance policies required to be obtained by Contractor shall be subject to approval by University. All policies required by Articles 11.1.2.1, 11.1.2.2, and 11.1.2.3 shall be issued by companies with ratings and financial classifications as specified in the Supplementary Conditions.

11.1.8 Contractor shall, by mutual agreement with University, furnish any additional insurance as may be required by University. Contractor shall provide Certificates of Insurance evidencing such additional insurance.

11.1.9 The Certificate of Insurance shall show (1) all companies affording coverage and (2) the name of the insured exactly in the manner as shown on the Bid Form. The name of the insured must be the name under which the entity is licensed by the Contractors State License Board.

11.1.10 If insurance company refuses to use the Certificate of Insurance form as contained in the Exhibits, it must provide a Certificate of Insurance evidencing compliance with this Article including those provisions noted under DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES section of the Certificate of Insurance Exhibit by including an endorsement to its Certificate of Insurance form covering those noted provisions exactly as they appear on the Certificate of Insurance Exhibit.

11.1.11 At the request of University, Contractor shall submit to University copies of the policies obtained by Contractor.

11.2 BUILDER'S RISK PROPERTY INSURANCE

11.2.1 University will provide its standard builder's risk property insurance, subject to the deductibles, terms and conditions, exclusions, and limitations as contained in the provisions of the policy. Limits established for builder's risk insurance coverage shall be based on the actual value of each Job Order and not on the overall Contract value. Such limits established for builder's risk insurance coverage shall in no way limit the liability of Contractor. A copy of the University's standard builder's risk property insurance policy is available at the University's Facility office. In addition, a summary of the provisions of the policy is included as an Exhibit to the Contract. Contractor agrees that the University's provision of its standard builder's risk property insurance policy meets the University's obligation to provide builder's risk property insurance under the Contract and, in the event of a conflict between the provisions of the policy and any summary or description of the provisions contained herein or otherwise, the provisions of the policy shall control and shall be conclusively presumed to fulfill the University's obligation to provide such insurance. The proceeds under such insurance policies taken out by University insuring the Work and materials will be payable to University and Contractor as their respective interests, from time to time, may appear. Contractor shall be responsible for the deductible amount in the event of a loss. In addition, nothing in this Article 11.2 shall be construed to relieve Contractor of full responsibility for loss of or damage to materials not incorporated in the Work, and for Contractor's tools and equipment used to perform the Work, whether on the Job Order Work site or elsewhere, or to relieve Contractor of its responsibilities referred to under this Article 11. Materials incorporated in the Work, as used in this Article 11.2, shall mean materials furnished while in transit to, stored at, or in permanent place at the Job Order Work site.

11.2.2 Insurance policies referred to under this Article 11.2 shall:

- .1 Include a provision that the policies are primary and do not participate with nor are excess over any other valid collectible insurance carried by Contractor.
- .2 Include a waiver of subrogation against Contractor, its Subcontractors, its agents, and employees.

11.2.3 Builder's risk insurance coverage under this Article 11.2 will expire on the earlier of

- .1 for each Job Order, on the date of Final Completion established by the University in any Notice of Completion or Inspection Acceptance issued by the University for the Job Order; or

.2 for all Job Orders, on the date of Final Completion established by the University in any Notice of Completion for the entire Project (meaning that Work on all Job Orders issued pursuant to the Contract is completed).

11.3 PERFORMANCE BOND AND PAYMENT BOND

11.3.1 Contractor shall furnish bonds covering the faithful performance of the Contract (Performance Bond) and payment of obligations arising thereunder (Payment Bond) on the forms contained in the Exhibits.

11.3.2 The premiums for the Payment Bond and Performance Bond shall be paid by Contractor and be included in the Contractor's Adjustment Factor.

11.3.3 During the Base Term, the Payment Bond and Performance Bond shall each initially be in the amounts set forth in the Supplementary Conditions. The bonds shall be provided on the forms contained in the Exhibits.

11.3.4 The Payment Bond and Performance Bond shall be in effect on the date the Contract is signed by University.

11.3.5 If the University elects to exercise its option for one or more Option Term(s), Contractor shall, prior to the University's award of any Job Order Authorizations within the Option Term, provide additional Payment Bonds and Performance Bonds in the amounts set forth in the Supplementary Conditions for the Option Term.

11.3.6 Surety companies used by Contractor shall be, on the date the Contract is signed by University, an admitted surety insurer (as defined in the California Code of Civil Procedure Section 995.120).

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

12.1.1 If a portion of the Job Order Work is covered contrary to University's Representative's request or direction, or contrary to the requirements of the Contract Documents, it must, if required in writing by University's Representative, be uncovered for University's Representative's observation and be replaced at Contractor's expense without adjustment of the Job Order Time or the Job Order Sum.

12.1.2 If a portion of the Job Order Work has been covered, which is not required by the Contract Documents to be observed or inspected prior to its being covered and which University's Representative has not specifically requested to observe prior to its being covered, University's Representative may request to see such Job Order Work and it shall be uncovered and replaced by Contractor. If such Job Work is in accordance with the Contract Documents, the costs of uncovering and replacing the Job Work shall be added to the Job Order Sum by Supplemental Job Order or Change Order; and if the uncovering and replacing of the Work extends the Job Order Time, an appropriate adjustment of the Job Order Time shall be made by Supplemental Job Order or Change Order. If such Work is not in accordance with the Contract Documents, Contractor shall pay such costs and shall not be entitled to an adjustment of the Job Order Time or the Job Order Sum.

12.2 CORRECTION OF DEFECTIVE WORK AND GUARANTEE TO REPAIR PERIOD

12.2.1 The term "Guarantee To Repair Period" applies only to each individual Job Order and means a period of one (1) year, unless a longer period of time is specified, commencing as follows:

- .1 For space beneficially occupied or for separate systems fully utilized prior to Final Completion pursuant to Article 9.4, from the first date of such Beneficial Occupancy or actual use, as established in a Certificate of Beneficial Occupancy.
- .2 For all Job Order Work other than .1 above, from the date of Final Completion.

12.2.2 Contractor shall (1) correct Defective Work that becomes apparent during the progress of the Job Order Work or during the Guarantee To Repair Period and (2) replace, repair, or restore to University's satisfaction any other parts of the Job Order Work and any other real or personal property which is damaged or destroyed as a result of Defective Work or the correction of Defective Work. Contractor shall promptly commence such correction, replacement, repair, or restoration upon notice from University's Representative or University, but in no case later than 10 days after receipt of such notice; and Contractor shall diligently and continuously prosecute such correction to completion. Contractor shall bear all costs of such correction, replacement, repair, or restoration, and all losses resulting from such Defective Work, including additional testing, inspection, and compensation for University's Representative's services and expenses. Contractor shall perform corrective Work at such times that are acceptable to University and in such a manner as to avoid, to the extent practicable, disruption to University's activities.

12.2.3 If immediate correction of Defective Work is required for life safety or the protection of property and is performed by University or Separate Contractors, Contractor shall pay to University all reasonable costs of correcting such Defective Work. Contractor shall replace, repair, or restore to University's satisfaction any other parts of the Job Order Work and any other real or personal property which is damaged or destroyed as a result of such Defective Work or the correction of such Defective Work.

12.2.4 Contractor shall remove from the Job Order Work site portions of the Job Order Work and materials which are not in accordance with the Contract Documents and which are neither corrected by Contractor nor accepted by University.

12.2.5 If Contractor fails to commence correction of Defective Work within 10 days after notice from University or University's Representative or fails to diligently prosecute such correction to completion, University may correct the Defective Work in accordance with Article 2.4; and, in addition, University may remove the Defective Work and store salvageable materials and equipment at Contractor's expense.

12.2.6 If Contractor fails to pay the costs of such removal and storage as required by Articles 12.2.4 and 12.2.5 within 10 days after written demand, University may, without prejudice to other remedies, sell such materials at auction or at private sale, or otherwise dispose of such material. Contractor shall be entitled to the proceeds of such sale, if any, in excess of the costs and damages for which Contractor is liable to University, including compensation for University's Representative's services and expenses. If such proceeds of sale do not cover costs and damages for which Contractor is liable to University, the Job Order Sum shall be reduced by such deficiency. If there are no remaining payments due Contractor or the remaining payments are insufficient to cover such deficiency, Contractor shall promptly pay the difference to University.

12.2.7 Contractor's obligations under this Article 12 are in addition to and not in limitation of its warranty under Article 3.4 or any other obligation of Contractor under the Contract Documents. Enforcement of Contractor's express warranties and guarantees to repair contained in the Contract Documents shall be in addition to and not in limitation of any other rights or remedies University may have under the Contract Documents or at law or in equity for Defective Work. Nothing contained in this Article 12 shall be construed to establish a period of limitation with respect to other obligations of Contractor under the Contract Documents. Establishment of the Guarantee To Repair Period relates only to the specific obligation of Contractor to correct the Job Order Work and in no way limits either Contractor's liability for Defective Work or the time within which proceedings may be commenced to enforce Contractor's obligations under the Contract Documents.

ARTICLE 13

TERMINATION OR SUSPENSION OF THE CONTRACT

13.1 TERMINATION BY CONTRACTOR

13.1.1 Subject to Article 13.1.2, Contractor shall have the right to terminate the Contract only upon the occurrence of one of the following:

- .1 Provided that University has not commenced reasonable action to remove any order of a court within the 90 day period, the Work is stopped for 90 consecutive days, through no act or fault of Contractor, any Subcontractor, or any employee or agent of Contractor or any Subcontractor, due to an issuance of an order of a court or other public authority having jurisdiction or due to an act of government, such

- as a declaration of a national emergency making material unavailable.
- .2 University fails to perform any material obligation under the Contract and fails to cure such default within 30 days, or University has not commenced to cure such default within 30 days where such cure will require a reasonable period beyond 30 days and diligently prosecutes the same to completion, after receipt of notice from Contractor stating the nature of such default(s).
- .3 Repeated suspensions by University, other than such suspensions as are agreed to by Contractor under Article 13.3, which constitute in the aggregate more than 20% of the Job Order Time.

13.1.2 Upon the occurrence of one of the events listed in Article 13.1.1, Contractor may, upon 10 days additional notice to University and University's Representative, and provided that the condition giving rise to Contractor's right to terminate is continuing, terminate the Contract.

13.1.3 Upon termination by Contractor, University will pay to Contractor the sum determined by Article 13.4.4. Such payment will be the sole and exclusive remedy to which Contractor is entitled in the event of termination of the Contract by Contractor pursuant to Article 13.1; and Contractor will be entitled to no other compensation or damages and expressly waives the same.

13.2 TERMINATION BY UNIVERSITY FOR CAUSE

13.2.1 University will have the right to terminate the Contract for cause at any time after the occurrence of any of the following events:

- .1 Contractor becomes insolvent or files for relief under the bankruptcy laws of the United States.
- .2 Contractor makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due.
- .3 A receiver is appointed to take charge of Contractor's property.
- .4 Contractor fails to make progress to prepare an acceptable Job Order Schedule of Values or to revise a Schedule of Values as directed by the University.
- .5 The commencement or completion of any Job Order Work activity on the critical path is 30 days behind the date set forth in the Job Order Schedule for such Job Order Work activity, and which results in an Unexcusable Delay. For a Contract with a Job Order Time of less than 300 days, the 30-day period shall be reduced to the number of days commensurate with 10% of the Job Order Time.
- .6 Contractor abandons the Work.

13.2.2 Upon the occurrence of any of the following events, University will have the right to terminate the Contract for cause if Contractor fails to promptly commence to cure such default and diligently prosecute such cure within 5 days after notice from University, or within such longer period of time as is reasonably necessary to complete such cure:

- .1 Contractor persistently or repeatedly refuses or fails to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to prosecute the Work in accordance with the Contract Documents.
- .2 Contractor fails to make prompt payment of amounts properly due Subcontractors after receiving payment from University.
- .3 Contractor disregards Applicable Code Requirements.
- .4 Contractor persistently or materially fails to execute the Work in accordance with the Contract Documents.
- .5 Contractor is in default of any other material obligation under the Contract Documents.
- .6 Contractor persistently or materially fails to comply with applicable safety requirements.

13.2.3 Upon any of the occurrences referred to in Articles 13.2.1 and 13.2.2, University may, at its election and by notice to Contractor, terminate the Contract and take possession of the Job Order Work site(s) and all materials, supplies, equipment, tools, and construction equipment and machinery thereon owned by

Contractor; accept the assignment of any or all of the subcontracts; and then complete the Work by any method University may deem expedient. If requested by University, Contractor shall remove any part or all of Contractor's materials, supplies, equipment, tools, and construction equipment and machinery from the Job Order Works site(s) within 7 days of such request; and if Contractor fails to do so, University may remove or store, and after 90 days sell, any of the same at Contractor's expense.

13.2.4 If the Contract is terminated by University as provided in this Article 13.2, Contractor shall not be entitled to receive any further payment until the expiration of 35 days after Final Completion by University of all Work for all Job Order Authorizations executed prior to the date of termination.

13.2.5 If the unpaid balance of the Job Order Sum(s) exceeds the cost of completing the Work, including all additional costs and expenses made necessary thereby, including costs for University staff time, plus all losses sustained, including any liquidated damages provided under the Contract Documents, such excess shall be paid to Contractor. If such costs, expenses, losses, and liquidated damages exceed the unpaid balance of the Job Order Sum(s), Contractor shall pay such excess to University.

13.2.6 No termination or action taken by University after termination shall prejudice any other rights or remedies of University provided by law or by the Contract Documents upon such termination; and University may proceed against Contractor to recover all losses suffered by University.

13.3 SUSPENSION BY UNIVERSITY FOR CONVENIENCE

13.3.1 University may, at any time and from time to time, without cause, order Contractor, in writing, to suspend, delay, or interrupt the Work in whole or in part for such period of time, up to 90 days, as University may determine, with such period of suspension to be computed from the date of delivery of the written order. Such order shall be specifically identified as a "Suspension Order" under this Article 13.3. The Work may be stopped for such further period as the parties may agree. Upon receipt of a Suspension Order, Contractor shall, at University's expense, comply with its terms and take all reasonable steps to minimize costs allocable to the Work covered by the Suspension Order during the period of Work stoppage. Within 90 days after the issuance of the Suspension Order, or such extension to that period as is agreed upon by Contractor and University, University shall either cancel the Suspension Order or delete the Work covered by such Suspension Order by issuing a Supplemental Job Order or Change Order.

13.3.2 If a Suspension Order is canceled or expires, Contractor shall continue with the Work. Supplemental Job Order(s) will be issued to cover any adjustments of the Job Order Sum(s) or the Job Order Time(s) necessarily caused by such suspension. Any Claim by Contractor for an adjustment of the Job Order Sum(s) or the Job Order Time(s) shall be made within 21 days after the end of the Work suspension. Contractor agrees that submission of its claim within said 21 days is an express condition precedent to its right to Arbitrate or Litigate such a claim.

13.3.3 The provisions of this Article 13.3 shall not apply if a Suspension Order is not issued by University. A Suspension Order shall not be required to stop the Work as permitted or required under any other provision of the Contract Documents.

13.4 TERMINATION BY UNIVERSITY FOR CONVENIENCE

13.4.1 University may, at its option, terminate this Contract, in whole or in part, at any time by giving notice to Contractor. Upon such termination, Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof; and, as the sole right and remedy of Contractor, University shall pay Contractor in accordance with Article 13.4.4.

13.4.2 Upon receipt of notice of termination under this Article 13.4, Contractor shall, unless the notice directs otherwise, do the following:

- .1 Immediately discontinue the Work to the extent specified in the notice.
- .2 Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of such portion of the Work as is not discontinued.
- .3 Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Work.

- .4 Thereafter do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment on the Job Order Work site or in transit thereto.

13.4.3 Upon such termination, the obligations of the Contract shall continue as to portions of the Work already performed and, subject to Contractor's obligations under Article 13.4.2, as to bona fide obligations assumed by Contractor prior to the date of termination.

13.4.4 Upon such termination, University shall pay to Contractor the sum of the following:

- .1 The amount of each applicable Job Order Sum allocable to the portion of the Work properly performed by Contractor as of the date of termination, less sums previously paid to Contractor.
- .2 Plus previously unpaid costs of any items delivered to the Job Order Work site which were fabricated for subsequent incorporation in the Work.
- .3 Plus any proven losses with respect to materials and equipment directly resulting from such termination.
- .4 Plus reasonable demobilization costs.
- .5 Plus reasonable costs of preparing a statement of the aforesaid costs, expenses, and losses in connection with such termination.

The above payment shall be the sole and exclusive remedy to which Contractor is entitled in the event of termination of the Contract and by University pursuant to Article 13.4; and Contractor will be entitled to no other compensation or damages and expressly waives same.

ARTICLE 14 STATUTORY AND OTHER REQUIREMENTS

14.1 PATIENT HEALTH INFORMATION

Contractor acknowledges that its employees, agents, subcontractors, consultants and others acting on its behalf may come into contact with Patient Health Information ("PHI") while performing work at the Project Site. This contact is most likely rare and brief (e.g. walking through a clinic where patient files may be visible, overhearing conversations between physicians while working or touring a hospital, noticing a relative or acquaintance receiving treatment in a University facility, etc.). Contractor shall immediately notify University's Representative of any such contact. Any and all forms of PHI should not be examined closer, copied, photographed, recorded in any manner, distributed or shared. Contractor will adopt procedures to ensure that its employees, agents and subcontractors refrain from such activity. If Contractor, its employees, agents or subcontractors do further examine, copy, photograph, record in any manner, distribute or share this information, Contractor will report such actions immediately to the University's Representative. Contractor will immediately take all steps necessary to stop any such actions and will ensure that no further violations of this contractual responsibility will occur. Contractor will report to University's Representative within five (5) days after Contractor gives University's Representative notice of the event/action of the steps taken to prevent future occurrences.

14.2 NONDISCRIMINATION

14.2.1 For purposes of this Article 14.2, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

14.2.2 Contractor shall comply and shall ensure that all Subcontractors comply with Section 12900 through 12996, of the State of California Government Code.

14.2.3 Contractor agrees as follows during the performance of the Work:

- .1 Contractor shall provide equal treatment to, and shall not willfully discriminate against or allow harassment of any employee or applicant for employment on the basis of: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California

Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). Contractor will also take affirmative action to ensure that any such employee or applicant for employment is not discriminated against on any of the bases identified above. Such equal treatment shall apply, but not be limited to the following: employment; upgrade; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor also agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that qualified applicants will receive consideration for employment without regard to: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). For purposes of this provision: (1) "Pregnancy" includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth; and (2) "Service in the uniformed services" includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

.2 Contractor 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 Article 14.2. The outcome of the investigation may result in the following:

- .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 Contractor is not a "responsible bidder" as to future contracts for which such Contractor may submit bids or (2) a basis for refusing to accept or consider the bids of Contractor for future contracts.
- .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 Contractor 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.
- .3 Upon receipt of such written notice from the Fair Employment Practices Commission, University may notify Contractor that, unless it demonstrates to the satisfaction of University within a stated period that the violation has been corrected, Contractor's bids on future projects will not be considered.
- .4 Contractor agrees that, should University determine that Contractor has not complied with this Article 14.2, Contractor 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 non-compliance, the penalties provided in Article 14.3 for violation of prevailing wage rates. Such penalty amounts may be recovered from Contractor; and University may deduct any such penalty amounts from the Job Order Sum.
- .5 Nothing contained in this Article 14.2 shall be construed in any manner so as to prevent University from pursuing any other remedies that may be available at law.
- .6 Contractor 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:

- .1 Contractor shall notify its Superintendent and other supervisory personnel of the nondiscrimination requirements of the Contract Documents and their responsibilities thereto.
 - .2 Contractor shall notify all sources of employee referrals (including unions, employment agencies, and the State of California Department of Employment) of the nondiscrimination requirements of the Contract Documents by sending to such sources and by posting the Notice of Equal Employment Opportunity (EEO).
 - .3 Contractor 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, nonminority women, and minority men shall be available and given an equal opportunity for employment.
 - .4 Contractor shall notify University of opposition to the nondiscrimination requirements of the Contract Documents by individuals, firms, or organizations during the term of the Contract.
- .7 Contractor shall include the provisions of the foregoing Articles 14.2.3.2.1 through 14.2.3.2.6 in all subcontracts with Subcontractors, so that such provisions will be binding upon each such Subcontractor.

