

## Purchase Order General Terms and Conditions

Upon beginning work based upon Chico State Enterprises' (CSE) Purchase Order, Contractor agrees to the following Purchase Order terms and conditions and certifies to any certifications herein. Any deviation from a certification or warranty provided herein constitutes a material breach of the terms of this Purchase Order. The terms and conditions contained in this Purchase Order supercede any provided by Contractor.

### **General Terms and Conditions For Acquisition of Products or Services**

The terms and conditions contained in this section apply to all Purchase Orders.

#### **1. Commencement of Work**

Work begun prior to receipt of CSE's Purchase Order is performed at Contractor's own risk and as a volunteer.

#### **2. Invoices**

- (a) Invoices shall be submitted, in arrears, to the address stipulated in the Purchase Order. The Purchase Order number and Contractor's Identification number must be included on the invoice. Final invoice shall be marked as such.
- (b) In the event that additional services are performed or goods are delivered as authorized in writing, the Contractor shall submit invoices for additional services in accordance with provisions herein.
- (c) For work of a continuing nature, the Contractor shall submit invoices in arrears, upon completion of each phase or submissions and acceptance of each deliverable (goods or services). For service delivery Purchase Orders, Contractor shall be reimbursed for travel, subsistence and business expenses necessary for the performance of services pursuant to the Purchase Order in accordance with Chico State Enterprises policy. Delivery date of goods shall allow a reasonable testing time for Chico State Enterprises to insure goods are acceptable.
- (d) Unless otherwise specified, Chico State Enterprises shall pay properly submitted invoices not more than 60 days after (i) the satisfactory performance completion date of services or delivery and testing time of acceptable, on time goods; or (ii) receipt of an undisputed invoice, whichever is later. Late payment penalties shall not apply.
- (e) The consideration to be paid Contractor, as described within the Purchase Order, shall be full compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

#### **3. Cancellation**

CSE reserves the right to cancel this Purchase Order at any time upon 3 days written notice to the Contractor.

#### **4. Independent Status**

Contractor, and agents (including subcontractors) and employees of Contractor, in the performance of this Purchase Order, shall act in an independent capacity and not as officers, employees or agents of CSE. While Contractor may (or may not) be required under the terms of this Purchase Order to carry Worker's Compensation Insurance, Contractor, and Contractor's agents or employees, is not entitled to unemployment or worker's compensation from CSE.

#### **5. Conflict of Interest**

- (a) Should the Contractor provide services for preparation or development of recommendations for the actions which are required, suggested or otherwise deemed appropriate, and which include the provision, acquisition or delivery of products or services; then the Contractor must provide full disclosure of any financial interest including but not limited to service Agreements, OEM, and/or remarketing Agreement that may foreseeably allow the Contractor to materially benefit from the adoption of such recommendations.
- (b) Contractor shall not utilize any information, not a matter of public record, which is received by reason of this Purchase Order, for pecuniary gain not contemplated by the terms of this Purchase Order, regardless of whether the Contractor is or is not under contract with CSE at the time such gain is realized. Any report, survey, or product developed by Contractor pursuant to this Purchase Order is the property of CSE, and shall not be used in any manner by the Contractor unless authorized by CSE. Breach of this provision will make the Purchase Order voidable at CSE's option and Contractor shall be liable for any other damages incurred by CSE as a result of such breach.

Chico State Enterprises reserves the right to prohibit participation by the Contractor in bidding to or providing services, goods or supplies or any other related action which is required, suggested or otherwise deemed appropriate in the end product of this Purchase Order.

## **6. Governing Law**

To the extent not inconsistent with applicable federal law, this Purchase Order shall be construed in accordance with and governed by the laws of the State of California.

## **7. Assignments**

Without the express written consent of Chico State Enterprises, this Purchase Order is not assignable by Contractor in whole or in part.

## **8. Time**

Time is of the essence of this Purchase Order.

## **9. Contract Alterations and Integration**

No alteration or variation of the terms of this Purchase Order shall be valid unless made in writing and signed by authorized representatives of the parties hereto, and no oral understanding or contract not incorporated herein shall be binding on any of the parties hereto.

## **10. Indemnity**

General: Contractor shall indemnify, defend and save harmless Chico State Enterprises, its officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Purchase Order, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by the Contractor in the performance of this Purchase Order. Contractor agrees to pay Chico State Enterprises' legal defense fees related to any such claims or losses. Chico State Enterprises may retain its own legal counsel which shall not excuse Contractor from paying Chico State Enterprises' legal fees.