14.3 PREVAILING WAGE RATES

14.3.1 For purposes of this Article 14.3, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

14.3.2 Contractor shall comply and shall ensure that all Subcontractors comply with prevailing wage law pursuant to the State of California Labor Code, including but not limited to Section 1720 et seq. of the State of California Labor Code. Compliance with these sections is required by this Contract. The Work under this Contract is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations.

14.3.3 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 copy 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. Contractor shall post a copy of the general prevailing per diem wage rates as well as job site notices as prescribed by regulation at the job site. By this reference, such schedule is made part of the Contract Documents. Contractor shall pay not less than the prevailing wage rates, as specified in the schedule and any amendments thereto, to all workers employed by Contractor in the execution of the Work, including the hauling of material on or off site, as defined by California Labor Code Section 1720.3. Contractor 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. Contractor shall forfeit to University, as a penalty, not more than \$200 for each calendar day or portion thereof for each worker that is paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any portion of the Work done by Contractor or any Subcontractor. The amount of this penalty shall be determined pursuant to applicable law. Such forfeiture amounts may be deducted from the Job Order Sum or sought directly from the surety under its Performance Bond if there are insufficient funds remaining in the Job Order Sum. Contractor shall also pay to any worker who was paid less than the prevailing wage rate for the work or craft for which the worker was employed for any portion of the Work, for each day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker. Review of any civil wage and penalty assessment shall be made pursuant to section 1742 of the California Labor Code.

14.4 PAYROLL RECORDS

14.4.1 For purposes of this Article 14.4, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

14.4.2 Contractor and all Subcontractors shall keep an accurate payroll record, showing the name, address, social security number, job classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyworker, apprentice, worker, or other employee employed in connection with the Work. All payroll records shall be certified as being true and correct by Contractor or Subcontractors keeping such records; and the payroll records shall be available for inspection at all reasonable hours at the principal office of Contractor on the following basis:

- .1 A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or the employee's authorized representative on request.
- .2 A certified copy of all payroll records shall be made available for inspection upon request to University, the State of California Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State of California Division of Industrial Relations.
- .3 A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that the request by the public shall be made to either University, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of Contractor or Subcontractors. Any copy of the records made available for inspection as copies and furnished upon request to the public or any public agency by University shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Contractor awarded the Contract or performing the Contract shall not be marked or obliterated.

14.4.3 Contractor shall file a certified copy of the payroll records with the entity that requested the records within 10 days after receipt of a written request. Contractor shall inform University of the location of such payroll records for the Project, including the street address, city, and county; and Contractor shall, within 5 working days, provide notice of change of location of such records. In the event of noncompliance with the requirements of this Article 14.4 or with the State of California Labor Code Section 1776, Contractor shall have 10 days in which to comply following receipt of notice specifying in what respects Contractor must comply. Should noncompliance still be evident after the 10 day period, Contractor shall forfeit to University, as a penalty, \$100 for each day, or portion thereof, for each worker, until strict compliance is accomplished. Such forfeiture amounts may be deducted from the Job Order Sum.

14.5 APPRENTICES

14.5.1 For purposes of this Article 14.5, the term Subcontractor shall not include suppliers, manufacturers, and distributors.

14.5.2 Only apprentices, as defined in the State of California Labor Code Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4, Division 3, of the State of California Labor Code, are eligible to be employed by Contractor and Subcontractors as apprentices. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and written apprentice agreements under which the apprentice is training and in accordance with prevailing wage law pursuant to the Labor Code, including but not limited to Section 1777.5. The Contractor bears responsibility for compliance with this section for all apprenticeable occupations.

14.5.3 Every apprentice shall be paid the standard wage to apprentices, under the regulations of the craft or trade at which the apprentice is employed, and shall be employed only at the Work in the craft or trade to which the apprentice is indentured.

14.5.4 When Contractor or Subcontractors employ workers in any apprenticeship craft or trade on the Work, Contractor or Subcontractors shall 1) send contract award information to the applicable joint apprenticeship committee that can supply apprentices to the site of the public work and 2) apply to the joint apprenticeship committee, which administers the apprenticeship standards of the craft or trade in the area of the jobsite, for a certificate approving Contractor or Subcontractors under the apprenticeship standards for the employment and training of apprentices in the area of the jobsite. The committee will issue a certificate fixing the number of apprentices or the ratio of apprentices to journeypersons who shall be employed in the craft or trade on the

Work. The ratio will not exceed that stipulated in the apprenticeship standards under which the joint apprenticeship committee operates; but in no case shall the ratio be less than 1 hour of apprentice work for every 5 hours of journeyperson work, except as permitted by law. Contractor or Subcontractors shall, upon the issuance of the approval certificate in each such craft or trade, employ the number of apprentices or the ratio of apprentices to journeypersons fixed in the certificate issued by the joint apprenticeship committee or present an exemption certificate issued by the Division of Apprenticeship Standards.

14.5.5 "Apprenticeship craft or trade," as used in this Article 14.5, shall mean a craft or trade determined as an apprenticeship occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

14.5.6 If Contractor or Subcontractors employ journeyworkers or apprentices in any apprenticeship craft or trade in the area of the jobsite, and there exists a fund for assisting to allay the cost of the apprenticeship program in the trade or craft, to which fund or funds other contractors in the area of the jobsite are contributing, Contractor and Subcontractors shall contribute to the fund or funds in each craft or trade in which they employ journeyworkers or apprentices on the Job Order Work in the same amount or upon the same basis and in the same manner done by the other contractors. Contractor may include the amount of such contributions in computing its bid for the Contract; but if Contractor fails to do so, it shall not be entitled to any additional compensation therefor from University.

14.5.7 In the event Contractor willfully fails to comply with this Article 14.5, it will be considered in violation of the requirements of the Contract.

14.5.8 Nothing contained herein shall be considered or interpreted as prohibiting or preventing the hiring by Contractor or Subcontractors of journeyworker trainees who may receive on-the-job training to enable them to achieve journeyworker status in any craft or trade under standards other than those set forth for apprentices.

14.6 WORK DAY

14.6.1 Contractor shall not permit any worker to labor more than 8 hours during any 1 day or more than 40 hours during any 1 calendar week, except as permitted by law and in such cases only upon such conditions as are provided by law. Contractor shall forfeit to University, as a penalty, \$25 for each worker employed in the execution of this Contract by Contractor, or any Subcontractor, for each day during which such worker is required or permitted to work more than 8 hours in any 1 day and 40 hours in any 1 calendar week in violation of the terms of this Article 14.6 or in violation of the provisions of any law of the State of California. Such forfeiture amounts may be deducted from the Job Order Sum. Contractor 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 a jobsite, 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.

14.7 BUY CLEAN CALIFORNIA ACT

14.7.1 The Buy Clean California Act (BCCA) requires the Department of General Services (DGS) to establish and publish the maximum acceptable Global Warming Potential (GWP) on "eligible materials", as described in Public Contract Code 3500 et seq. As of July 1, 2022, the Job Order Contractor shall not install any eligible materials on the project until the Contractor submits a facility-specific Environmental Product Declaration for that material that meets the published GWP requirements.

14.8 CALIFORNIA AIR RESOURCES BOARD (CARB) IN-USE OF OFF-ROAD DIESEL-FUELED FLEETS REGULATION

14.8.1 For a project involving the use of vehicles subject to this regulation, the Contractor must obtain and provide to the University, copies of the valid Certificates of Reported Compliance, for the fleet selected for the contract and listed subcontractors prior to entering a new or renewed contract.

14.8.2 The contractor and its subcontractors shall not enter a new or renewed contract with a fleet for use on the project without a valid Certificate of Reported Compliance for the fleet and its listed subcontractors.

14.8.3 The Certificates of Reported Compliance must be retained by the Contractor for three years after that Project's completion. Upon request by CARB, these records must be provided to CARB within five business days of the request.

14.8.4 Contracting for projects that are considered emergency operations, as defined in title 13 California Code of Regulations section 2449(c)(18), are exempt from the requirements above. However the exempted vehicles must only be operated in the emergency situation and Contractor must retain records of the exempted vehicles including a description of the emergency including location, dates of emergency, and an attestation that the vehicles were only operated in the emergency situation.

ARTICLE 15

MISCELLANEOUS PROVISIONS

15.1 GOVERNING LAW

15.1.1 The Contract shall be governed by the law of the State of California.

15.2 SUCCESSORS AND ASSIGNS

15.2.1 University and Contractor respectively bind themselves and their successors, permitted assigns, and legal representatives to the other party and to the successors, permitted assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract, in whole or in part, without prior written consent of the other party. Notwithstanding any such assignment, each of the original contracting parties shall remain legally responsible for all of its obligations under the Contract.

15.3 RIGHTS AND REMEDIES

15.3.1 All University's rights and remedies under the Contract Documents will be cumulative and in addition to and not in limitation of all other rights and remedies of University under the Contract Documents or otherwise available at law or in equity.

15.3.2 No action or failure to act by University or University's Representative will constitute a waiver of a right afforded them under the Contract, nor will such action or failure to act constitute approval of or acquiescence in a condition or breach thereunder, except as may be specifically agreed in writing. No waiver by University or University's Representative of any condition, breach or default will constitute a waiver of any other condition, breach or default; nor will any such waiver constitute a continuing waiver.

15.3.3 No provision contained in the Contract Documents shall create or give to third parties any claim or right of action against University, University's Representative, or Contractor.

15.4 SURVIVAL

15.4.1 The provisions of the Contract which by their nature survive termination of the Contract or Final Completion, including all warranties, indemnities, payment obligations, and University's right to audit Contractor's books and records, shall remain in full force and effect after Final Completion or any termination of the Contract.

15.5 COMPLETE AGREEMENT

15.5.1 The Contract Documents constitute the full and complete understanding of the parties and supersede any previous agreements or understandings, oral or written, with respect to the subject matter hereof. The Contract may be modified only by a written instrument signed by both parties or as provided in Article 7.

15.6 SEVERABILITY OF PROVISIONS

15.6.1 If any one or more of the provisions contained in the Contract Documents should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

15.7 UNIVERSITY'S RIGHT TO AUDIT

15.7.1 University and entities and agencies designated by University will have access to and the right to audit and the right to copy at University's cost all of Contractor's books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work. Contractor shall preserve all such records and other items during the performance of the Contract and for a period of at least 3 years after Final Completion of the last Job Order.

15.8 METHODS OF DELIVERY FOR SPECIFIED DOCUMENTS

15.8.1 The following documents must be delivered in a manner specified in Article 15.8.2:

- .1 Contractor Notices of election to litigate or arbitrate;
- .2 Written demand for an informal conference to meet and confer pursuant to Article 4.8;
- .3 University's written statement identifying remaining disputes following informal conference pursuant to Article 4.9;
- .4 Written demand for non-binding mediation pursuant to Article 4.9;
- .5 Contractor claims pursuant to Article 4.6;
- .6 Contractor notices of conditions pursuant to Articles 3.17, 3.18, or 3.19;
- .7 University's notices of Contractor's failure to perform and/or correct defective work pursuant to Articles 4.1.6, 12.2 and 13.2.3;
- .8 University's notice to stop work pursuant to Article 2.3.1;
- .9 Notices of termination or suspension pursuant to Article 13.

15.8.2 Delivery methods for documents specified in Article 15.8.1:

- .1 By personal delivery.
- .2 Sent by facsimile copy where receipt is confirmed.
- .3 Sent by Express Mail, or another method of delivery providing for overnight delivery where receipt is confirmed.
- .4 Sent by registered or certified mail, postage prepaid, return receipt requested.

15.8.3 The documents identified in Article 15.8.1 shall only be effective if delivered in the manner specified in Article 15.8.2. Subject to the forgoing, such documents shall be deemed given and received upon actual receipt in the case of all except registered or certified mail; and in the case of registered or certified mail, on the date shown on the return receipt or the date delivery during normal business hours was attempted. Delivery of the specified documents shall be made at the respective street addresses set forth in the Agreement. Such street addresses may be changed by notice given in accordance with this Article 15.8.

15.9 TIME OF THE ESSENCE

15.9.1 Time limits stated in the Contract Documents are of the essence of the Contract.

15.10 MUTUAL DUTY TO MITIGATE

15.10.1 University and Contractor shall use all reasonable and economically practicable efforts to mitigate delays and damages to the Project and to one another with respect to the Project, regardless of the cause of such delay or damage.

15.11 UC FAIR WAGE

Contractor shall pay all persons providing construction services and/or any labor on site, including any University location, no less than the UC Fair Wage (defined as \$15 per hour) and shall comply with all applicable federal, state and local working condition requirements.

15.12 EXECUTION OF AGREEMENT

15.12.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed via a digital signature process and shall have the same force and effect as the use of a manual signature. The University reserves the right to reject any digital signature unless it is unique to the person using it, capable of verification, created by public key cryptography or signature dynamics, and meets all requirements of California Government Code § 16.5 and California Code of Regulations 22000 through 22005.

[End]

SUPPLEMENTARY CONDITIONS

1. MODIFICATION OF GENERAL CONDITIONS, ARTICLE 3 – CONTRACTOR

The following article is added to the General Conditions:

The University selected The Gordian Group's (Gordian) Job Order Contracting (JOC) Solution for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary JOC Information Management System ("JOC IMS"), JOC Applications, construction cost data, and Construction Task Catalog® which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Contract, including the preparation and submission of Job Order Proposals, Price Proposals, subcontractor lists, and other requirements specified by the University. The Contractor shall be required to execute Gordian's SaaS Terms of Use and pay a JOC System License Fee to obtain access to the Gordian JOC Solution™. The JOC System License Fee applies to all Job Orders issued to the Contractor under the terms of the Contract. The JOC System License Fee shall be equal to 1% of the Job Order Price.

Within two business days of receipt of a Job Order from the University, the Contractor must provide notification to Gordian by forwarding a copy of the Job Order to Gordian.

Upon the Contractor's receipt of the initial payment from the University, Gordian will invoice the Contractor for the JOC System License Fee. Contractor shall remit payment to Gordian within thirty (30) days of the date of the invoice. Any amounts arising in relation to money not paid when due will be subject to a late charge of (1.5%) per month on the unpaid balance or the maximum rate allowed by law, whichever is less.

2. MODIFICATION OF GENERAL CONDITIONS, ARTICLE 3 – CONTRACTOR

Add the following Subparagraphs under 3.12.9 – Environmental Product Declarations:

3.12.9.2 The term "Eligible Materials", as used herein, shall mean the same as defined by the BCCA, and shall include at a minimum the following materials:

- (1) Carbon steel rebar.
- (2) Flat glass.
- (3) Mineral wool board insulation.
- (4) Structural steel.

3.12.9.3 Compliance with the BCCA and this Article applies to all Eligible Materials for the Project.

3.12.9.4 Contractor shall submit to University a current (as of Notice to Proceed) facility-specific Environmental Product Declaration ("EPD"), Type III, as defined by the International Organization for Standardization ("ISO") standard 14025, or similarly robust life cycle assessment methods that have uniform standards in data collection consistent with ISO standard 14025, industry acceptance, and integrity, for each Eligible Material proposed to be used on the Project. The EPD must be specific to the material manufacturer and the facility where the material is manufactured.

3.12.9.5 Eligible Materials installed on the Project by Contractor must comply with any standards to the extent established in the BCCA (and listed on the Department of General Services BCCA site) or by University, whichever is more stringent. The facility-specific global warming potential for any Eligible Material must not exceed any existing maximum acceptable global warming potential for that material pursuant to the BCCA (and listed on the Department of General Services BCCA site) or by University, whichever is more stringent.

3.12.9.6 Contractor shall not install any Eligible Materials on the Project until Contractor submits a facility-specific EPD for that material which demonstrates that the material complies with any existing Eligible Material Standards (as included in the bid documents and as listed on the Department of General Services BCCA site) and this Article and the EPD is approved by the University. Contractor

shall be responsible for any losses, expenses, penalties or damages of any type incurred or sustained by University, including but not limited to removal and replacement of Defective Work, which are caused by Contractor's failure to comply with the requirements of the BCCA or this Article.

3.12.9.7. Eligible exemptions may be approved with submission of a UC BCCA Exemption Form for qualifying exemptions as noted in the **Facility Manual**.

3. **MODIFICATION OF GENERAL CONDITIONS, ARTICLE 4 – ADMINISTRATION OF THE CONTRACT**

1. The following article is added to the General Conditions:

4.2.6 Non-Pre-Priced Work Tasks are units of work not included in the Unit Price Book but within the general scope and intent of this contract. Such work requirements shall be incorporated into and made a part of this Contract for the Job Order to which they pertain, and may be incorporated into the Unit Price Book if determined appropriate by the University at the base price determined in this Article. Non-Pre-Priced work requirements shall be separately identified and submitted in the Job Order Schedule of Values. Information submitted in support of Non-Pre-Priced work shall include, but not be limited to, the following:

- .1 Catalog cuts, complete specifications and technical data, drawings, including work unit content, work unit costs data, quality control and inspection requirements.
- .2 Work schedule specific to the Non-Pre-Priced Task, this will include an update for other Job Order Work concurrently under construction and how these projects will affect the new Job Order Work.
- .3 Pricing data submitted in support of Non-Pre-priced work units shall include a cost or price analysis report, establishing; the basis for selecting the approach proposed to accomplish the requirements. Unless otherwise directed by the University, costing data will be submitted demonstrating that the Contractor sought and received three quotes.
- .4 The final price submitted for Non-Pre-Priced Tasks shall be based on the lowest of the three quotes according to the following formula:

For Non-Pre-Priced Tasks Performed with Contractor's Own Forces:

A = Hourly Labor Rate (for Trades not in the Unit Price Book) x the Quantity required
B = Direct Material Costs (supported by three quotes)
C = Direct Equipment Costs (for Equipment not in the Unit Price Book) x the Quantity required

Total Cost of Non-Pre-Priced Task = (A + B + C) x Appropriate Working Hours Adjustment Factor.

For Non-Pre-Priced Tasks Performed by Subcontractors:

D = Lowest of three subcontractor Quotes

Total Cost for Non-Pre-Priced Tasks performed by Subcontractors = D x Appropriate Working Hours Adjustment Factor.

- .5 Following approval by the University of a Non-Pre-Priced Task and Unit Price, the Non- Pre-Priced Task Unit Price will be entered into the computer data base.
- .6 The total extended price for the Non-Pre-Priced Task will be determined by multiplying the Unit Price by the quantity required.
- .7 After using a Non-Pre-Priced item on three separate Job Orders, the University and Contractor will agree on the Unit Price for the work item which will be fixed as a permanent Pre-priced item which will no longer require price justification and the Unit Price will not include any markup which is included in the Adjustment Factor.

- .8 Credits for Pre-priced and Non-Pre-Priced Tasks shall be calculated at the pre-set Unit Prices and multiplied by the appropriate Adjustment Factors. The result is that a credit for Tasks that have been deleted from the Detailed Scope of Work will be given at 100% of the value at which they were included in the original Schedule of Values.
- .9 The University's determination as to whether a task is a Pre-Priced Task or a Non Pre-Priced Task shall be final, binding and conclusive as to the Contractor.