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

Liens: Contractor shall Indemnify and hold harmless Chico State Enterprises and CSU, Chico from all claims, demands, causes of action or suits, of whatever nature, arising out of the services, labor and materials furnished by Contractor or its subcontractors under this Purchase Order, and from all laborers, materialmen's, and mechanics' liens upon the real property upon which the work is located or any other property of Chico State Enterprises or CSU, Chico.

## **11. Termination for Default**

Chico State Enterprises may terminate this Purchase Order and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Chico State Enterprises may proceed with the work in any manner deemed proper by Chico State Enterprises. The cost to Chico State Enterprises shall be deducted from any sum due the Contractor under this Purchase Order, and the balance, if any, shall be paid the Contractor upon demand.

## **12. Compliance**

Contractor warrants and certifies that in the performance of this Purchase Order Contractor has complied with or will comply with all applicable statutes, rules, regulations and orders of the United States, and any state or political subdivision thereof.

## **13. Nondiscrimination**

- (a) During the performance of this Purchase Order, Contractor and its subcontractors shall not deny the Purchase Order's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40) or sex. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

- (b) Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.), and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code Sections 11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article.
- (c) Contractor shall permit access by representatives of the Department of Fair Employment and Housing and Chico State Enterprises upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours notice, to such of its books, records, accounts, other sources of information, and its facilities as said Department or Chico State Enterprises shall require to ascertain compliance with this clause.
- (d) The provisions of Executive Order 11246, as amended (Equal Employment Opportunity/Affirmative Action), Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212 or VEVRAA), and Section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793), and the implementing regulations found at 41 CFR 60-1&2, 41 CFR 60-250, and 41 CFR 60-741, respectively, are hereby incorporated by reference.
- (e) Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (f) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Purchase Order. (Gov. Code Section 12990, 11135 et seq.; Title 2, California Code of Regulations, Section 8107).

#### **14. Drug-Free Workplace Certification**

By accepting this Purchase Order, Contractor certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8355 et seq.) and will provide a drug-free workplace by doing all of that which Section 8355 et seq. require.

#### **15. Severability**

It is expressly agreed and understood by the parties hereto that if any provision of this Contract is held to be unconscionable or invalid under any applicable statute or rule of law, it is deemed to that extent to be omitted. However, the balance of the Contract shall remain in full force and effect.

#### **16. Dispute**

Any dispute arising under the terms of this Purchase Order which is not resolved within a reasonable period of time by authorized representatives of Contractor and Chico State Enterprises shall be brought to the attention of the Chief Executive Officer (or designated representative) of Contractor and the Chief Executive Officer (or designee) of Chico State Enterprises for joint resolution. At the request of either party, Chico State Enterprises shall provide a forum for discussion of the disputed item(s) and personnel who can explain and provide advice on Chico State Enterprises contracting practices and policies. If resolution of the dispute through these means is pursued without success, either party may seek resolution employing whatever remedies exist in law or equity beyond this Purchase Order. Despite an unresolved dispute, Contractor shall continue without delay to perform its responsibilities under this Contract. Contractor shall keep accurate records of its services in order to adequately document the extent of its services under this Purchase Order.

#### **17. Privacy of Personal Information**

Contractor expressly acknowledges the privacy rights of individuals to their personal information that are expressed in the State's Information Practices Act (California Civil Code Section 1798 et seq.) and in California Constitution Article 1, Section 1. Contractor shall maintain the privacy of personal information. Contractor shall not release personal information contained in Chico State Enterprises or CSU, Chico records without full compliance with applicable state and federal privacy laws. Contractor further, acknowledges Federal privacy laws such as Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions and Family Educational Rights and Privacy Act (Title 20, United States Code, Section 1232g) applicable to student records and information from student records. Contractor shall maintain the privacy of protected personal information and shall be financially responsible, if and to the extent that any security breach relating to protected personal information results from acts or omissions of Contractor, or its personnel, for any notifications to affected persons (after prompt consultation with Chico State Enterprises), and to the extent requested by Chico State Enterprises, administratively responsible for such notification.

#### **18. Waiver of Rights**

Any action or inaction by Chico State Enterprises or the failure of Chico State Enterprises on any occasion to enforce any right or provision of this Purchase Order shall not be construed to be a waiver by Chico State Enterprises of its rights hereunder and shall not prevent Chico State Enterprises from enforcing such provision or right on any future occasion. The rights and

remedies of Chico State Enterprises provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law.

### **19. Endorsement**

Nothing contained in this Purchase Order shall be construed as conferring on any party hereto, any right to use the other party's name as an endorsement of product/service or to advertise, promote or otherwise market any product or service without the prior written consent of the other party. Furthermore nothing in this Purchase Order shall be construed as endorsement of any commercial product or service by Chico State Enterprises, its officers or employees.