4. MODIFICATION OF GENERAL CONDITIONS, ARTICLE 11 – INSURANCE AND BONDS

1. Contractor shall furnish and maintain insurance in the amounts below.

The insurance required by 11.1.2.1 and 11.1.2.2 shall be (i) issued by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's). Such insurance shall be written for not less than the following:

Minimum Requirement

11.1.2.1 Commercial General Liability Insurance-Limits of Liability

Each Occurrence-Combined Single Limit for Bodily Injury and Property	\$2,000,000
Products-Completed Operations Aggregate	\$4,000,000
Personal and Advertising Injury	\$2,000,000
General Aggregate	\$4,000,000

11.1.2.2 Business Automobile Liability Insurance-Limits of Liability

Each Accident-Combined Single Limit for Bodily Injury and Property Damage	\$1,000,000
---	-------------

Insurance required by Paragraph 11.1.2.3 shall be issued by companies (i) that have a Best rating of B+ or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's); or (ii) that are acceptable to the University. Such insurance shall be written for not less than the following:

11.1.2.3 WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY –

Minimum Requirement

Worker's Compensation:	(as required by Federal and State of California law)
Employer's Liability:	
Each Employee	\$1,000,000
Each Accident	\$1,000,000
Policy Limit	\$1,000,000

5. MODIFICATION OF ARTICLE 11 – PERFORMANCE BOND AND PAYMENT BOND

11.3 PERFORMANCE BOND AND PAYMENT BOND

11.3.3 During the Base Term, the Payment Bond and Performance Bond shall each initially be in the amount of \$2,500,000. If the amount initially bonded is less than the full Maximum Contract Value for the Base Term, Contractor shall supplement said Performance Bond and Payment Bond, with the same surety company, so that the amount bonded equals the Maximum Contract Value for the Base Term, prior to the University approving a total dollar amount of Job Orders in excess of 90% of the bonding limit in effect at that time.

11.3.5 If the University elects to exercise its option for one or more Option Term(s), Contractor shall, prior to the University's award of any Job Order Authorizations within the Option Term, provide additional Payment Bonds and Performance Bonds in the initial amount of \$2,500,000 on the forms contained in the Exhibits. If the amount initially bonded is less than the full Maximum Contract Value for the Option Term, Contractor shall supplement said Performance Bond and Payment Bond, with the same surety company, so that the amount bonded equals the Maximum Contract Value for the Option Term, prior to the University approving a total dollar amount of Job Orders in excess of 90% of the bonding limit in effect at that time.

6. MODIFICATION OF GENERAL CONDITIONS ARTICLE 15 – MISCELLANEOUS PROVISIONS

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed via a University approved digital signature process and shall have the same force and effect as the use of a manual signature. The University reserves the right to reject any digital signature that cannot be positively verified by the University system as an authentic digital signature.

7. INFECTIOUS ILLNESS PRECAUTIONS

- a. The University is committed to avoiding the transmission of infectious diseases in and within the hospital. The Contractor shall inform all workers on the job site not to enter the hospital if they suspect they have a communicable illness that could be transmitted.
- b. All employees of Contractor and its Subcontractors working at the University are encouraged to have an annual influenza vaccine. During flu season, all of Contractor's and its Subcontractors' job site workers may be required to show verification that they received the flu vaccine.
- c. Contractor and its employees shall comply with all current infectious illness prevention, screening, masking, vaccination, testing, and any other related requirements at the UC Davis Health project jobsite according to State and County mandates and University policies.

8. CODE OF CONDUCT

- a. The UC Davis Health Emergency Response Plan must be posted at all times in a visible location known to all project contractors from beginning to end of the contract/construction schedule.
- b. Any deliveries to the project site by common carrier must be marked "to the General Contractor only" with the official project title clearly identified. A representative of the contractor must be on-site and equipped to receive the delivery. The University will not receive any shipment on behalf of the Contractor.
- c. You are required to provide your own trash container and/or to remove all debris from the site daily. The job inspector will show you where to locate your trash container.
- d. The usage of all types of two-way radio devices MUST be approved. Usage of cellular phone devices within 3 feet of any medical device is not allowed. In areas where there are signs indicating "Cell Phones Must Be Turned Off", cell phone must be powered off, not simply in vibrate or silent mode. "Airplane" mode with Wi-Fi ON is acceptable in "OFF" areas.

- e. You are reminded to comply with CALOSHA requirements for job safety. Designate a safety officer for the work place as required by OSHA and conduct a regular program of safety.
- f. You will be responsible for your employees conduct while on the job site, i.e. whistling, profanity, garbage, dress code, etc. You are required to inform your employees working at the construction site that the University is strongly opposed to sexual harassment and that such behavior is prohibited both by law and by University policy. It is the intention of the University to take whatever action may be needed to prevent, correct, and, if necessary, discipline behavior which violates this policy.
- g. For the health and safety of patients, visitors, volunteers, and staff; smoking, the use of smokeless tobacco products, and the use of unregulated nicotine products (e-cigarettes) is not allowed on any UC Davis owned or leased property, indoors and outdoors, including, parking lots, roadways and residential spaces. Contractor is responsible for enforcement of this policy with all employees, workers, vendors, suppliers, and subcontractors at the job site.
- h. You are required to establish a policy of non-discriminatory practice in all personnel actions.
- i. In accordance with UCDMC Hospital Policies and Procedures Policy ID: 2202, identification badges are required and must be worn at all times while on campus. You are required to email the UC Davis Health Project Manager to request identification badges for all employees and subcontractors.
- j. The University strives to maintain campus communities and worksites free from the illegal use, possession, or distribution of alcohol or of controlled substances, as defined in schedules I through V of the Controlled Substances Act, 21 United States Code section 812, and by regulation at 21 Code of Federal Regulations section 1308. Unlawful manufacture, distribution, dispensing, possession, use, or sale of alcohol or of controlled substances by University employees and students in the workplace, on University premises, at official University functions, or on University business is prohibited. In addition, employees and students shall not use illegal substances or abuse legal substances in a manner that impairs work performance, scholarly activities, or student life.
- k. The University prohibits and has zero tolerance for workplace violence. Any disruptive behavior, act of intimidation, threat of violence or act of violence committed against any person and or property is prohibited.

EXHIBITS

Exhibit 01	Certificate of Insurance
Exhibit 02	Payment Bond
Exhibit 03	Performance Bond
Exhibit 04	Request for Job Order Schedule of Values
Exhibit 05	Detailed Scope of Work
Exhibit 06	Job Order Schedule of Values
Exhibit 07	Submittal Schedule
Exhibit 08	Job Order Authorization
Exhibit 09	Field Order
Exhibit 10	Change Order
Exhibit 11	Conditional Waiver and Release Upon Progress Payment
Exhibit 12	Unconditional Waiver and Release Upon Progress Payment
Exhibit 13	Summary of Builder's Risk Insurance Policy
Exhibit 14	Self-Certification
Exhibit 15	Report of Subcontractor Information
Exhibit 16	Final Distribution of Contract Dollars
Exhibit 17	Application for Payment
Exhibit 18	General Contractor Claim Certification
Exhibit 19	Subcontractor Claim Certification
Exhibit 20	Subcontractor's Conditional Waiver and Release Upon Final Payment
Exhibit 21	Subcontractor's Unconditional Waiver and Release Upon Final Payment
Exhibit 22	Inspection Acceptance
Exhibit 23	Notice of Completion
Exhibit 24	Gordian JOC System License Terms of Use



CERTIFICATE OF LIABILITY INSURANCE

(for non-UCIP Construction Projects and Consultant/Design Contracts)

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
INSURED	INSURER A :	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	PROFESSIONAL LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						

Special Provisions:

- The Regents of the University of California, The University of California, University, and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants, are included as additional insureds on the general liability policy as required by contract and pursuant to additional insured endorsement CG2010 (11/85) or a combination of both CG 2010 (10/01 or 07/04) and CG 2037 (10/01 or 07/04) but only in connection with JOC 2026 - Job Order Contracting – General Contractor.
- The General Liability coverage contains a Severability of Interest provision and shall be primary insurance as respects The Regents of the University of California, its officers, agents and employees. Any insurance or self-insurance maintained by The Regents of the University of California shall be excess of and non-contributory with this insurance.

CERTIFICATE HOLDER: The Regents of the University of California

Forward to: Facilities Planning & Development
UC Davis Health
4800 2nd Avenue, Suite 3010
Sacramento, CA 95817
Attention: **Contracts Group**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

PAYMENT BOND
For the Base Term only

1

PERFORMANCE BOND
For the Base Term only

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, The Regents of the University of California ("The Regents") has awarded to _____ as Principal the Base Term of a contract dated the ____ day of _____, 20____, (the "Contract"), which Base Term of the Contract is by this reference made a part hereof, for the work described as follows:

PROJECT NO. JOC-2026, Job Order Contracting – General Contractor – Base Term

AND WHEREAS, Principal is required to furnish a bond in connection with the Base Term of the Contract, guaranteeing the faithful performance thereof;

NOW, THEREFORE, we, the undersigned Principal and _____ as Surety are held and firmly bound unto The Regents in the sum of two million five hundred thousand dollars (\$2,500,000.00), to be paid to The Regents or its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. If the amount initially bonded is less than the Maximum Contract Value for the Base Term, Principal agrees to supplement this bond to equal the sum of five million dollars (\$5,000,000.00).

THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its heirs, executors, administrators, successors, or assigns approved by The Regents, shall promptly and faithfully perform the covenants, conditions, and agreements of the Base Term of the Contract during the said term, and during the period of any guarantees or warranties required under the Base Term of the Contract, and shall also promptly and faithfully perform all the covenants, conditions, and agreements of any alteration of the Base Term of the Contract made as therein provided, notice of which alterations to Surety being hereby waived, on Principal's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify, defend, protect, and hold harmless The Regents as stipulated in the Base Term of the Contract, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and effect.

No extension of time, change, alteration, modification, or addition to the Base Term of the Contract, or of the work required thereunder, shall release or exonerate Surety on this bond or in any way affect the obligation of this bond; and Surety does hereby waive notice of any such extension of time, change, alteration, modification, or addition.

Whenever Principal shall be and declared by The Regents to be in default under the Base Term of the Contract, Surety shall promptly remedy the default, or shall promptly:

1. Undertake through its agents or independent contractors, reasonably acceptable to The Regents, to complete the Base Term of the Contract in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Base Term of the Contract, including without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages, or, at Surety's election, or, if required by The Regents,
2. Obtain a bid or bids for completing the Base Term of the Contract in accordance with its terms and conditions, and, upon determination by The Regents of the lowest responsible bidder, arrange for a contract between such bidder and The Regents and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion up to the Maximum Contract Value for the Base Term of the Contract less the balance of the Contract Sum, and to pay and perform all obligations of Principal under the Base Term of the Contract, including, without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages; but, in any event, Surety's total obligations hereunder shall not exceed the amount set forth in the third paragraph hereof. The term "balance of the Contract Sum," as used in this paragraph, shall mean the total amount payable by The Regents to the Principal under the Contract and any amendments thereto, less the amount paid by The Regents to Principal.

Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Base Term of the Contract, and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing The Regents' rights against the others.

No right of action shall accrue on this bond to or for the use of any person or corporation other than The Regents or its successors or assigns.

Surety may join in any arbitration proceedings brought under the Base Term of the Contract and shall be bound by any arbitration award.

In the event suit is brought upon this bond by The Regents, Surety shall pay reasonable attorney's fees and costs incurred by The Regents in such suit.

Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 20__.

Principal: _____
(Name of Firm)

Surety: _____
(Name of Firm)

By: _____
(Signature)

By: _____
(Signature)

(Printed Name)

(Printed Name)

Title: _____

Title: _____

Address for Notices: _____

NOTE: **NOTARY ACKNOWLEDGEMENT FOR SURETY AND SURETY'S POWER OF ATTORNEY MUST BE ATTACHED.**

REQUEST FOR JOB ORDER SCHEDULE OF VALUES

Facility: UC Davis Health
 Address: 4800 2nd Avenue, Suite 3010
 City, State, Zip: Sacramento, CA 95817
 E-mail: _____

Job Order #: _____
 Job Order Title: _____
 Location: _____

To: Contractor
 Attention: _____
 Phone: _____
 Fax: _____
 Email: _____

From: _____ For this Project/Job Order, Contact: _____
 Job Order Manager Project Manager
 Phone: _____ Phone: _____
 Fax: _____ Fax: _____
 Email: _____ Email: _____

REQUEST FOR JOB ORDER SCHEDULE OF VALUES

Please provide a Proposal Package for the above named Job Order as described below.

Proposal Due Date:

Brief Description of Work:

Detailed Scope of Work: See Attached

Special Requirements:

- | | | |
|---|---|---|
| <input type="checkbox"/> Emergency Mobilization | <input type="checkbox"/> Non-Standard Hours | <input type="checkbox"/> Submittals |
| <input type="checkbox"/> Phasing | <input type="checkbox"/> Standard Hours | <input type="checkbox"/> Shop Drawings |
| | <input type="checkbox"/> Sequence Schedule | <input type="checkbox"/> Code Review Drawings |
| | | <input type="checkbox"/> Other |

JO Start Date: <input type="checkbox"/> Required <input type="checkbox"/> Desired	JO Completion Date: <input type="checkbox"/> Required <input type="checkbox"/> Desired	Architect/Engineer:
--	---	---------------------

Joint Scope Walk:

Date:{DATE}

Location:{LOCATION}

Attachments in addition to a Detailed Scope of Work:

☐ Specifications

☐ Drawings

☐ Samples

☐ Other _____

Work Plan:

- ☐ Required Due: _____
☐ Not-Required

DETAILED SCOPE OF WORK

Contract #:

Job Order #:

Job Order Title:

Location:

Date Issued:

Detailed Scope of Work

Please refer to the Request for Job Order Schedule of Values for additional information.

JOB ORDER SCHEDULE OF VALUES

Contract #:	Job Order #:
Job Order Title:	Location:

To: UC Davis Health
4800 2nd Ave.. Suite 3010
Sacramento, CA 95817

Date:

Attn: Project Manager
cc: JOC Manager
Email:
From: Contractor
Address
City, State Zip
Contact Name

Email:

Our Job Order Schedule of Values, based upon the Request for Job Order Schedule of Values dated _____ and inclusive of the attachments noted below, is hereby submitted for your consideration. All Work is to be performed in accordance with the Contract Documents and the Request for Job Order Schedule of Values identified above, inclusive of related documents contained or reference therein.

Price Proposal Summary

Section 01	\$	Section 09	\$
Section 02	\$	Section 10	\$
Section 03	\$	Section 11	\$
Section 04	\$	Section 12	\$
Section 05	\$	Section 13	
Section 06	\$	Section 14	\$
Section 07	\$	Section 15	\$
Section 08	\$	Section 16	\$
			Proposal Total
			\$

Required Attachments:

- ☐ Detailed price proposal ☐ List of Subcontractors ☐ Non-Prepriced back-up (If applicable)
☐ Job Order schedule ☐ Scope of work changes (If Applicable)
 Name of proposed Superintendent: _____

Site Investigation and Constructability Review: Contractor confirmed by signing the Job Order Schedule of Values that a complete and careful investigation of the Job Order Work site has been performed to insure there are no known or avoidable conflicts which would delay completion or accomplishment of the Work.

Contractor's Authorized Representative

Date: _____

Name: _____

Signature: _____

SUBMITTAL SCHEDULE

Project Name: _____

Contract Number: _____

Job Order No.: _____

Job Order Date: _____

Subcontractor: _____

Specification Section: _____

Work Activity: _____

Event	Scheduled Completion Date	Actual Completion Date	Calendar Days Required to Complete
1. Received by Contractor and Time for Checking			
2. First Delivered to University's Representative and Time for Checking			
3. Return to Contractor			
4. Corrections Completed and Time for Corrections			
5. Next Delivered to University's Representative and Time for Checking			
6. Return to Contractor			
7. Approval for Job Information			
8. Approval for Fabrication and Time for Fabrication			
9. Fabrication Completed			
10. Shipping Date and Time Enroute			
11. Delivery to Job			

JOB ORDER AUTHORIZATION

JOB ORDER NUMBER: _____

TO: _____

 {Contractor's Name}
 {Contractor's Address}

FROM: UC Davis Health

When executed by University, Contractor is authorized to perform the Job Order Work including furnishing all materials, labor, equipment, and services for the Detailed Scope of Work dated {MM/DD/YYYY} described in brief below:

in accordance with plans and specifications provided by University's Representative, for the following Job Order Sum based on the attached Job Order Schedule of Values dated {MM/DD/YYYY}:

\$_{AMOUNT IN FIGURES}
 (Job Order Sum)

Job Site Investigation and Constructability Review: Contractor confirms by signing and accepting this Job Order that a complete and careful investigation of the Job Order Work site has been performed to insure there are no known or avoidable conflicts which would delay completion or accomplishment of the Work.

Job Order Work shall be fully completed within {NUMBER} calendar days (Job Order Time) from the date last signed below.

Contractor will be assessed as Liquidated Damages the sum of \$_{AMOUNT IN FIGURES} for each calendar day the Job Order Work remains incomplete beyond the expiration of the Job Order Time. See Article 5 of the Agreement for detailed requirements.

University reserves the right to increase or decrease the quantity and scope of any item or portion of the Work, or to omit any item or portion of the Work as determined by the University.

Agreed Upon by Contractor:

Agreed Upon by University:

 (Signature)

 (Signature)

 (Printed Name)

 (Printed Name)

 (Title)

 (Title)

 (Date)

 (Date)

Attachments Required: Job Order Schedule of Values
 Detailed Scope of Work

May 31, 2011

Exhibit 8
 Job Order Authorization

FIELD ORDER

UC Davis Health

FIELD ORDER NO. _____

Job Order Name: _____

Job Order Number: _____

Job Order Date: _____

To Contractor: _____

Address: _____

DESCRIPTION OF WORK:

[illegible]

Estimated Adjustment
of Contract Sum: _____

Estimated Adjustment
of Contract Time: _____

(University's Representative)

By: _____
(Signature)

(Title)

Date: _____

(University's Designated Administrator)

(Signature)

(Title)

Date: _____

(Contractor)

(Signature)

(Title)

Date: _____

NOTE: If the Work described above constitutes a change, this Field Order will be superseded by a Supplemental Job Order that will include the scope of the change in the Work and any actual adjustments of the Job Order Sum and the Job Order Time.

CHANGE ORDER

UC Davis Health

CHANGE ORDER NO. _____

Job Order Contract: _____ Contract Date: _____

To Contractor: _____

Address: _____

DESCRIPTION OF CHANGE:

Adjustment of Contract Sum:

Original Contract Sum: _____

Prior Adjustments: _____
Contract Sum Prior
to this Change: _____
Adjustment for this
Change: _____

Revised Contract Sum: _____

Adjustment of Contract Time:

Original Contract Time: "NUMBER OF DAYS"

Prior Adjustments: "NUMBER OF DAYS"
Contract Time Prior
to this Change: "NUMBER OF DAYS"
Adjustment for this
Change: "NUMBER OF DAYS"

Revised Contract Time: "NUMBER OF DAYS"

Contractor waives any claim for further adjustments of the Contract Sum and the Contract Time related to the above described change in the Work.

Recommended:

By: _____
(Signature of University's Representative)

(Printed Name)

Date: _____

Accepted:

By: _____
(Contractor Signature)

(Printed Contractor Name)

Date: _____

Reviewed and Recommended

By: _____
(Signature of University's Designated Administrator)

(Printed Name)

Date: _____

Funds Sufficient:

By: _____
(Signature from University's Accounting Office)

(Printed Name)

Date: _____

Approved:

UNIVERSITY: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

(Printed Name)

By: _____
(Signature)

(Title)

Date: _____

**CONDITIONAL WAIVER AND
RELEASE ON PROGRESS PAYMENT**

Notice:

THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information

Name of Claimant: _____
Name of Customer: _____
Job Location: _____
Owner: _____
Through Date: _____

Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: _____
Amount of Check: \$ _____
Check Payable to: _____

Exceptions

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:
Date(s) of waiver and release: _____
Amount(s) of unpaid progress payment(s): \$ _____
- (4) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

Signature

Claimant's Signature: _____
Claimant's Title: _____
Date of Signature: _____

UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

NOTICE TO CLAIMANT:

UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Identifying Information

Name of Claimant: _____
Name of Customer: _____
Job Location: _____
Owner: _____
Through Date: _____

Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has received the following progress payment: \$ _____

Exceptions

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

Signature

Claimant's Signature: _____
Claimant's Title: _____
Date of Signature: _____

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

This document summarizes the Builder's Risk policy and is not intended to reflect all the terms, conditions, or exclusions of such policy as of the effective date of coverage. This document is not an insurance policy and does not amend, alter or extend the coverage afforded by the listed policy. The actual insurance policy defines all the terms, exclusions and conditions of coverage, and not this summary. Should any ambiguities or conflicts between the summary and policy exist, the policy terms and conditions will apply.

*Some projects may be excluded and/or must be underwritten separately and may be subject to different rates, deductibles, and terms and conditions (see end of summary). **Therefore, this document should be used as a guideline only.***

INSURANCE COMPANY: Liberty Mutual Fire Insurance Company

BEST'S RATING: A XV

NAMED INSURED: The Regents of the University of California

INSURING AGREEMENT

This Policy, subject to the Limit of Liability and the terms, conditions, and limitations contained herein or endorsed hereon, insures against all risks of direct physical loss or damage to Covered Property while at the construction site, stored off-site, or in the course of transit within this policy's territory and occurring during the period of insurance of this policy.

LIMITS OF LIABILITY

SCHEDULE OF LIMITS

This Company shall not be liable for more than the Limit of Liability, as stated in Confirmation of Coverage, in any one Occurrence for any one Insured Project, subject to the following limits and sublimits:

MASTER POLICY LIMITS, BY CONSTRUCTION CLASS

\$200,000,000 per project, per occurrence; except,
\$ 25,000,000 per project, Joisted Masonry construction
\$ 10,000,000 per project, Wood Frame construction

NOTE: *The total estimated construction cost is estimated through project completion and reported on the original Builder's Risk Insurance Application. This Limit of Liability will correspond with the total estimated construction cost as shown on the original Builder's Risk Insurance Application. If the construction costs should increase, the Limit of Liability should be subsequently increased, once advance notice has been given to Alliant Insurance Services, Inc. by the University's representative.*

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

KEY SUBLIMITS (Per Occurrence unless otherwise stated):

1. \$10,000,000 for **Wood Frame Construction**
2. \$25,000,000 for **Joisted Masonry Construction**
3. \$25,000,000 as respects **Demolition and Increased Cost of Construction**
4. \$5,000,000 as respects **Expediting Expense, Contractor's Extra Expense**, General Conditions Expense / \$500,000 Owner's Extra Expense / \$100,000 Infrastructure Extra Expense
5. \$10,000,000 as respects **Temporary Offsite Location** (per location)
6. \$10,000,000 as respects **Transit** (Inland only)
7. \$15,000,000 as respects **Debris Removal**
8. \$1,000,000 as respects **Construction Documentation, Valuable Papers and Records**
9. \$5,000,000 as respects **Design Professional Fees**
10. \$1,000,000 as respects **Claims Preparation Expenses**
11. \$1,000,000 as respects **Crane Re-Erection Expense**
12. \$500,000 as respects **Scaffolding, Forms and Falsework Re-Erection Expense**
13. \$500,000 as respects **Pollution Cleanup and Decontamination** (Per project aggregate)
14. \$750,000 as respects **Fire Protection Equipment Refills**
15. \$500,000 as respects **Governmental Authority Protection Services**
16. \$500,000 as respects **Fungus, Wet Rot, Dry Rot or Bacteria**
17. \$2,000,000 as respects **Preservation of Property Protection Expense – 30 Days**
18. \$50,000 as respects **Reward Payment**
19. Included for 30 Days as respects **Hot Testing**
20. No sublimit as respects **Off Premises Service Interruption – Direct Damage**
21. No Sublimit as respects **Green/LEED Rating System**
22. No Sublimit for **Landscaping Materials**
23. No Sublimit as respects **Water Damage (Includes Frost, Freeze, Falling of Ice)**
24. \$500,000 as respects **Flood (Zone A, AE, V, D)**
25. \$750,000 as respects **Flood (Zone B, X500, X-Shaded)**
26. \$1,000,000 as respects **Flood (Zone C, X, X-Unshaded)**

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

TERMS AND CONDITIONS

NAMED INSURED

The Regents of the University of California and all affiliated and subsidiary companies, corporations, ventures, partnerships or other organizations, all owned, controlled or managed by the Named Insured and all as now exist or may hereafter be constituted or acquired.

ADDITIONAL INSUREDS

Except noted above, this Policy recognizes owners, contractors, subcontractors of any tier, architects, engineers, and any other individual or entity, all as required by contract documents or subcontract documents executed with respect to the insured project prior to the date of loss or damage to covered property as an Additional Insured, and then only as to their respective financial interest in the coverage property.

Notwithstanding the foregoing sentence, architects, engineers, manufacturers and suppliers shall only be Additional Insureds with respect to their activities at the insured project location.

ATTACHMENT/TERMINATION

Insurance hereunder applies to all projects specifically declared under the Master Policy in a Quarterly Report Endorsement, where the project is scheduled to begin during the term of the Master Policy. The Master Policy term commences on September 1, 2025, at 12:01 AM and ends on September 1, 2028, at 12:01 AM.

Coverage for each Insured Project declared under the Master Policy will go into effect and continue in full force and effect during the Coverage Period specified in the Confirmation of Coverage.

NOTIFICATION OF COVERAGE/TERMINATION: *The Confirmation of Coverage period will correspond with the earliest estimated Notice to Proceed date for any construction phase and estimated Notice of Final Completion date as indicated on the original Builder's Risk Insurance Application. If construction is not completed on time and coverage beyond the previously reported estimated Notice of Final Completion date is required, prior notification must be given to Alliant Insurance Services, Inc. by the University Representative in order to ensure that coverage remains in force for the project.*

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

DEDUCTIBLES

(Basis for determining deductible is the total project contract value for all construction phases, estimated through project completion.)

All Other Perils and Water Damage Deductibles (based on Total Project Value)

Deductible	All Other Perils	Water Damage
\$10,000	<ul style="list-style-type: none"> • Fire Resistive, Non-Combustible-NOC, Masonry Non-Combustible projects ≤\$25,000,000 • Joisted Masonry projects ≤\$15,000,000 • All JOC's 	<ul style="list-style-type: none"> • All JOC's
\$25,000	<ul style="list-style-type: none"> • Wood Frame projects ≤\$2,000,000 • Fire Resistive, Non-Combustible-NOC, Masonry Non-Combustible including cleanrooms ISO class 5-9 projects >\$25,000,000 and ≤\$200,000,000 	N/A
\$50,000	<ul style="list-style-type: none"> • Wood Frame projects >\$2,000,000 and ≤\$10,000,000 • All Site Work Only (Outdoor Infrastructure / Utility / Hardscape / Landscape) projects 	<ul style="list-style-type: none"> • Fire Resistive, Non-Combustible- NOC, Masonry Non-Combustible projects >\$5,000,000 and ≤\$25,000,000 • Fire Resistive, Non-Combustible-NOC, Masonry Non-Combustible including cleanrooms ISO class 5-9 projects >\$25,000,000 and ≤\$50,000,000 • Wood Frame projects ≤\$10,000,000 • Joisted Masonry projects ≤\$15,000,000 • All Site Work Only (Outdoor Infrastructure / Utility / Hardscape / Landscape) projects
\$100,000	<ul style="list-style-type: none"> • Hot testing (applicable for projects ≤ \$100,000,000 only) 	<ul style="list-style-type: none"> • Fire Resistive, Non-Combustible-NOC, Masonry Non-Combustible including cleanrooms ISO class 5-9 projects >\$50,000,000 and ≤\$200,000,000 • Hot testing (applicable for projects ≤ \$100,000,000 only)

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

Flood Deductibles

Deductible	Flood Zone
5% VARTOL*/minimum \$250,000	Zone A, AE, V, D
2.5% VARTOL*/minimum \$250,000	Zone B, X500, X-Shaded
\$100,000	Zone C, X, X-Unshaded

*VARTOL- Value at risk at time of loss

Windstorm Deductible

Deductible	Project
\$100,000	All Projects

NOTE: Based on UC's construction contracts, the General Contractor is responsible for the deductibles.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

KEY EXCLUSIONS

KEY PROPERTY NOT COVERED

Covered property does not include:

1. Land and land values and the value of cut, fill and backfill materials existing at the location of the insured project prior to project commencement. However, the following are covered to the extent identified in the contract documents and included in the Total Project Value:
 - Fill and backfill materials purchased for use in the completion of the insured project; and
 - Labor and material charges incurred to excavate land and to move, remove, place or otherwise handle cut, fill and backfill materials, whether such materials are insured or uninsured.
2. Any part of contractor's equipment including, tools, machinery, hoists, jacks, lifts, cranes or property of similar kind not intended to become a permanent part of the insured project;
3. Vehicles and equipment licensed for highway use, rolling stock, aircraft or watercraft;
4. Water, other than water that is contained within any enclosed tank, piping system, or any other processing equipment; standing timber including undisturbed natural wooded areas; growing crops; or animals;
5. Accounts, bills, currency, stamps, evidence of debts, checks, money, securities, precious metals, precious stones or other property of a similar nature;
6. Existing real property;
7. Property at a project site that stores, processes, handles or makes use of radioactive materials; however, this does not apply to project site making use of radioactive isotopes contained within equipment used for diagnostic or testing purposes;
8. Roadways, sidewalks or other paved or concrete surfaces at the project site that existed prior to the beginning of the Insured project;
9. Contraband or property in the course of illegal transportation or trade; or
10. Overhead transmission, distribution or communications lines, and their supporting structures, except to the extent identified in the contract documents and included in the total estimated construction cost.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

KEY EXCLUDED CAUSES OF LOSS

1. This policy will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss or damage, even if such other cause or event would otherwise be covered. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area:

a. Governmental Action

Seizure, confiscation, expropriation, nationalization or destruction of property by order of governmental authority.

This exclusion does not apply to seizure or destruction of property by order of governmental authority taken at the time of a fire to prevent its spread.

b. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused, except as provided under Section E., Coverage Extensions, Radioactive Contamination. But if Nuclear reaction or radiation, or radioactive contamination results in fire, this policy will pay for the direct loss or damage caused by that fire.

c. Ordinance or Law

(1) The enforcement of or compliance with any ordinance or law:

- (a) Regulating the construction, use or repair of any property; or
- (b) Requiring the tearing down of any property, including the cost of removing its debris.

(2) This exclusion applies whether the loss or damage results from:

- (a) An ordinance or law that is enforced even if the property has not been damage; or
- (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

This exclusion applies, except as provided under Section E., Coverage Extension, Ordinance or Law.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

d. War and Military Action

War and military action, meaning:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority by hindering or defending against any of these.

2. We will not pay for:

a. Consequential Loss

Loss, damage, cost or expense caused by, resulting from, or attributable to any of the following:

- (1) Loss of market or loss of use;
- (2) Liquidated damages, performances penalties or penalties for non-completion, except as provided under Section E., Coverage Extensions, Contract Penalties;
- (3) Non-Compliance with contract conditions;
- (4) Delay in completion of construction, except as provided under Time Element coverage, if endorsed to this Policy; or
- (5) Re-Sequencing or inefficiencies of construction activities.

b. Cracking and Settling

Loss or damage caused by, resulting from or attributable to normal or expected subsidence, settling, cracking, expansion, contraction or shrinkage of walls, floors, ceilings, buildings, foundations, patios, walkways, driveways or pavements.

But if loss or damage caused by a covered cause of loss results, we will pay for the resulting loss or damage caused by that covered cause of loss.

c. Disappearance or Shortage

Missing property when the only proof of loss is unexplained or mysterious disappearance of covered property, or shortage of property discovered on taking inventory, or any other instance where there is no physical evidence to show what happened to the covered property. This exclusion does not apply to covered property in the custody of a carrier for hire.

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d. Dishonest Acts

Loss or damage caused by or resulting from fraudulent, dishonest or criminal acts of any Insured or any of the Insured's partners, officers, directors, trustees, managers, employees (including leased or temporary employees) or others to whom the property is entrusted, except as provided under Section E., Coverage Extensions, Dishonest Acts.

This exclusion does not apply to:

- (1) Acts of destruction committed by the Insured's employees (including leased or temporary employees); or
- (2) Covered property in the custody of any carrier for hire or anyone claiming to be a carrier for hire at the time the property is entrusted to them.

This exclusion applies whether or not such persons are acting alone or in collusion with other persons, or whether such acts occur during the hours of employment.

e. Electronic Vandalism, Defects or Errors

Loss or damage to electronic hardware, software, programs or data caused by or resulting from:

- (1) Computer virus;
- (2) Willful or malicious electronic alteration, manipulation, tampering, or destruction by authorized or unauthorized users;
- (3) Failure, malfunction, deficiency, deletion, errors, or omissions in: (a)
Programming;
(b) Instructions to a machine; or
(c) Installation or maintenance of electronic hardware; or
- (4) Mysterious disappearance of code;

Except as provided by Section E. Coverage Extensions, Electronic Vandalism.

But if loss or damage caused by a specified cause of loss results, this policy will pay for the resulting loss or damage caused by that specified cause of loss.

f. Expected, Preventable or Accumulated Losses

Loss or damage caused by or resulting from wear and tear, deterioration, inherent vice, hidden or latent defect, corrosion, rust or dampness or dryness of the atmosphere.

But if loss or damage caused by a covered cause of loss results, this policy will pay for the resulting loss or damage caused by that covered cause of loss.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

g. Faulty, Inadequate or Defective Workmanship or Design

Loss, damage, cost or expense caused by or resulting from faulty, inadequate or defective: (1)

Planning, zoning, development, surveying, siting;

(2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading or compaction;

(3) Materials used in repair, construction, renovation, remodeling, grading or compaction; or

(4) Maintenance;

Of part or all of any property on or off the project site described in the Declarations.

But if loss or damage caused by a covered cause of loss results, this policy will pay for the resulting loss or damage caused by that covered cause of loss. However, in no event this policy will pay for the covered property that was faulty or defective; the costs or expense to improve or redesign the original materials; supplies, designs, plans or specifications; or to improve workmanship.

The mere existence of any faulty, inadequate or defective conditions listed in paragraphs g. (1). Through g. (4)., above is not direct physical loss or damage.

h. Fines or Penalties

Fines or penalties imposed on the Insured at the order of any government agency, court or other authority.

i. Fungus, Wet Rot, Dry Rot or Bacteria

Loss or damage consisting of, directly or indirectly caused by, contributed to or aggravated by the presence, growth, proliferation, spread or any activity of fungus, wet rot, dry rot or bacteria, including any expense to remediate the presence or effects of any of the foregoing.

But if Fungus, wet or dry or bacteria result in a covered cause of loss, this policy will pay for the loss or damage caused by that covered cause of loss.

This exclusion does not apply:

(1) When fungus, wet or dry rot or bacteria result from fire or lightning; or

(2) To the extent that coverage is provided under Section E., Coverage Extensions, Fungus, Wet Rot, Dry Rot or Bacteria, with respect to loss or damage by a cause of loss other than fire or lightning.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

j. Pollutants

Loss, damage, cost or expense caused by or resulting from the actual, alleged or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants, unless the discharge, dispersal, seepage, migration, release, or escape is directly caused by a specified cause of loss.

But if the discharge, dispersal, seepage, migration, release, or escape of pollutants results in a specified cause of loss, this policy will pay for the loss or damage caused by that specified cause of loss.

This policy will also not pay for loss, damage, cost or expense arising out of any request, demand, order or statutory or regulatory requirement that requires any Insured or others to test for, monitor, cleanup, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of pollutants.

k. Landscaping Materials

Insurance Company will not pay for direct physical loss or damage to landscaping materials caused by or resulting from:

- a. Infestation, disease, freezing, drought, lack of moisture, hail or weight of ice or snow;
or
- b. Insects, vermin, rodents or animals.

l. Terrorism: Coverage has not been endorsed to this policy.

m. Damage to Existing Property: Coverage has not been endorsed to this policy.

n. Delay in Completion: Coverage has not been endorsed to this policy.

o. Earth Movement – Coverage has not been endorsed to this policy.

p. Flood – Coverage has not been endorsed to this policy.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

SELECT EXTENSIONS OF COVERAGE

1. Expediting and Contractor's Extra Expense

- a. In the event of direct physical loss or damage to covered property caused by or resulting from a covered cause of loss, this Company will pay for the reasonable and necessary:

- (1) Expediting expenses, including:

- (a) Wages for overtime, night work, and work on public holidays;
- (b) Extra costs of express freight or other rapid means of transportation; and
- (c) Extra costs of rental equipment;

Which are necessary to make temporary repairs or to expedite the permanent repair or replacement of the covered property sustaining such loss or damage;

- (2) Owner's Extra Expense; and

- (3) Contractor's extra expense and general conditions expense in excess of the total expense that would normally have been incurred during the period of time required to repair or replace covered property with reasonable speed and similar quality for the purpose of continuing the scheduled progress of undamaged work, and only to the extent such expenses are necessary to continue as nearly as practicable the normal operation of the work in progress.

2. Demolition and Increased Cost of Construction

- a. In the event of direct physical loss or damage caused by a covered cause of loss to a building or structure that is covered property, the Company will pay for the:

- (1) Cost to demolish and clear the project site of the undamaged portion of the constructed, erected or installed covered property as a consequence of a requirement to comply with an ordinance or law that required demolition of such undamaged property;
- (2) Cost for recycling debris from the undamaged portion of the constructed, erected or installed covered property at a recycling facility, including the associated transportation costs, when those costs are incurred as a result of the demolition of the undamaged portion of the constructed, erected or installed covered property as a consequence of a requirement to comply with an ordinance or law that requires demolition of such undamaged property;
- (3) Increase costs incurred by the Insured to repair, rebuild or replace the damaged and undamaged portions of that covered property for the same intended use as per the written contract in place at the time of direct physical loss or damage when the increased cost is a consequence of a requirement to comply with the minimum standards of an ordinance or law; and

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

- (4) Loss to the undamaged portion of the constructed, erected or installed covered property as a consequence of a requirement to comply with an ordinance or law that requires demolition of undamaged parts of the same building.

Any income generated from debris recycling will reduce the Company loss payment. b. We

will not pay under this Ordinance or Law Coverage Extension for:

- (1) Costs associated with the enforcement of any ordinance or law which required any Insured or others to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of, pollutants, fungus, wet rot, dry rot or bacteria;
- (2) Enforcement of any ordinance or law which required the demolition, repair, replacement, reconstruction, remodeling, or remediation of property due to contamination by pollutants or due to the presence, growth, proliferation, spread or any activity of fungus, wet rot, dry rot or bacteria; or
- (3) Costs to comply with any ordinance or law that was required to be complied with in the absence of the loss or damage.