### **20. Patent, Copyright and Trade Secret Indemnity**

Contractor may be required to furnish a bond to Chico State Enterprises against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement. In addition:

- (a) Contractor, at its own expense, shall defend any action brought against Chico State Enterprises to the extent that such action is based upon a claim that the product supplied by Contractor or the operation of such product or services infringes a United States patent or copyright or violates a trade secret. Contractor shall pay those costs and damages finally awarded against Chico State Enterprises in any such action. Such defense and payment shall be conditioned on the following:
  - (i) That Contractor shall be notified within a reasonable time in writing by Chico State Enterprises of any notice of such claim; and,
  - (ii) That Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, Chico State Enterprises has the option to participate in such action at its own expense.
- (b) Should the product, or the operation thereof, become, or in Contractor's opinion is likely to become, the subject of a claim of infringement of a United States or foreign patent or copyright or a trade secret, Chico State Enterprises shall permit Contractor at its option and expense either to procure for Chico State Enterprises the right to continue using the product, or to replace or modify the same so that they become non-infringing provided such replacement or modified product satisfies the performance requirements specified in this Purchase Order. If none of these options can reasonably be taken, or if the use of such product by Chico State Enterprises shall be prevented by injunction, Contractor agrees to take back such product and make every reasonable effort to assist Chico State Enterprises in procuring a substitute product. If, in the sole opinion of Chico State Enterprises, the return of such infringing product makes the retention of other products acquired from Contractor under this contract impractical, Chico State Enterprises shall then have the option of terminating this Purchase Order, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such product and refund any sums Chico State Enterprises has paid Contractor less any reasonable amount for use or damage.

### **21. Compliance with NLRB Orders**

Contractor declares under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court which orders Contractor to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.

### **22. Examination, Audit and Disallowance**

Contractor shall be subject to the examination and audit of (a) Chico State Enterprises' Auditor, (b) the State Auditor, and/or (c) auditor of an external funding source of Chico State Enterprises for a period of not less than four (4) years after final payment under this Purchase Order. Contractor agrees to maintain appropriate records and document costs consistent with standard accounting principles.

Should an audit determine that costs were inappropriate or not adequately documented and result in findings of disallowance, Contractor shall pay to Chico State Enterprises funds to reimburse for the portion of disallowed costs determined to be Contractor's responsibility. Contractor shall pay Chico State Enterprises within 30 days of receipt of Chico State Enterprises' written request for reimbursement. Failure by Contractor to pay within 30 days shall constitute a material breach of this Purchase Order. In addition to disallowance costs, Chico State Enterprises may recover from Contractor any costs associated with Chico State Enterprises attempts to obtain cost disallowance payment should Contractor not pay promptly by the provisions of this section.

### **23. Citizenship and Public Records**

If Contractor is a natural person, Contractor certifies in accepting this Purchase Order that s/he is a citizen or national of the United States or otherwise qualified to receive public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT.2105, 2268-69).

### **24. Americans with Disabilities Act**

Contractor warrants that it complies with California and federal disabilities laws and regulations.

### **25. Document Referencing**

All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show the Purchase Order number. If factory shipment, the factory must be advised to comply. Invoices not properly identified with the Purchase Order number and contractor identification number may be returned to Contractor and may cause delay in payment.

### **26. Forced, Convict, Indentured and Child Labor**

By accepting this Purchase Order, the Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to Chico State Enterprises pursuant to this Purchase Order have been laundered or produced in whole or in part by sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, or abusive forms of child labor or exploitation of children in sweatshop labor. Contractor shall cooperate fully in providing reasonable access to the Contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials.

### **27. Covenant Against Gratuities**

Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer, employee or agent of Chico State Enterprises or CSU, Chico with a view toward securing this Purchase Order or securing favorable treatment with respect to any determinations concerning the performance of this Purchase Order. For breach or violation of this warranty, Chico State Enterprises shall have the right to terminate this Purchase Order, either in whole or in part, and any loss or damage sustained by Chico State Enterprises in procuring on the open market any items or services which Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of Chico State Enterprises provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order.

### **28. Taxes, Fees, Expenses and Extras**

Unless specified otherwise, prices quoted shall include all required taxes, shipping, mailing, packing, drayage, insurance, license, permits, cost of bonds and other such costs. Such costs which are not itemized in Contractor's bid will not be paid by Chico State Enterprises.