3. Preservation of Property Protection Expense

- a. If in the event of actual or imminent physical loss or damage to covered property caused by a covered cause of loss, this policy will pay for the reasonable and necessary expenses incurred by the Insured to protect the covered property by:
 - (1) Removing it from the project site or a temporary offsite location;
 - (2) Storing it away from the project site or a temporary offsite location for up to the number of days shown in the Builder's Risk Coverage Extensions Supplemental Declarations from the date it was first moved; and
 - (3) Returning it to the project site or temporary offsite location after the threat of actual or imminent loss or damage has passed.
- b. This policy will reimburse the Insured for the reasonable and necessary expenses to protect covered property at the project site or temporary offsite location from actual or imminent physical loss or damage from fire, named storm or flood that has been forecast by the National Weather Service or the U.S. Army Corps of Engineers, but only if coverage is provided under this Policy for that cause of loss.

The Insured must keep a record of the expenses incurred. No

Deductible applies to this Coverage Extension.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
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Coverage Summary

4. Construction Documentation, Valuable Papers and Records

Subject to the stated sublimit, this Policy is extended to cover direct physical loss or damage to construction documentation, valuable papers, and records caused by a covered cause of loss.

This Company will value construction documentation, valuable papers, and records at the full cost necessary to research and reproduce the lost construction documentation, valuable papers, and records, plus the cost of the blank materials on which it resides. However, this company will only pay for costs of research and reproduction if the Insured reproduces the construction documentation, valuable papers, and records.

5. Crane Re-Erection Expense

If a tower or pole crane is lost or damaged by a covered cause of loss at the project site, this policy will pay the reasonable and necessary costs incurred by the Insured to re-erect a tower or pole crane necessary to complete the insured project. However, this policy will not cover any loss or damage to the tower or pole crane itself, unless such tower or pole crane is scheduled on a Contractor's Equipment Coverage endorsement, attached to this Policy.

6. Scaffolding, Forms or Falsework Re-Erection Expense

If scaffolding, forms or falsework covered under this policy is lost or damaged by a covered cause of loss at the project site, the Insurance Company will pay the reasonable and necessary costs incurred by the insured to re-erect scaffolding, forms or falsework necessary to complete the insured project.

7. Debris Removal

Subject to the Sublimit of Liability, in the event of direct physical loss or damage by a covered cause of loss occurs to covered property, this policy will pay:

- a. The cost the Insured incurs to demolish, clear and remove debris of covered property, including such property while in transit or at a temporary offsite location; and
- b. The reasonable and necessary expense incurred by the Insured for:
 - (1) Recycling debris of covered property at a recycling facility, including the associated transportation costs; and
 - (2) Removing debris of uncovered property from the project site.

The expenses will be paid only if reported to the Company in writing within three hundred sixty-five (365) days of the date of loss or damage.

Any income generated from debris recycling will reduce the Company loss payment

In no event will there be coverage under this Debris Removal Coverage Extension for any costs to:

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

- (1) Extract pollutants from land, water or debris;
- (2) Remove, restore, or replace polluted land or water; or
- (3) Transport, store, decontaminate or recycle contaminated debris.

8. Design Professional Fees

Subject to the stated sublimit, this policy will reimburse the first Named Insured for reasonable and necessary expenses incurred for design professional services to repair, rebuild or replace the lost or damage covered property to the original design, if it has been damaged by a covered cause of loss.

9. Claims Preparation Expense

This Company will reimburse you for the reasonable and necessary claim preparation expenses you incur in preparing claim information, when it's required, for the purpose of determining the amount of loss or damage prior to finalizing a claim adjustment.

- a. Claim preparation expense means the expenses incurred by the Insured for only the following:
 - (1) The Insured's employees to produce or certify any particulars or details contained within the Insured's books or documents, or such other proofs, information or evidence required by us;
 - (2) Taking inventory, conducting independent appraisals, or gathering and preparing other data to substantiate the amount of loss or damage; and
 - (3) Services provided by accountants, auditors, contractors, architects and engineers or other professionals solely for the purpose of determining the amount of loss or damage.
- b. Claim preparation expense does not mean the expenses incurred for:
 - (1) Negotiating or presenting any claim that we have disputed or denied;
 - (2) Attorneys, public adjusters, loss appraisers or loss consultants or their affiliates; (3) Examinations under oath, even if requested by this Company
 - (4) Travel; or
 - (5) Insurance brokers or insurance agents, or their affiliates, without our written consent prior to such expenses being incurred.

This Coverage extension does not apply until a claim for covered loss or damage to covered property has been submitted to and accepted by the Insurance Company. In the event that the amount of covered loss or damage does not exceed the applicable Deductible, no coverage will apply under this Coverage Extension.

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10. Fungus, Wet Rot, Dry Rot or Bacteria

If fungus, wet rot, dry rot or bacteria is caused by or results from a covered cause of loss, other than fire or lightning, this Company will pay for:

- a. Direct physical loss or damage to covered property at the project site or a temporary offsite location caused by or resulting from fungus, wet rot, dry rot or bacteria, including the cost of removal of the fungus, wet rot, dry rot or bacteria; and
- b. The reasonable and necessary expenses to:
 - (1) Test for, monitor or assess the existence, concentration or effects of fungus, wet rot, dry rot or bacteria;
 - (2) Tear out and replace any part of covered property needed to gain access to the fungus, wet rot, dry rot or bacteria; and
 - (3) Clean up, remove or remediate fungus, wet rot, dry rot or bacteria.

The coverage described in paragraphs 9.a and 9.b, of this Coverage Extension only applies if the Insured takes all reasonable steps to save and preserve property from further loss or damage at the time of, and after the discovery of the fungus, wet rot, dry rot or bacteria.

If there is covered loss or damage to covered property, not caused by fungus, wet rot, dry rot or bacteria loss payment will not be limited by the terms of this Coverage Extension, except to the extent that fungus, wet rot, dry rot or bacteria, causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Coverage Extension.

The most this Company will pay under this Coverage Extension is the Sub-Limit of Liability shown for Fungus, Wet Rot, Dry Rot or Bacteria. This is the most we will pay for the total of all loss or damage under this Coverage Extension, even if the fungus, wet rot, dry rot or bacteria continues to be present or active, or recurs, in a later Policy Term.

11. Governmental Authority Protection Service Charges

When the fire department, policy department or other governmental authority is called to save or protect covered property from a covered cause of loss at the project site or a temporary offsite location, this policy will pay the Insured's liability for service charges assessed that are:

- A. Assumed by written contract or written agreement prior to loss or damage; or
- B. Required by local ordinance, law or statute.

This policy will also pay for those costs incurred by the Insured's fire brigade to save or protect covered property from fire, but not including the costs to refill fire protective equipment.

The most this policy will pay for this Coverage Extension in any one occurrence, regardless of the number of responding departments or authorities or number of services performed, is the Sub-Limit of Liability shown for Government Authority Protection Service Charges.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
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Coverage Summary

No Deductible applies to this Coverage Extension.

12. Fire Protection Equipment Refills

Insurance Company will pay the reasonable and necessary costs the Insured incurs to refill fire protection equipment which has been discharged accidentally or in the course of saving or protecting covered property from a covered cause of loss.

13. Pollutant Clean-Up and Decontamination

- a. This policy will pay the reasonable and necessary costs incurred by you to extract pollutants from land or water at the project site or a temporary offsite location if the discharge, dispersal, seepage, migration, release or escape of pollutants is directly caused by a covered cause of loss.
- b. When required by ordinance, law or regulation in effect at the time of loss or damage, this policy will pay the reasonable and necessary costs incurred by you to extract pollutants from debris at the project site or a temporary offsite location if the discharge, dispersal, seepage, migration, release or escape of pollutants is directly caused by a covered cause of loss.
- c. When paragraph a. above applies, this policy will also pay the Insured's reasonable and necessary costs incurred for:
 - (1) Restoring or replacing that contaminated land or water; and
 - (2) Testing performed in the course of extracting those pollutants from the land or water.
- d. When paragraph b. above applies, this policy will also pay the Insured's reasonable and necessary costs incurred for transporting that contaminated debris to a temporary storage or decontamination facility.

These costs will be paid only if they are reported to the Insurance Company in writing within one hundred eighty (180) days of the date on which the covered cause of loss occurs.

This Coverage Extension does not apply to any other costs to test for, monitor or assess the existence, concentration or effects of pollutants.

14. Prevention of Access

Civil Authority / Ingress or Egress

The Insurance Company will pay for the reasonable and necessary contractor's extra expense, owner's extra expense and general conditions expense incurred by the insured, in excess of the total expense that would normally have been incurred during the same period of time had no loss or damage occurred, for the purpose of continuing the scheduled progress of undamaged work, but only to the extent such expenses are necessary to continue as nearly as practicable the normal operation of the work in progress.

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Coverage Summary

Civil Authority

When an order of civil authority restricts or prohibits access to the project site in response to direct physical loss or damage caused by a covered cause of loss to property not insured under this policy and located within 2-miles of the project site. Coverage begins 72-hours after the time of direct physical loss or damaged caused by a covered cause of loss.

Ingress or Egress Coverage

When ingress or egress to the project site by suppliers, contractors, or employees is physically obstructed due to direct physical loss or damage caused by a covered cause of loss to property not insured under this policy and located within 2-miles of the project site. Coverage begins 72-hours after the time of direct physical loss or damaged caused by a covered cause of loss.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
Master Builder's Risk Program
Coverage Summary

SELECTED GENERAL CONDITIONS

1. REQUIREMENTS IN CASE OF LOSS

In the event of loss or damage to Insured Property the Insured shall: A.

Notify the police if a law may have been broken

- B. Give Insurance Company prompt notice of the loss or damage. Include a description of the property involved.
- C. As soon as possible, give the Insurance Company a description of how, when and where the loss or damage occurred.
- D. Take all reasonable steps to protect the Covered Property from further damage. E. Not voluntarily make a payment, assume any obligation, or incur any expense without our consent.
- F. Permit the Insurance Company to inspect the property.
- G. Submit to examinations under oath about any matter relating to this insurance of the claim.
- H. Send the Insurance Company a signed, sworn proof of loss containing the information they request to settle the claim, within 60-days after the Insurance Company's request.
- I. Immediately send the Insurance Company copies of any demands, notices, summonses or legal papers received in connection with the claim or suit.
- J. Cooperate with the Insurance Company in the investigation or settlement of the claim.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
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Coverage Summary

2. VALUATION

1. Except as provided in paragraphs 2., 3., and 4., below, the cost to repair, rebuild or replace covered property by the Insured as the time of direct physical loss or damage will be based on the following:

- A. Direct payroll cost for labor directly chargeable and related to the repair, rebuild or replacement of the damaged covered property;
- B. Contractors' profit, overhead charges and construction management fees as included in the original contract, or in any subsequent change order contract, as applicable;
- C. Expenses for the dismantling, transportation and reassembly of damaged covered property;
- D. General conditions expense; and
- E. Property under construction at the Insured's cost.

For a green building, the valuation will include applicable green standards in force at the time of loss or damage in the cost to repair, rebuild or replace the lost or damaged green building. If applicable green standards, or equivalent standards, are not available, this policy will replace the lost or damaged green building with construction materials and equipment of like kind and quality.

2. Property under construction owned by others at the lesser of the following:

- a. The cost to repair, rebuild or replace property under construction at the time of direct physical loss or damage with materials of like kind and quality; or
- b. The amount the Insured is legally obligated to pay for direct physical loss or damage by reason of the Insured's assumption of liability for such loss or damage in written agreement executed prior to the loss or damage of that property.

3. Property under construction owned by the Insured that was refurbished, reconditioned or recertified, at the lesser of the cost to repair or replace the property under construction or the price which that property might be expected to realize if offered for sale in a fair market on the date of loss or damage.

4. Landscaping materials at the cost to repair or replace landscaping materials at the time of direct physical loss or damage with readily available commercial nursery stock.

5. Office contents, other than the contents of construction trailers, at a temporary offsite location, at the cost to repair or replace the covered property at the time of direct physical loss or damage with similar property intended to perform the same function. Office contents not replaced will be valued at actual cash value, at the time and place of loss or damage.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
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Insurance provided for office contents while at a temporary offsite location, is excess over any other valid and collectible insurance available to the owner of such property.

6. Property in transit at the invoice cost of the lost or damaged property plus accrued shipping charges less shipper's liability, if any.

3. INCREASED HAZARD

If the circumstances in which this insurance was entered into are altered, or if the risk materially increases, the Insured shall give notice in writing to the Insurance Company within thirty (30) days of the Insured's knowledge of the same.

4. OTHER INSURANCE

1. This insurance is primary, except when paragraphs 2., 3., or 4, below apply.
2. This insurance is excess over any underlying insurance, including any insurance that you purchased for all or any part of a Deductible in this Policy. The existence of underlying insurance shall not prejudice the Insured's rights under this Policy. The Deductible and any amount paid under such underlying insurance will apply to the applicable Deductible under this policy.
3. To the extent others are responsible for loss of or damage to covered property while in transit under terms Free on Board, this insurance will be excess insurance and will not contribute with such other insurance.
4. If there is other insurance, whether purchased by the Insured or others, subject to the same plan, terms, conditions and provisions as the insurance provided under this Policy, the Company will pay their share of the covered loss or damage. The company share is the proportion that the applicable Limit of Liability or Sub-Limit of Liability under this Policy bears to the sum of all the Limits of Liability or Sub-Limits of Liability covering on the same basis.

Insured can purchase excess insurance commencing on or after the inception of this Policy that is specifically excess over the Limit of Liability or Sub-Limits of Liability under this policy without prejudice to this Policy. The existence of such insurance shall not reduce any liability under this policy.

5. PERMISSION TO OCCUPY IS GRANTED

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
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SELECTED DEFINITIONS

The following terms have been defined in the policy – the policy definitions will be applied in the event of a loss.

1. FLOOD:

Flood means:

- (1) Surface waters; rising waters; storm surge; wave wash; waves; tsunami; tide or tidal water; the release of water, the rising, overflowing or breaking of boundaries of natural or man-made bodies of water; or the spray therefrom; all whether driven by wind or not;
- (2) Water or other material that backs up or overflows from any sewer, septic tank, sump or drain resulting *from any of the foregoing*; or
- (3) Mudslide or mudflow caused by or resulting from surface water, runoff or accumulation of water on or under the ground;

Regardless of any other cause or event, whether natural or man-made, contributing concurrently or in any other sequence of loss.

Loss or damage from flood associated with a storm or weather disturbance whether or not identified by name by any meteorological authority is considered to be flood within the terms of this Policy. However, physical loss or damage, from fire, explosion, theft or sprinkler leakage caused by flood will not be considered to be loss by flood within the terms and conditions of this Policy.

2. POLLUTANTS:

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to, lead, asbestos, PCB's, petroleum products, silica, smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

3. EARTH MOVEMENT:

- a. Earth movement means earthquake, landslide, subsidence or earth sinking (other than sinkhole collapse), rising or shifting of the earth, avalanche, whether natural or man-made, or volcanic eruption; regardless of any other cause or event contributing concurrently or in any other sequence of loss.

However, physical loss or damage, from fire, explosion, theft, sprinkler leakage, or flood caused by earth movement will not be considered to be loss by earth movement within the terms and conditions of this Policy.

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4. OCCURRENCE:

Means all loss or damage attributable directly or indirectly to one (1) cause or series of similar causes. All such loss or damage will be added together and the total loss or damage will be treated as one (1) occurrence.

Unless otherwise amended by an endorsement attached to this Policy:

- a. All loss or damage resulting from a continuous flood event, irrespective of the amount of time or area over which such loss or damage occurs, will be considered a single occurrence.

All loss or damage from earth movement or named storm within the time period specified in the Occurrence Time Specifications shown on the Declarations will be considered a single occurrence. The first Named Insured may elect the point in time when the time period specified in the Occurrence Time Specifications begins.

An occurrence that commences during the Policy term will not be limited by the expiration of this Policy.

5. WATER DAMAGE:

All water damage excluding flood, however caused, whether by natural event or manmade, including but not limited to interior water damage, damage due to water from pipe breakage or sprinkler leakage, damage from rainfall and/or resulting runoff; all whether wind driven or not.

6. TESTING:

COLD TESTING - means testing, exclusive of Hot Testing as defined in this Policy, including but not limited to electrical, mechanical, hydraulic, hydrostatic and pneumatic testing and includes the testing of systems and equipment that are intended to service a building, such as boilers, chillers, pumps and similar equipment.

HOT TESTING – means the testing of machinery or equipment that will be used in manufacturing, processing or power generation operations, when such machinery or equipment involves the use of feedstock, fuel, catalysts or similar materials, for the purpose of simulating load, operating or production conditions to train personnel or to verify the machinery or equipment functions according to the design specifications. Hot testing does not mean electrical, mechanical, hydraulic, hydrostatic or pneumatic testing, including the startup and testing of systems and equipment that are intended to service a building, including boilers, chillers, pumps, and similar equipment.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
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Coverage Summary

Excluded Projects

Examples of projects that may require separate underwriting, including (but not limited to):

<ul style="list-style-type: none">• Wood Frame, Heavy Timber, CLT construction where the values are estimated to exceed \$5M by project completion date
<ul style="list-style-type: none">• Joisted Masonry construction where values are estimated to exceed \$15M by project completion date
<ul style="list-style-type: none">• Any Fire Resistive; Non-Combustible; or Masonry Non-Combustible construction where the values are estimated to exceed \$100M by project completion date
<ul style="list-style-type: none">• Stand alone power generation, Utility plants, Co-Generation facilities, Waste water and Waste treatment facilities, etc. not contracted as part of a larger building project
<ul style="list-style-type: none">• Stadiums
<ul style="list-style-type: none">• Bridges
<ul style="list-style-type: none">• Cleanroom construction (both new and renovation) of any size
<ul style="list-style-type: none">• Directional drilling
<ul style="list-style-type: none">• Gas turbines
<ul style="list-style-type: none">• Any project involving prototypical design or the use of unproven technology
<ul style="list-style-type: none">• Any project with hot-testing where the values are estimated to exceed \$100M by project completion date
<ul style="list-style-type: none">• Projects with any other Construction Type, beyond Fire Resistive; Non-Combustible; Masonry Non- Combustible; Joisted Masonry; or Wood Frame, that are constructed of non-combustible materials or fire- resistive materials having a fire resistant rating of less than two hours

EXHIBIT 14
CONFIRMATION OF CERTIFICATION

For the Contractor and each Sub-contractor indicated on the Report of Subcontractor Information (Exhibit 14), the following must be completed.

Indicate all Business category(ies) that apply by checking the box next to the applicable category(ies), providing the Certification Agency and Certification Number along with attached proof of certification. If none apply, please sign without checking any of the boxes.

<input type="checkbox"/> Small Business Enterprise (SBE) - an independently owned and operated concern certified as a small business by the California Department of General Services Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) or other accepted certifying agency as listed here. https://ucop.edu/sbe-dvbe-certifications Certifying Agency: _____ Certification Number: _____ (Attach documentation of certification to this form)
<input type="checkbox"/> Disabled Veteran Business Enterprise (DVBE) - an independently owned and operated concern certified as a DVBE by the State of California Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) or other accepted certifying agency as listed here. https://ucop.edu/sbe-dvbe-certifications Certification Type: _____ Certification Number: _____ (Attach documentation of certification to this form)

The below information is being collected post-award for statistical purposes only. Please check all Business category(ies) that apply:

<input type="checkbox"/> Disadvantaged Business Enterprise (DBE) - a business concern that is at least 51% owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free private enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. Business owners who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans) are to be considered socially and economically disadvantaged.
<input type="checkbox"/> Women-Owned Business Enterprise (WBE) - a business concern that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

I hereby certify under penalty of perjury under the laws of the State of California that I have read this certification and know the contents thereof, and that the business category indicated above reflects the true and correct status of the business. I understand that falsely certifying the status of this business, may result in suspension from participation in University of California business contracts for a period up to five (5) years and the imposition of any civil penalties allowed by law.

INFORMATION FURNISHED BY:

(Print or Type Name of Owner and/or Principal)

(Name of Business or Firm)

a

(Insert type of business e.g. corporation, sole proprietorship, partnership, etc.)

By:

(Print Name)

(Title)

(Signature)

(Date)

Project No.:

REPORT OF SUBCONTRACTOR INFORMATION

Sheet No. 1 of 1

Provide the following information for each contracting party including the Contractor and each Subcontractor regardless of tier.* Attach additional sheets if necessary.

1	2A	2B	3	4	5	6	7		8				
Full Name of Business	Portion of the Work	Dollar Amt	Street Address City, State & ZIP	Tel No / FAX No	Contact Name	Type of Owner- ship	License Info**		Business categories* (Check <u>all</u> categories that apply)				
							License Classification**	License No.**	SBE*	DBE*	WBE*	DVBE*	N/A
(GC)													
(Sub 1)													
(Sub 2)													
(Sub 3)													
				Column 6 – Type of Ownership				Column 8 - Business Categories					
				SP = Sole Proprietorship P = Partnership C = Corporation JV = Joint Venture O = Other				SBE = Small Business Enterprise DBE = Disadvantaged Business Enterprise WBE = Woman Business Enterprise DVBE = Disabled Veteran Business Enterprise					

* Regardless of tier, a completed Self-Certification must be submitted for the General Contractor and each Subcontractor shown on this Exhibit.

** List only those License Classification and Numbers relevant to this project.

1 1

Sheet No. _____ of _____

Provide the following information for each contracting party including the Contractor and each Subcontractor regardless of tier.* Attach additional sheets if necessary.

[illegible]

*Regardless of tier, a completed Self-Certification must have been submitted for the General Contractor and each Subcontractor shown on this Exhibit.

****Refer to the Report of Subcontractor Information for license and other information.**

APPLICATION FOR PAYMENT

Number: _____ Period to: _____

TO UNIVERSITY: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, UC Davis Health
AND UNIVERSITY'S REPRESENTATIVE:

FROM CONTRACTOR:

ADDRESS	_____
PROJECT NAME	_____
JOB ORDER NUMBER	_____
FACILITY	UC Davis Health
JOB ORDER AUTHORIZATION DATE	_____
APPLICATION DATE	_____

SUPPLEMENTAL JOB ORDER SUMMARY:AdditionsDeductions

Supplemental Job Orders approved in previous months: Total: _____

Supplemental Job Orders approved this month:

Number: _____ Date Approved: _____

_____	_____
_____	_____
_____	_____

Total: _____

NET CHANGE BY SUPPLEMENTAL JOB ORDERS: _____

Application is made for payment under the Contract as shown below and in Schedule 1 attached hereto:

1. ORIGINAL JOB ORDER SUM	\$ _____	
2. NET CHANGE BY SUPPLEMENTAL JOB ORDERS	\$ _____	
3. Job Order SUM TO DATE (Line 1 ± Line 2)	\$ _____	
4. TOTAL AMOUNT COMPLETED TO DATE (Column E on Schedule 1)	\$ _____	
5. RETENTION: 5% of Completed Work (Column H on Schedule 1)*	\$ _____	
a. Current Value of Securities Deposited in Escrow	\$ _____	
b. Current Value of Retention Deposited in Escrow	\$ _____	
c. Retention Held by University	\$ _____	
Current Retention Value (a + b + c)	\$ _____	
6. TOTAL EARNED LESS RETENTION (Line 4 less Line 5)		\$ _____
7. TOTAL AMOUNT PREVIOUSLY PAID	\$ _____	
8. CURRENT PAYMENT DUE (Line 6 less Line 7)		\$ _____
9. BALANCE TO FINISH, PLUS RETENTION (Line 3 less Line 6)		\$ _____

*Pursuant to Article 9.2.2 of the General Conditions.

The undersigned Contractor hereby represents and warrants to University that all Work, for which Certificates For Payment have previously been issued and payment received from University, is free and clear of all claims, stop notices, security interests, and encumbrances in favor of Contractor, any Subcontractor, and any other persons or firms entitled to make claims by reason of having provided labor, materials, or equipment related to the Work.

The following Schedules are attached and incorporated herein, and made a part of this Application For Payment:

- Schedule 1 Cost Breakdown Schedule
- Schedule 2 List of Subcontractors
- Schedule 3 Declaration of Releases of Claims

(Contractor)

By: _____
(Name)

(Title)

DECLARATION

I, _____, hereby declare that I am the

_____ of Contractor submitting this Application For Payment; that I am duly authorized to execute and deliver this Application For Payment on behalf of Contractor; and that all information set forth in this Application For Payment and all Schedules attached hereto are true, accurate, and complete as of its date.

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was subscribed at

_____, _____, State of _____

on _____, 20__.

(Signature)

(Print Name)

PROJECT NAME: _____
JOB ORDER NUMBER: _____
FACILITY: UC Davis Health
NTP DATE: _____

APPLICATION NUMBER: _____
APPLICATION DATE: _____
PERIOD TO: _____
CONTRACTOR: _____

SCHEDULE 1
TO
APPLICATION FOR PAYMENT
COST BREAKDOWN BASED ON PROPOSAL SUMMARY CSI SECTIONS

A	B	C	D	E	F	G	H
ITEM/ DIVISION NO.	DESCRIPTION OF WORK ACTIVITY	SCHEDULED VALUE	% COMPLETE TO DATE	TOTAL AMOUNT COMPLETED TO DATE (C x D)	TOTAL AMOUNT COMPLETED ON PRIOR APPLICATION FOR PAYMENT	AMOUNT OF THIS APPLICATION (E - F)	RETENTION (5% x E)

PROJECT NAME: _____

CONTRACTOR: _____

JOB ORDER NUMBER: _____

APPLICATION NUMBER: _____

SCHEDULE 2
TO
APPLICATION FOR PAYMENT

LIST OF SUBCONTRACTORS

Subcontractors listed below are all Subcontractors furnishing labor, services, or materials for the period referred to in the Application For Payment referenced above, of which this Schedule 3 is a part:

Name of Subcontractor	Subcontracted Work Activity	Date Work Activity Completed

(Contractor)

By: _____
(Name)

(Title)

Date: _____

PROJECT NAME: _____

CONTRACTOR: _____

JOB ORDER NUMBER: _____

APPLICATION NUMBER: _____

SCHEDULE 3
TO
APPLICATION FOR PAYMENT

DECLARATION OF RELEASE OF CLAIMS

Contractor hereby certifies that attached hereto are releases and waivers of claims and stop notices from all Subcontractors furnishing labor, services, or materials covered by the Certificate For Payment dated _____, 20____, except those listed below:

(Contractor)

By: _____
(Name)

(Title)

Date: _____

GENERAL CONTRACTOR CLAIM CERTIFICATION

Pursuant to Article 4.6.3 of the General Conditions, I certify as follows:

1. The Claim to which this certification is attached is made in good faith.
2. Amounts claimed for costs, expenses and damages incurred by Contractor are accurate and complete. Supporting data for amounts incurred by Contractor is accurate and complete. Any such supporting data, including any such new amounts, submitted after the execution of this certification, will be accurate and complete.
3. To the best of my knowledge and belief, amounts claimed, and supporting data submitted by Contractor on behalf of any and all subcontractors or suppliers, of all tiers, or any person or entity under Contractor, are accurate and complete. Contractor will not submit, after the date of execution of this certification, any such supporting data, including any such new amounts that to the best of my knowledge and belief, is not accurate and complete.
4. The amount requested accurately reflects the adjustment of the Job Order Sum for which the Contractor believes the University is liable.
5. Attached hereto is a certification that has been executed by each Subcontractor claiming not less than 5% of the total monetary amount sought by the claim to which this certification is attached.
6. I am duly authorized to certify the Claim on behalf of the Contractor.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed at:

_____ (Name of City if within a City, otherwise Name of County), in the

State of _____, on _____.
(State) (Date)

(Signature)

(Print Name)

(Name of Contractor)

SUBCONTRACTOR CLAIM CERTIFICATION

Pursuant to Article 4.6.3 of the General Conditions, I certify as follows:

1. The portion of the Claim made on behalf of the Subcontractor to which this certification is attached is made in good faith.
2. Amounts claimed for costs, expenses and damages incurred by the Subcontractor are accurate and complete. Supporting data for amounts incurred by the Subcontractor is accurate and complete. Any such supporting data, including any such new amounts, submitted to Contractor after the execution of this certification, will be accurate and complete.
3. To the best of my knowledge and belief, amounts claimed, and supporting data submitted to Contractor by the Subcontractor on behalf of any and all subcontractors or suppliers to Subcontractor, of all tiers, or any person or entity under Subcontractor, are accurate and complete. Subcontractor will not submit, after the date of execution of this certification, any such supporting data, including any such new amounts that to the best of my knowledge and belief, is not accurate and complete.
4. The amount requested accurately reflects the amount for which the Subcontractor believes the University is liable to Contractor.
5. I am duly authorized to certify the Claim on behalf of the Subcontractor.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed at:

_____ (Name of City if within a City, otherwise Name of County), in the

State of _____, on _____.
(State) (Date)

(Signature)

(Print Name)

(Name of Subcontractor)

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

NOTICE:

THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Owner: _____

Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: _____

Amount of Check: \$ _____

Check Payable to: _____

Exceptions

This document does not affect any of the following: Disputed claims for extras in the amount of:

\$ _____

Signature

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____

UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Identifying Information

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Owner: _____

Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for all labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has been paid in full.

Exceptions

This document does not affect the following: Disputed claims for extras in the amount of:
\$ _____

Signature

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____

INSPECTION ACCEPTANCE

JOC PROJECT NAME: _____

JOC PROJECT NUMBER: _____ Date: _____

JOB ORDER PROJECT NAME: _____

JOB ORDER PROJECT NUMBER: _____ ORDER NUMBER: _____

CONTRACTOR NAME: _____

THE ABOVE JOB ORDER WAS INSPECTED AND ACCEPTED AS OF THE ABOVE DATE, WHICH IS THE DATE OF FINAL COMPLETION OF THIS JOB ORDER ONLY. NO OUTSTANDING WORK REMAINS TO BE PERFORMED. ALL REQUIRED SUBMITTALS HAVE BEEN RECEIVED. ALL TRAINING HAS BEEN PERFORMED PURSUANT TO THE CONTRACT AGREEMENT.

The following Change Orders for time and/or money ONLY remain unexecuted:

*****WARNING*****

RECEIPT OF THIS EXECUTED DOCUMENT TERMINATES THE ABOVE-REFERENCED JOB ORDER.

Date: _____

EXECUTIVE ARCHITECT/ENGINEER

Date: _____

GENERAL INSPECTOR

Date: _____

CONSTRUCTION MANAGER

Date: _____

PROJECT MANAGER

Recording Requested by:
Facilities Design and Construction

When Recorded Mail To:
Facilities Design and Construction
University of California, Davis Medical Center
4800 2nd Avenue, Suite 3010
Sacramento, CA 95817

**NOTICE OF COMPLETION,
UNIVERSITY OWNS LAND AND IMPROVEMENTS**

NOTICE IS HEREBY GIVEN that on **MM/DD/YYYY**, the Work on the:

Project No. Project # – Project Title, Project Subtitle

Project was completed. The name of the owner is THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, hereinafter referred to as "The Regents." The address of the Regents is University of California, Office of the President, 1111 Franklin Street, 6th Floor, Oakland, California 94607. The Regents is the owner in fee simple of the real property known as the University of California, Davis, Medical Center, 2315 Stockton Boulevard, Sacramento, California 95817, and of all the improvements and buildings thereon including the above-mentioned Project. The name of the original Contractor is:

**Company Name.
Address
City, State and Zip Code**

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By: _____

I, _____, say that I am the Director, Facilities Design and Construction department of the UC Davis Health campus of the University of California, and as such, make this verification on behalf of The Regents, a corporation; and that I have read the above Notice of Completion and know the contents thereof and that the facts stated therein are true. I declare under penalty of perjury that the foregoing is true and correct. Executed on _____, at Sacramento, California.

(Signature)

SaaS Terms of Use

These SaaS Terms of Use ("SaaS Terms"), along with any applicable Additional Terms (as defined below) (collectively the "Terms") apply to Customer access to, and use of the Subscriptions provided by The Gordian Group, Inc. and its subsidiaries and affiliates (collectively, "Gordian", "we" or "us").

1. Definitions.

- 1.1 **"Access Credentials"** means any information necessary for a Customer to login to or otherwise access and use the Subscriptions, including, but not limited to, user name and password.
- 1.2 **"Additional Terms"** means terms in addition to the SaaS Terms applicable to specific products as set forth in Section 2 below.
- 1.3 **"Authorized User"** means employees, agents, consultants, or contractors of Customer that have agreed to the Terms and shall use the Subscription solely for the benefit of Customer. Notwithstanding the foregoing, agents, consultants and contractors of Customer shall only be considered Authorized users if authorized in writing in advance by Gordian to use the Subscriptions subject to the Terms
- 1.4 **"Confidential Information"** includes, but is not limited to, the terms and conditions (but not the existence) of the Terms, all trade secrets, software, source code, object code, specifications, documentation, business plans, customer lists and customer-related information, financial information, proposals, budgets as well as results of testing and benchmarking of the Software, SaaS Subscription, Data Subscription, or other services, product roadmap, data, data analytics, and other information of Gordian and its licensors relating to or embodied in the Software, Data, or Documentation.
- 1.5 **"Content"** means all materials used and accessed by Customer through the Subscriptions, including, without limitation, text, images, software, audio and video clips, databases, dashboards, and Data.
- 1.6 **"Customer"** means those entities (including its Authorized Users) or individuals who have purchased Subscriptions in accordance with the Terms.
- 1.7 **"Customer Data"** means data that Customer (including its Authorized Users) provides, uploads, generates, transfers, or otherwise makes available to Gordian under the Terms.
- 1.8 **"Data"** means all data, including construction cost data, regardless of product purchased by Customer, available through the Subscriptions or otherwise provided by Gordian or its Partners to Customer.
- 1.9 **"Data Subscription"** means the provision of the Data, hosted by Gordian or its Partners and accessed by Customer via the internet as set forth in an applicable Order Document.
- 1.10 **"Devices"** means one or more sensors, Internet of Things (IoT) devices, or other data gathering equipment installed or located on Customer's premises.
- 1.11 **"Documentation"** means user manuals, technical manuals, and any other materials provided by Gordian, in printed, electronic, or other form, that describe the installation, operation, use, or technical specifications of the Software or Subscriptions.
- 1.12 **"Effective Date"** means the date for commencement of the Subscriptions as set forth in an applicable Order Document. If no commencement date is set forth in the Order Document or no Order Document exists, the commencement date shall be deemed to be the date Gordian provides the Customer with an account to access and use the Subscriptions.

- 1.13 **"Exported Copy"** means an exported copy of Customer Data provided to Customer by Gordian.
- 1.14 **"Federal Customer"** means any United States federal government branch or agency Customer of Gordian subject to the Terms, including agencies and departments from the Executive Branch, the Congress, or the military.
- 1.15 **"Initial Term"** means the period commencing on the Effective Date and continuing through the duration set forth in an applicable Order Document. In the event the Order Document does not specify a subscription duration or no Order Document exists, the duration shall be a one-year annual subscription from the Effective Date.
- 1.16 **"Intellectual Property"** includes, without limitation, Data, inventions, technology, patent rights (including patent applications and disclosures), copyrights, trade secrets, trademarks, service marks, trade dress, methodologies, procedures, processes, know-how, tools, utilities, techniques, various concepts, ideas, methods, models, templates, Software, source code, object code, algorithms, analytics, the generalized features of the structure, sequence and organization of Software, user interfaces and screen designs, dashboards, general purpose consulting and software tools, utilities and routines, logic, coherence and methods of operation of systems, and training methodology and materials.
- 1.17 **"Named User"** means a single individual designated by Customer and approved by Gordian as an Authorized User of the Subscriptions on a non-temporary basis.
- 1.18 **"Order Document"** means a document or set of documents executed by the parties which describes order-specific information. An Order Document may not be specifically called an Order Document; it can be referred to by another name, such as a purchase order or statement of work. Any Subscriptions provided via an Order Document are subject to the Terms.
- 1.19 **"Partner"** is a Third Party vendor under an agreement with Gordian to provide services in support of the Subscriptions, as well as any other obligations under the Terms.
- 1.20 **"Person"** means an individual, corporation, partnership, joint venture, limited liability company, governmental authority.
- 1.21 **"Public Sector Customer"** means any Federal Customer or other United States state or local government, or any entity, authority, agency or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government, who purchases the Subscriptions from Gordian.
- 1.22 **"Renewal Term"** means the period commencing on the renewal date of the Subscriptions and continuing for the duration of the Subscriptions set forth in an applicable Order Document. In the event the Order Document does not specify a subscription duration or no Order Document exists, the subscription duration shall be a one-year annual subscription from the expiration of the Initial Term or prior Term.
- 1.23 **"Resultant Data"** means aggregated and anonymized data and information, including Customer Data and Usage Data, relating to Client's use of the Subscriptions.
- 1.24 **"SaaS Subscription"** means the provision of the Software, hosted by Gordian or its Partners and accessed by Customer via the internet, as a service and as set forth in an applicable Order Document.
- 1.25 **"Software"** means Gordian's proprietary software programs, including any Data incorporated therein.
- 1.26 **"Subscription Data"** means any construction cost data or other Data available through the Subscriptions or otherwise provided by Gordian to Customer.

- 1.27 **"Subscription Fees"** means the fees, including all taxes, paid or required to be paid by Customer for access to and use of the Subscriptions and the license granted under the Terms.
- 1.28 **"Subscriptions"** mean collectively the SaaS Subscription and the Data Subscription.
- 1.29 **"Term"** means collectively the Initial Term and Renewal Terms.
- 1.30 **"Third Party"** means any Person other than Customer or Gordian.
- 1.31 **"Usage Data"** means data regarding Customer's use of the Subscriptions.

2. GENERAL.

- 2.1 **Additional Terms.** Subscriptions for specific products shall be subject to the applicable Additional Terms listed below. The Additional Terms supplement the SaaS Terms. The Additional Terms shall control in the event of a conflict with the SaaS Terms.
 - (A) Addendum 1 –Additional Terms for Estimating Software
 - (B) Addendum 2 –Additional Terms for Procurement Software
 - (C) Addendum 3 –Additional Terms for Planning Software
 - (D) Addendum 4 – Additional Terms for Business Intelligence
- 2.2 **Order of Precedence.** The only terms from any Order Document applicable to the Terms are: (i) quantity; (ii) price; (iii) use limitations; (iv) renewal terms; and (v) payment terms. Any other terms contained in any Order Document are not applicable and the Terms shall control without regard to any order of precedence language in any Order Document. In the event of a conflict between the Terms and any other written agreement other than an Order Document, the Terms shall prevail unless such other agreement explicitly states that it supersedes the Terms and is executed by both parties in writing.
- 2.3 **Updates to Terms.** Gordian reserves the right, in its sole discretion, to change or modify these SaaS Terms and any Additional Terms at any time. All changes are effective immediately when posted and apply to all access and use of the Subscriptions thereafter. We encourage Customer to frequently review the Terms to ensure that its use of the Subscriptions complies with the Terms. If Customer does not agree to any modified, changed, or amended Terms, it must stop using the Subscriptions immediately.

3. ELIGIBILITY, REGISTRATION AND ACCOUNT.

- 3.1 **Eligibility.** By using the Subscriptions, Customer represents and warrants that he or she is (a) 18 years of age or older; (b) has not been previously suspended or removed from the Subscriptions; and (c) has full power and authority to enter into the Terms and that, in doing so, Customer will not violate any other agreement to which it is a party. If Customer is using the Subscriptions on behalf of any entity, Customer represents and warrants that Customer is authorized to accept the Terms on such entity's behalf and that such entity agrees to be responsible to Gordian. if Customer violates the Terms. Customer represents, warrants and covenants to Gordian that Customer and its Authorized Users who access and use the Subscriptions are not employees or independent contractors of competitors of Gordian or of any company that delivers similar type data.
- 3.2 **Account Registration.** To access and use certain areas or features of the Subscriptions, Customer may be required to register for an online account. Customer agrees to provide accurate, current, and complete account information and maintain and promptly update Customer account information. Customer also represents, warrants, and covenants that it has entered the Terms under its true name and is not, directly or indirectly, impersonating any real or fictitious person or entity or otherwise acting

to withhold Customer's actual identity. When registering for an account, Customer cannot create an account name that incorporates a trademark without authorization from the trademark owner. Gordian reserves the right to reclaim account names, or to take other reasonable action as necessary, on behalf of any business or individual that holds legal claim, including trademark rights, in a name.

- 3.3 **Communication Authorization.** By using the Subscriptions, you authorize Gordian to contact you by mail, email, landline and mobile phone. These communications may include information about services and features of the Subscriptions, notices about applicable fees and charges, transactional information and other information concerning or related to the Subscriptions.
- 3.4 **Password Security.** Customer is also responsible for maintaining the security of Customer's password and accepts all risks of unauthorized access to Customer's account and the information Customer provides to Gordian.
- 3.5 **Compliance.** Upon request by Gordian, Customer will conduct a review of its Authorized Users access and use of the Subscriptions and certify to Gordian in a written instrument signed by an officer of Customer that it is in full compliance with the Terms or, if Customer discovers any noncompliance:
 - (A) Customer must immediately remedy such noncompliance and provide Gordian with written notice thereof. Customer must provide Gordian with all access and assistance as Gordian requests to further evaluate and remedy such noncompliance.
 - (B) If Customer's use of the Subscriptions exceeds the number of Authorized Users permitted under the Terms, Gordian will have the remedies set forth Sections 3.7 and 3.8.
- 3.6 **Audit.** During the Term, Gordian may, in Gordian's sole discretion, audit Customer's use of the Subscriptions to ensure Customer's compliance with the Terms.
- 3.7 **Remedies.** If the audit or any of the measures taken or implemented under this Section determines that the Customer's access to or use of the Subscriptions violate the Terms then:
 - (A) Customer will, within seven days following the date of Gordian's written notification thereof, pay to Gordian any retroactive fees for such non-permitted access or use. Unless Gordian terminates the Terms, Customer shall also obtain and pay for valid Subscriptions to bring Customer's use into compliance with the Terms.
 - (B) If Customer's access to or use of the Subscriptions violates the Terms, Customer shall also pay to Gordian, within seven days following the date of Gordian's written request, Gordian's reasonable costs incurred in conducting any audits pursuant to this Section.
- 3.8 **Cumulative Remedies.** Gordian's remedies set forth in this Section are cumulative and are in addition to, and not instead of, all other remedies Gordian may have at law or in equity.

4. USAGE RIGHTS AND RESTRICTIONS.

- 4.1 **Subscriptions Limits.** Customer's usage of the Subscriptions shall not exceed any limitations on the number of Named Users or any other usage limitation metrics (e.g., square footage, number of locations, or number of reports) specified in an Order Document or other written agreement. If an Order Document or other written agreement specifies limitations on the number of users, subscribers, licensees, or licenses, such limitation shall be interpreted to mean the number Named Users unless concurrent use is explicitly allowed in writing.
- 4.2 **Usage Rights.** Gordian grants Customer, during the Term, a limited non-exclusive, non-assignable, non-transferable, non-sublicensable, royalty free and revokable, in the country where Customer is located,

right to access and use (and permit Authorized Users to access and use) the applicable SaaS Subscription and/or Data Subscription solely for Customer's internal business purposes subject to the restrictions set forth in this Section, unless otherwise explicitly authorized by Additional Terms or by written authorization from Gordian.

4.3 **Restrictions.** Customer shall not, and shall not permit any other Person to, access or use the Subscriptions except as expressly permitted by the Terms. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as the Terms expressly permit:

- (A) copy, modify, translate, adapt or otherwise create derivative works or improvements of the Subscriptions or any form of any Data;
- (B) combine the Subscriptions or any part thereof with, or incorporate the Subscriptions or any part thereof in, any other programs;
- (C) merge the Data with any other software or SaaS program or extract such Data other than expressly allowed by the Terms.
- (D) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Subscriptions or any Data, dashboards, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service
- (E) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Subscriptions, in whole or in part;
- (F) bypass or breach any security device or protection used by the Subscriptions or access or use the Subscriptions, other than by an Authorized User using his or her own then valid Access Credentials.
- (G) damage, destroy, disrupt, disable, impair, circumvent, interfere with, or otherwise impede or harm in any manner the Subscriptions, any systems used to provide the Subscriptions, or Gordian's provision of Subscriptions to any Third Party, in whole or in part;
- (H) remove, delete, alter, or obscure any trademarks, specifications, Documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Subscriptions, including any copy thereof;
- (I) access or use the Subscriptions in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property right or other right of any Third Party (including by any unauthorized access to, misappropriation, use, alteration, destruction, or disclosure of the data of any other customer), or that violates any applicable Law;
- (J) access or use the Subscriptions or any Data or dashboards for purposes of competitive analysis of the Subscriptions or any Data, the development, provision, or use of a competing software service or product or any other purpose that is to Gordian's detriment or commercial disadvantage.

5. **THIRD PARTY MATERIALS.** The Subscriptions may contain links and pointers to other sites on the internet which may be maintained by Third Parties. Such links do not include an endorsement by Gordian of any Third Party site or any material contained therein. Gordian does not control, and is not responsible for, the availability, accuracy, privacy policy, or currency of such Third Party sites or any information, content, products or services accessible from such Third Party sites.

6. **SUPPORT SERVICES.** The Subscriptions granted under the Terms entitles Customer to the support services set forth in the [Gordian Support Policy](#).

7. INTELLECTUAL PROPERTY RIGHTS.

- 7.1 **Ownership.** Except for rights expressly granted under the Terms, nothing in the Terms shall transfer any of either party's Intellectual Property rights to the other, and each party will retain an exclusive interest in and ownership of its Intellectual Property. Customer does not acquire any ownership interest in Gordian's Intellectual Property. Gordian's Intellectual Property includes, but is not limited to, any work that Gordian creates, acquires, or otherwise has rights in, including any works created pursuant to the Terms, except for any portion of such works that consist of Customer's Intellectual Property. Customer Data will be considered Customer's Intellectual Property. Gordian may, in connection with the provision of the Subscriptions hereunder, create, employ, provide, modify, acquire, or otherwise obtain rights in, and any and all Intellectual Property rights created in connection with the provision of the Subscriptions hereunder, recognized in any country or jurisdiction in the world, now or hereafter existing, whether or not perfected, filed, or recorded.
- 7.2 **Subscriptions and Content.** The Subscriptions and Content therein are owned or controlled by Gordian, which retains all right, title, and interest in and to such Subscriptions and Content. The Subscriptions and Content therein contain valuable and proprietary information of Gordian and others and are protected by the copyright and trademark laws of the United States and other countries, international conventions, and other applicable laws. Gordian reserves the right to make changes to the functionality of the SaaS Services at any time.
- 7.3 **Safeguards.** Customer must use commercially reasonable efforts to safeguard all Intellectual Property (including copies thereof) of Gordian from infringement, misappropriation, theft, misuse, or unauthorized access. Customer will promptly notify Gordian if Customer becomes aware of any infringement of Gordian's Intellectual Property rights in the Intellectual Property and fully cooperate with Gordian, at Gordian's sole expense, in any legal action taken by Gordian to enforce its Intellectual Property rights.
- 7.4 **Trademarks.** Customer agrees not to use any trademarks, service marks, names, logos, or other identifiers of Gordian, or their employees, licensors, independent contractors, and affiliates without prior written permission from Gordian. In addition, Customer may not use trademarks, service marks, names, logos, or other identifiers: (i) in, as, or as part of, Customer's trademarks or those of any Third Parties; (ii) to identify products or services that are not those of Gordian; (iii) in a manner likely to cause confusion; or (iv) in a manner that implies that Gordian sponsors or endorses or is otherwise connected with Customer's own activities, products and services or those of Third Parties.

8. **PAYMENT AND TAXES.** Unless otherwise agreed upon in writing, Customer shall pay all invoices within thirty (30) days of date of invoice, without any deduction or set-off, and payment will be sent as specified by Gordian. Subscription Fees shall be specified in the applicable Order Document and, unless stated otherwise, are denominated and payable in United States Dollars (USD). Gordian is not responsible for any payment conditions that are not expressly stated in the Terms or any applicable Order Document. Any undisputed amounts arising in relation to the Terms not paid when due will be subject to a late charge of (1.5%) per month on the unpaid balance or the maximum rate allowed by law, whichever is less. Without prejudice to Customer's rights set out elsewhere in the Terms, all Subscription Fees are non-refundable and payable in advance. In the event any Subscription Fees due and owing are 30 or more days overdue, Gordian may, after providing notice to Customer, and without limiting any of its other rights and remedies, suspend, terminate, or otherwise deny Customer access to or use of, all or any part of the Subscriptions, or condition future purchases on shorter payment terms. Customer acknowledges that, if it fails to provide a purchase order number when required for payment, or it delays payment by requesting payment conditions not set forth in the Terms or applicable Order Document, Gordian's right to pursue overdue charges will not be waived. Unless expressly provided otherwise in the Terms or any applicable Order Document, the Subscription Fees and charges covered by the Terms do not include applicable taxes. Customer agrees to pay any applicable

taxes arising out of the Terms, in its tax jurisdiction, other than those based on Gordian's net income. If Customer is tax-exempt, Customer agrees to provide Gordian a copy of its tax-exempt certificate prior to execution of an Order Document. Customer shall be responsible for any liability or expense incurred by Gordian because of Customer's failure or delay in paying taxes due.

9. TERM AND TERMINATION.

9.1 **Term.** Subscriptions commence on the Effective Date and will continue for the Initial Term. Unless otherwise set forth in the Order Document, following the end of the Initial Term or any applicable Renewal Term, Subscriptions shall automatically renew for a Renewal Term.

9.2 **Duties Upon Termination.** Upon termination or expiration of any Data Subscription, unless otherwise agreed in writing by Gordian, Customer shall cease use of and delete all Subscription Data in any form. Gordian reserves the right to require Customer to certify in a writing signed by an authorized officer of Customer that all Subscription Data has been destroyed and Customer has ceased use of all Subscription Data.

9.3 **Breach.** Gordian reserves the right to restrict, suspend or terminate Customer's use of and access to the Subscriptions in whole or in part, without notice, with respect to any breach or threatened breach by Customer of any portion of the Terms, such termination to be without prejudice to the right of Gordian to pursue any and all other remedies available to it in equity or at law. If Gordian terminates the Subscriptions based on a breach of any portion of the Terms, Gordian will not refund any amounts paid or cancel any amounts then payable by Customer and reserves the right to refuse to provide access to Subscriptions to Customer in the future.

10. **DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY PROVIDED TO THE CONTRARY IN A WRITING SIGNED BY GORDIAN, THE SUBSCRIPTIONS AND THE CONTENT AND DATA CONTAINED THEREIN ARE PROVIDED ON AN "AS IS" BASIS. GORDIAN EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, COMPATABILITY, SECURITY, ACCURACY, OR NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, GORDIAN MAKES NO WARRANTY OF ANY KIND THAT THE SUBSCRIPTIONS AND DATA AND CONTENT CONTAINED THEREIN, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, RELIABLE, CURRENT, FREE OF HARMFUL CODE OR VIRUSES, ERROR-FREE, OR THAT DEFECTS WILL BE CORRECTED. GORDIAN IS NOT LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR SYSTEMS, COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO CUSTOMER'S USE OF THE SUBSCRIPTIONS OR TO CUSTOMER'S DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

11. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL GORDIAN BE LIABLE FOR ANY, SPECIAL, INDIRECT, INCIDENTAL EXEMPLARY, PUNITIVE, TREBLE, CONSEQUENTIAL DAMAGES, OR ANY OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS, REVENUE, PROFITS, STAFF TIME, GOODWILL, USE, DATA, OR OTHER ECONOMIC ADVANTAGE, WHETHER OR NOT A PARTY HAS PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF OR INABILITY TO ACCESS OR USE THE SUBSCRIPTIONS OR THE DATA OR CONTENT CONTAINED IN OR ACCESSED THROUGH THE SUBSCRIPTIONS, INCLUDING WITHOUT LIMITATION ANY DAMAGES CAUSED BY OR RESULTING FROM RELIANCE BY ANY USER ON ANY INFORMATION OBTAINED FROM GORDIAN, OR THAT RESULTS FROM

MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR EMAIL, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT RESULTING FROM ACTS OF GOD, COMMUNICATIONS FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO GORDIAN'S RECORDS, PROGRAMS OR SERVICES. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF GORDIAN (INCLUDING ANY ATTORNEYS' FEES AWARDED UNDER THE TERMS), WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY OR OTHER THEORY, ARISING OUT OF OR RELATING TO THE ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SUBSCRIPTIONS OR TO THE TERMS EXCEED FEES PAID TO GORDIAN FOR THE PARTICULAR SUBSCRIPTIONS DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD.

12. CONFIDENTIALITY.

- 12.1 **General.** One party ("Disclosing Party") may expose or provide to the other party ("Receiving Party") Disclosing Party's confidential and proprietary information, including but not limited to information designated as confidential in writing, or information which the Receiving Party should know is confidential and proprietary. Placement of a copyright notice on any portion of the Subscriptions will not be construed to mean that such portion has been published and will not diminish any claim that such portion contains Gordian's Confidential Information. For the avoidance of doubt, Gordian's Intellectual Property is Confidential Information.
- 12.2 **Non-Disclosure.** The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized dissemination and will use the same degree of care that it uses to protect its own Confidential Information, but in no event less than a reasonable amount of care. Neither party will use Confidential Information of the other party for purposes other than those necessary to directly further the purposes of the Terms. Except as otherwise expressly permitted herein, the Receiving Party shall not disclose Disclosing Party's Confidential Information to any person or entity other than the Receiving Party's officers, or employees who (i) need access to such Confidential Information in order to effect the intent of the Terms, and (ii) have entered into written confidentiality agreements, or are bound by professional responsibility obligations, which protect the Disclosing Party's Confidential Information sufficient to enable the Receiving Party to comply with its obligations of confidentiality under the Terms.
- 12.3 **Exceptions.** Information shall not be considered Confidential Information to the extent, but only to the extent, that the Receiving Party can establish that such information (i) is or becomes generally known or available to the public through no fault of the Receiving Party; (ii) was in the Receiving Party's possession before receipt from the Disclosing Party; (iii) is lawfully obtained from a Third Party who is not under any confidentiality obligations and has the right to disclose; or (iv) has been independently developed by the Receiving Party without reference to Disclosing Party's Confidential Information.
- 12.4 **Compelled Disclosure.** Receiving Party may disclose Disclosing Party's Confidential Information if it is compelled by law to do so, provided that the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest or limit such disclosure.
- 12.5 **Other Permitted Disclosures.** Notwithstanding the foregoing confidentiality obligations, either party may provide a copy of the Terms to the following persons and/or entities, who are under obligations of confidentiality substantially similar to those set forth in the Terms: potential acquirers, merger partners, lenders, and investors and to their employees, agents, attorneys, investment bankers, lenders, financial advisors, and auditors in connection with the due diligence review of such party. A party may also provide a copy of the Terms to that party's outside accounting firm and legal advisors and in connection with any litigation or proceeding relating to the Terms.

13. INDEMNIFICATION.

- 13.1 **Indemnitor Obligations.** To the extent allowable by applicable law, Customer shall defend and indemnify Gordian and/or its affiliates, licensors and service providers, and their officers, directors, employees, contractors, agents, licensors, suppliers, successor and assigns against any third-party claims, actions, suits or proceedings, and all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising out of or related to any allegation that the Customer Data, or Customer's use of the Subscriptions in violation of the Terms, infringes the Intellectual Property rights of, or has otherwise harmed, a Third Party.
- 13.2 **Indemnitee Obligations.** Customer's obligations to defend and indemnify only apply provided Gordian: (i) gives prompt written notice of the claim to Customer; (ii) gives Customer sole control of the defense and settlement of the claim (provided that Customer may not settle any claim against Gordian unless it unconditionally releases Gordian of all liability); and (iii) provides Customer, at Customer's expense, with all reasonable information and assistance relating to the claim and reasonably cooperates with Customer and Customer's counsel.

14. CUSTOMER DATA.

- 14.1 **Ownership Rights.** Customer retains sole and exclusive ownership to any and all Customer Data.
- 14.2 **License Rights.** Customer grants Gordian a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use any Customer Data, provided such data has been aggregated and anonymized, submitted to the Subscriptions to analyze and report on such data and to use such data for commercial purposes.
- 14.3 **Termination.** Upon termination of the applicable Subscriptions, and no longer than 30 days following termination of the Subscriptions, Customer may request in writing an Exported Copy of its Data in our then standard format at our then standard fee. Provided Customer is not in breach of any of its obligations under the Terms, and upon Customer's written request and payment of the applicable fees, Gordian will provide such Exported Copy. For the avoidance of doubt, Customer will have full access to its Customer Data throughout the Term; the Exported Copy is applicable only when Customer requests that Gordian provide Customer Data in a certain format. Customer acknowledges and agrees that Gordian shall have no obligation to maintain Customer Data after 30 days from termination.
- 14.4 **Security.** Gordian shall have in place a commercially reasonable information security policy designed to provide administrative, technical, and physical security for all Customer Data and in accordance with all applicable laws.
- 14.5 **Customer Obligations.** Customer is responsible for its Customer Data, including its content and accuracy. Customer represents and warrants that it has made all disclosures, provided all notices, and has obtained all necessary rights, consents, and permissions necessary for Gordian to use Customer Data under the Terms without violating or infringing laws, third-party rights, or terms or policies that apply to the Customer Data.

15. USAGE DATA ACCESS AND RIGHTS.

- 15.1 **Collection and Ownership.** Customer acknowledges that Usage Data may be collected by Gordian, including Usage Data from Devices located on location(s) owned, occupied, or otherwise under control of Customer. Gordian shall own all right, title, and interest in the Usage Data.
- 15.2 **Use and Access.** Gordian shall have the right to use any Usage Data for any internal business purposes, including improving the Subscriptions. Gordian may not, either directly or indirectly, sell or share Usage Data with any Third Parties without the prior express written consent of Customer.

- 15.3 **Resultant Data.** Customer hereby agrees that Gordian may collect, use, publish, disseminate, sell, transfer, and otherwise exploit the Resultant Data. Resultant Data is primarily used by Gordian to compile statistical, performance information for creation and development of products, product improvements, product creation, and product marketing. Gordian is the sole owner of all right, title, and interest in and to Resultant Data and any conclusions, impressions, understandings, insights, process improvements, or other information derived, extracted, or otherwise obtained by Gordian from Resultant Data, and the Resultant Data shall be owned exclusively by Gordian with all rights thereto, which shall be deemed Gordian Intellectual Property.
16. **PRIVACY POLICY.** Our [Privacy Policy](#) explains how Gordian collects, uses, and discloses information about our users. By using our Software, Subscriptions and services, Customer agrees that Gordian can use such data in accordance with our Privacy Policy.
17. **COMMERCIAL COMPUTER SOFTWARE.** The Software and Data provided hereunder are commercial items, developed at private expense, as defined in FAR 2.101. If the Software and Data are provided to the United States Government for end use, the government's technical data and software rights related to the Software and Data shall include only those rights defined in the Terms. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, or Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation).
18. **MISCELLANEOUS.**
- 18.1 **Notices.** All Notices will be in writing and will be deemed to have been duly given: (a) when delivered by hand; (b) three (3) days after being sent by registered or certified mail, return receipt requested and postage prepaid; (c) one (1) day after deposit with a nationally recognized overnight delivery or express courier service; or (d) when provided via email when the sender has received a delivery/read receipt. Gordian shall provide Customer, at its sole discretion, notice via the email address or physical address (if provided) provided by Customer when registering Customer's online account. Notices for Gordian shall be sent both physically and electronically to the following addresses:
- For physical notices for U.S. Customers:**
- Gordian
Attn: Legal Department
30 Patewood Drive, Building 2, Suite 350
Greenville, SC 29615
- For physical notices for Canadian Customers:**
- Gordian
Attn: Legal Department
3700 Steels Ave. W., Suite 400
Vaughan, ON L4L 8K8
- For physical notices for UK Customers:**
- Gordian
Attn: Legal Department
52 Hurricane Way
Norwich Airport
Norwich NR6 6JB
- For all electronic notices:**
- legal@gordian.com

- 18.2 **Force Majeure.** Except for Customer's obligation to pay fees due, to the extent that a delay or failure to perform all or any part of the obligations set forth in the Terms, applicable Statement of Work, or applicable Order Document is caused, in whole or in part, by events, occurrences, or causes beyond the control and without any negligence on the part of the party seeking protection under this Section, neither party shall have the right to terminate the Terms or any Order Document, and neither party shall incur any liability to the other party on account of any loss, claim, damage, or liability resulting from such delay or failure to perform. Such force majeure events, occurrences, or causes shall include, without limitation, acts of God, acts of government, flood, fire, explosions, earthquakes, pandemics, civil unrest, acts of war, acts of terrorism, strikes, lockouts, riots or other labor problems, computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within the parties' possession or reasonable control, and denial of service attacks. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused, however, either party may terminate the Terms or an Order Document due to a force majeure event, occurrence, or cause as described in this section that extends beyond 90 days.
- 18.3 **Independent Contractor Status.** Gordian is an independent contractor, and neither Gordian nor its employees or subcontractors will, under any circumstances, be considered employees, servants or agents of Customer. Customer will not be legally responsible for any negligence or other wrongdoing by Gordian, its employees, servants or agents. Customer will not withhold from payments to Gordian any federal, state or unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Gordian or its employees, servants or agents. Furthermore, Customer will not provide to Gordian any insurance coverage or other benefits, including workers' compensation, normally provided by Customer for its employees.
- 18.4 **Compliance with Law.** Each party shall comply with all applicable federal, state, provincial and local laws and regulations in connection with the performance of its obligations and the exercise of its rights under the Terms.
- 18.5 **Governing Law and Jurisdiction.** All matters arising out of or relating to the Terms will be governed by and construed under the internal laws of the State of South Carolina without giving effect to any choice or conflict of law provision or rule. Any legal suit, action, or proceeding arising out of or relating to the Terms or the transactions contemplated hereby must be instituted in the federal courts of the United States of America or the courts of the State of South Carolina in each case located in the City of Greenville and County of Greenville, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such legal suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such party's address set forth in the Terms will be effective service of process for any suit, action, or other proceeding brought in any such court.
- (A) Notwithstanding the foregoing, if Customer is a Federal Customer, the Terms shall be governed by the laws of the United States, and venue and jurisdiction of any dispute will be determined by applicable federal statute. If federal laws of the United States are not dispositive, then to the extent permitted by federal law, the Terms will be governed by the laws of the State of South Carolina, excluding its conflict of law principles.
 - (B) Notwithstanding the foregoing, if Customer is a Public Sector Customer located within the United States, the Terms shall be governed by the laws of your state, excluding its conflict of laws principles.
 - (C) Notwithstanding the foregoing, if Customer is domiciled in Canada, the Terms shall be governed by the laws of Canada as applicable.
 - (D) Notwithstanding the foregoing, if Customer is domiciled in the United Kingdom, the Terms shall be governed by the laws of the United Kingdom as applicable.

- 18.6 **Waiver.** No waiver by either party of any of the provisions in the Terms will be effective unless explicitly set forth in writing. The failure of either party to exercise in any respect a right provided for in the Terms shall not be deemed to be a subsequent waiver of the same right, or any other right. The waiver by either party of any breach of any provision of the Terms shall not be deemed a waiver of any subsequent breach by the other party of the same or of different provisions.
- 18.7 **Severability.** If any term or provision of the Terms are invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of the Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.
- 18.8 **Assignment.** Customer may not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under the Terms, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without Gordian's prior written consent, which consent Gordian may give or withhold in its sole discretion. No delegation or other transfer will relieve Customer of any obligations or performance under the Terms. Any purported assignment, delegation, or transfer in violation of this Section is void. Gordian may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under the Terms without consent. The Terms are binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.
- 18.9 **Sole Benefit.** The Terms are for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, confers on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under the Terms.
- 18.10 **Modifications.** Gordian retains the right to modify the terms and conditions of the Terms at any time. Any modification is effective immediately upon posting on any website used to access the Subscriptions. Customer's continued use of the Subscriptions following posting will be conclusively deemed an acceptance of all such modification(s). Customer's rights with respect to any dissatisfaction with any modifications made pursuant to this Section is to terminate the Terms and comply with all applicable termination provisions of the Terms, including but not limited to, return of all Proprietary Information in its possession to Gordian and discontinuing access or use of the Subscriptions. In the event of such termination, Gordian will not refund any amounts paid or due.
- 18.11 **Headings.** The headings of the various paragraphs herein are intended solely for the convenience of reference and are not intended for any purpose whatsoever to explain, modify, or place any construction upon any of the provisions of the Terms.
- 18.12 **Drafting.** The Terms shall not be construed in favor of or against a party based on the author of the document.
- 18.13 **Entire Agreement.** The Terms, including any applicable Order Documents, cancels and supersedes all prior or contemporaneous oral or written communications, agreements, requests for proposals, proposals, purchase orders—whether or not signed by Gordian—conditions, representations, and warranties, or other communication between the parties relating to its subject matter and constitutes the parties' entire agreement relating to its subject matter. Except as set forth in Section 17.10, no modification to the Terms will be binding unless in writing and signed by an authorized representative of each party.

Addendum 1

Additional Terms for Estimating Software

These Additional Terms, in addition to the SaaS Terms, govern Customer's access to, and use of, use of RSMeans Online, MTCQS, or other estimating software subscriptions (collectively "Estimating Software"), both as a paid subscriber or as a free trial user, and are incorporated by reference into the SaaS Terms of Use ("SaaS Terms") (these Additional Terms and the SaaS Terms are collectively referred to as the "Terms"). Capitalized terms not defined here have the same meaning as defined in the SaaS Terms.

1. DEFINITIONS.

- 1.1 **"Downloaded Data"** means insubstantial portions of the Estimating Data temporarily downloaded from the Estimating Software.
- 1.2 **"Estimating Data"** means collectively the Data and any proprietary cost estimating models available through the Estimating Software.
- 1.3 **"Renewal Date"** means the day the Customer's then current twelve (12) month subscription period expires.

2. USAGE RIGHTS AND RESTRICTIONS. The Subscriptions give Customer access to the Estimating Data. Notwithstanding any grant of rights set forth in the SaaS Terms, Customer is licensed to use the Estimating Data made available through the Estimating Software solely in the regular course of construction estimating and related work. Such use is subject to any restrictions set forth in the SaaS Terms, as well as the following:

- 2.1 **Downloaded Data.** The Subscriptions includes the right to temporarily store Downloaded Data in a spreadsheet for Customer's personal and/or employment related use on a single storage device under Customer's exclusive control solely (i) to display internally such Downloaded Data and (ii) to include and distribute the Downloaded Data in a construction estimate or related work prepared for a specific project, to be distributed to a specific party, provided such party agrees not to further disseminate the Downloaded Data. Customer acknowledges its responsibility in assuring compliance with the foregoing by any Third Party to whom Customer transmits Downloaded Data pursuant to the preceding sentence.
- 2.2 **Other Restrictions.** Customer may not merge the Estimating Data with any software program or extract such Estimating Data other than into a spreadsheet for any use on a single computer. Customer may not use the Estimating Data or any cost estimates or similar reports generated through the Software for the purpose of providing facility condition assessment services, job order contracting services, indefinite quantity construction contracting services, or similar services for itself or for any Third Parties. Customer may not use, copy, download, store, publish, modify, translate, transmit, transfer, sell or prepare derivative works of the Estimating Data, or any portion of the Estimating Data, in any form or by any means, except (i) as expressly permitted by the Terms, or (ii) with Gordian's express written permission. Downloaded Data shall not be stored or used in an archival database or other searchable database except as expressly permitted by the Terms. Customer shall not sell, license, or distribute Estimating Data (including printouts and Downloaded Data) to Third Parties, except as expressly permitted by the Terms, or use the Estimating Data as a component of or as a basis for any material or product offered for sale, license or distribution. Except for the license granted pursuant to the Terms, all rights, title and interest in the Estimating Data, in all formats and media throughout the world, including all copyrights, are and will continue to be the exclusive property of Gordian.

1. **TRIAL USE.** Free 30-day trials may be granted for a one-time use, once per user during any consecutive twelve (12) calendar month period subject to the Terms. Free trials may be terminated by Gordian at any time without prior notice if there is a violation of the provisions of the Terms, such termination to be without prejudice to the right of Gordian to pursue any and all other remedies available to it in equity or at law. Customer agrees to promptly update all information provided to Gordian, including its password, in the event of any known or suspected unauthorized use of Customer's trial use, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of its password. In the event of a breach of security, Customer will remain liable for any unauthorized use of its free trial. Free trials are not intended for academic projects and/or student use. All inquiries for such uses must be made by calling 800-334-3509 or emailing gordiansupport@gordian.com.

3. PAID SUBSCRIPTIONS.

- 3.1 **Fees and Payment.** For any paid Subscriptions, Customer agrees to pay, using a valid credit card which Gordian accepts, the applicable Subscription Fees, unless other payment terms are agreed to in an Order Document signed by Customer and Gordian. All Subscription Fees are non-refundable under any circumstances. Gordian reserves the right to increase fees, surcharges, and Subscription Fees, or to institute new fees, at any time, upon reasonable notice posted in advance on the Estimating Software with such fees to become effective upon the renewal of its then current Subscriptions.
- 3.2 **Renewal.** Gordian will automatically renew Customer's Subscriptions on the Renewal Date and Customer authorizes Gordian to charge Customer's credit card with the applicable Subscription Fees and any sales or similar taxes that may be imposed on the Subscription Fee payment on the renewal date unless Customer cancels its Subscriptions prior to the Renewal Date.
- 3.3 **Cancellation.** Customer may cancel its Subscriptions at any time by Contacting Gordian Customer Service, provided that any Subscription Fees charged prior to the Effective Date of cancellation will not be refunded, in whole or in part. Customer will not be eligible for a pro-rated refund of any portion of the Subscription Fees paid for any unused days of the then-current Term for which Customer paid, and the Subscriptions will expire at the end of the then-current Term.

Last Updated: May 1, 2025

Addendum 2

Additional Terms for Procurement Software

These Additional Terms, in addition to the SaaS Terms, govern your access to, and use of eGordian Subscriptions, JOC Cloud Subscriptions, or other subscription for procurement software solutions and are incorporated by reference into the SaaS Terms of Use ("SaaS Terms") (these Additional Terms and the SaaS Terms are collectively referred to as the "Terms"). Capitalized terms not defined here have the same meaning as defined in the SaaS Terms.

1. DEFINITIONS.

- 1.1 **"Annual Subscription"** means a subscription for a one-year term that requires payment of an annual fee for such subscription.
- 1.2 **"Client"** means a mutual client of Gordian and Customer for whom Customer is to provide construction services as part of the mutual client's JOC Program.
- 1.3 **"Client Contract"** means a contract between Customer and a Client.
- 1.4 **"JOC"** means Job Order Contracting, which is an indefinite quantity, indefinite delivery method for procuring construction services.
- 1.5 **"JOC Program"** means a program set up to allow for procurement and performance of construction on an indefinite quantity, indefinite delivery basis.
- 1.6 **"JOC System"** the Proprietary Information used for the setup, operation, maintenance, or participation in a JOC Program
- 1.7 **"JOC Services Contract"** means a contract between Customer and Gordian for the setup and operation of JOC Program.
- 1.8 **"Proprietary Information"** means collectively the JOC System, the Software, the Documentation, the Data, and other related proprietary materials.
- 1.9 **"Term"** shall mean the duration set forth in Section 3 of these Additional Term.

2. **USAGE RIGHTS.** Notwithstanding any grant of rights set forth in the SaaS Terms, Gordian grants Customer the right to use the Subscriptions and any Proprietary Information for the sole purpose of (i) setting up and operating its own JOC Program as set forth in an applicable JOC Services Contract; (ii) purchasing under an existing JOC Program as set forth in an applicable JOC Services Contract; or (iii) for executing the Customer's duties and responsibilities under a Client Contract. Such use shall be subject to all restrictions set forth in the SaaS Terms.
3. **TERM.** The Subscription will commence upon execution of the JOC System Contract or Client Contract and shall remain in effect for the term of the JOC System Contract or the Client Contract or until terminated in accordance with the Terms. The Term shall not be subject to automatic renewal. Notwithstanding the foregoing, if the Client Contract requires the purchase of Annual Subscription, the Subscription will commence upon payment of the applicable annual subscription fee and continue for a period of one year or until terminated in accordance with the terms.
4. **FEES.** The Subscription is subject to Customer payment of all applicable fees as set forth in the JOC System Contract or the Client Contract under the terms and conditions contained therein. If Customer has any questions about the fees due under to a Client Contract, Customer should contact the entity with whom it has entered into the Client Contract.

5. **ANNUAL SUBSCRIPTION.** If the Client Contract requires the purchase of an Annual Subscription, such license shall be used only by Customer for providing services to that Client through their Job Order Contracting program. For the avoidance of doubt, this means that Customer must purchase separate Annual Subscription for each Client whose Client Contract requires Customer to have an Annual Subscription.

Last Updated: May 1, 2025

SAMPLE

Addendum 3

Additional Terms for Planning Software

These Additional Terms, in addition to the SaaS Terms, govern your access to, and use of VFA Facility subscription, Sightlines Member Portal subscription, or other facilities assessment planning software subscriptions, and are incorporated by reference into the SaaS Terms of Use ("SaaS Terms") (these Additional Terms and the SaaS Terms are collectively referred to as the "Terms"). Capitalized terms not defined here have the same meaning as defined in the SaaS Terms.

1. DEFINITIONS.

- 1.1. **"Protected Materials"** including any Data in the Software and any reports or other works created or generated as an output of Customer's use of the Subscriptions, except for any portion of such works that consist of Customer Data.

2. USAGE RIGHTS AND RESTRICTIONS.

- 2.1. **Use of Protected Materials.** Gordian's Intellectual Property includes, but is not limited to, Protected Materials. Gordian shall retain sole and exclusive ownership of and all rights, title, and interest in the Protected Materials (whether developed by Gordian, Customer, or a Third Party), including the logic and structure thereof, which constitute valuable trade secrets of Gordian. Notwithstanding any grant of rights set forth in the SaaS Terms, Customer obtains only a limited non-exclusive, non-assignable, non-transferable, non-sublicensable, royalty free license for access and use of Protected Materials for Customer's internal business purposes, subject to the restrictions set forth in the SaaS Terms and in this Section. Customer may download and temporarily store insubstantial portions of the Data in a spreadsheet for Customer's use on a single storage device under Customer's exclusive control solely to (i) display internally such Data and (ii) to include and distribute the Data solely for the limited purpose set forth above.
- 2.2. **Restrictions on Protected Materials.** Customer shall not itself, or through any Affiliate, employee, consultant, contractor, agent, or other Third Party: (i) sell, resell, distribute, host, lease, rent, license or sublicense, in whole or in part, the Protected Materials; (ii) decipher, decompile, disassemble, reverse assemble, modify, adapt, translate, reverse engineer or otherwise attempt to make any changes to or derive source code, algorithms, tags, specifications, architecture, structure or other elements from the Protected Materials, in whole or in part, for any purpose; (iii) allow access to, provide, divulge or make available the Protected Materials to any user other than Customer's employees who have a need to such access and who shall be bound by a nondisclosure agreement with provisions that are at least as restrictive as the terms of the Terms; (iv) write or develop any derivative works based upon the Protected Materials; (v) use the Protected Materials to provide processing services to Third Parties, or otherwise use the same on a 'service bureau' basis; (vi) disclose or publish, without Gordian's prior written consent, performance or capacity statistics or the results of any benchmark test performed on the Protected Materials; or (viii) otherwise use or copy the Protected Materials except as expressly permitted herein.
- 2.3. **Name Usage Rights for Benchmarking.** If Gordian is providing any benchmarking Services to Customer or is providing access to Benchmarking Data through the Software, Customer grants to Gordian a non-exclusive, royalty free license, to: (a) use Customer's name in connection with any published lists of other institutions furnishing data for comparison purposes, (b) use Customer Data for benchmarking purposes provided that specific data applicable to Customer shall not be identified or identifiable, and (c) identify Customer to other institutions as a client of Gordian for marketing purposes.

Addendum 4

Additional Terms for Business Intelligence

These Additional Terms, in addition to the SaaS Terms, govern Customer's access to, and use of, use of Business Intelligence Subscriptions, and are incorporated by reference into the SaaS Terms of Use ("SaaS Terms") (these Additional Terms and the SaaS Terms are collectively referred to as the "Terms"). Capitalized terms not defined here have the same meaning as defined in the SaaS Terms.

1. DEFINITIONS.

- 1.1 **"Business Intelligence Data"** means all Data provided via the Business Intelligence Subscriptions, including any and all dashboards, reporting and other visual representation available via the Business Intelligence Subscriptions.

2. **USAGE RIGHTS AND RESTRICTIONS.** The Subscriptions give Customer access to the Business Intelligence Data. Gordian's Intellectual Property includes, but is not limited to, Business Intelligence Data. Gordian shall retain sole and exclusive ownership of and all rights, title, and interest in the Business Intelligence Data (whether developed by Gordian, Customer, or a Third Party), including the logic and structure thereof, which constitute valuable trade secrets of Gordian. Notwithstanding any grant of rights set forth in the SaaS Terms, Customer is licensed to use the Business Intelligence Data made available through the Subscription Services solely in the regular course of construction estimating and related work. Such use is subject to any restrictions set forth in the SaaS Terms, as well as the following:

- 2.2. **Other Restrictions.** Customer may not merge the Business Intelligence Data with any software program or extract such Business Intelligence Data for any use. Customer may not use, copy, download, store, publish, modify, translate, transmit, transfer, sell or prepare derivative works of the Business Intelligence Data, or any portion of the Business Intelligence Data, in any form or by any means, except (i) as expressly permitted by the Terms, or (ii) with Gordian's express written permission. Customer shall not sell, license, or distribute Business Intelligence Data (including printouts) to Third Parties, except as expressly permitted by the Terms, or use the Business Intelligence Data as a component of or as a basis for any material or product offered for sale, license or distribution. Except for the license granted pursuant to the Terms, all rights, title and interest in the Business Intelligence Data, in all formats and media throughout the world, including all copyrights, are and will continue to be the exclusive property of Gordian.

Last Updated: May 1, 2025