On "FOB Shipping Point" transactions, should any shipments under this Purchase Order be received by Chico State Enterprises in a damaged condition and any related freight loss and damage claims be filed against the carrier(s) be wholly or partially declined by the carrier(s) with the inference that damage was the result of the act of the shipper, such as inadequate packing or loading or some inherent defect in the equipment and/or material, Contractor on request of Chico State Enterprises shall at Contractor's expense assist Chico State Enterprises in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

### **29. Warranties, Rights and Remedies of Chico State Enterprises for Default**

- (a) In the event any Deliverables furnished or services provided by Contractor in the performance of this Purchase Order should fail to conform to the requirements herein, or to the sample submitted by Contractor, Chico State Enterprises may reject the same, and it shall thereupon become the duty of Contractor to reclaim and remove the same forthwith or to correct the performance of services, without expense to Chico State Enterprises, and immediately to replace all such rejected items or services with others conforming to such specifications or samples; provided that should Contractor fail, neglect, or refuse to do so, Chico State Enterprises shall thereupon have the right to purchase in the open market, in lieu thereof, a corresponding quantity of any such items or services and to deduct from any moneys due or that may thereafter become due to Contractor the difference between the price named in this Purchase Order and the actual cost thereof to Chico State Enterprises.
- (b) In the event Contractor shall fail to make prompt delivery as specified of any item or services, the same conditions as to the right of Chico State Enterprises to purchase in the open market and to reimbursement set forth above shall apply, except for force majeure. Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts (known as "force majeure") shall include but shall not be limited to fire, strike, freight embargo or acts of God and of the Government. If a delay or failure in performance by Contractor arises out of a default of its subcontractor, and if such default

arises out of causes beyond the control of both Contractor and subcontractor, and without the fault or negligence of either of them, Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule.

- (c) In the event of the termination of this Purchase Order, either in whole or in part, by reason of the default or breach thereof by Contractor, any loss or damage sustained by Chico State Enterprises in procuring any items or services which Contractor therein agreed to supply shall be borne and paid for by Contractor.
- (d) The rights and remedies of Chico State Enterprises provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order.
- (e) Contractor warrants that all items and services provided are free from all defects in Contractor's performance, design, workmanship and materials and, as stated elsewhere herein, shall be subject to Chico State Enterprises' inspection and testing at all times and places. Notwithstanding final acceptance and payment, Contractor shall be liable for latent defects, fraud and gross mistakes as amount to fraud.
- (f) Contractor shall maintain insurance adequate to cover Contractor's potential liabilities in reference to this section of the Purchase Order.

### **30. Contractor's Power and Authority**

Contractor warrants that it has full power and authority to grant the rights herein granted and will hold Chico State Enterprises hereunder harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of Chico State Enterprises under this Purchase Order.

### **31. Title**

Title to the material, supplies and deliverables purchase hereunder shall pass directly from Contractor to Chico State Enterprises at the f.o.b. point shown, or as otherwise specified in this Purchase Order, subject to the right of Chico State Enterprises to reject upon inspection.

### **32. Liability for Chico State Enterprises or CSU, Chico Furnished Property**

Contractor assumes complete liability for any tooling, articles or material furnished by Chico State Enterprises or CSU, Chico to Contractor in connection with this Purchase Order and Contractor agrees to pay for all such tooling, articles or material damaged or spoiled by it or not otherwise accounted for to Chico State Enterprises' satisfaction. The furnishing to Contractor of any tooling, articles or material in connection with this Purchase Order shall not, unless otherwise expressly provided, be construed to vest title thereto in Contractor.

### **33. Entire Agreement**

This Purchase Order, serving as a contract between the parties, sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

## **Additional Terms and Conditions for Acquisition of Services**

### **34. Safety and Accident Prevention**

In performing work under this Purchase Order on Chico State Enterprises or CSU, Chico premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as Chico State Enterprises may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Purchase Order in accordance with default provisions hereof.

### **35. Insurance Requirements**

Contractor shall furnish to Chico State Enterprises prior to the commencement of work an underwriter's endorsement with a certificate of insurance stating that there is General Liability insurance presently in effect for contractor with a combined single limit of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate; and that vehicle insurance (where applicable) is in effect with a minimum coverage of \$1,000,000 per occurrence.

- (a) The certificate of insurance shall provide:
  - (i) That the insurer will not cancel the insured's coverage without thirty (30) days prior notice to Chico State Enterprises;
  - (ii) That Chico State Enterprises, State of California, the Trustees of the California State University, the CSU, the campus, and the employees, volunteers, officers, and agents of each of them, are included as additional insureds, but only insofar as the operations under this contract are concerned;

- (iii) That Chico State Enterprises, State, the Trustees, and the CSU, and the employees, officers, and agents of each of them will not be responsible for any premiums or assessments on the policy;
- (iv) That the insurer has an AM Best rating of A: VII or equivalent.
- (b) Contractor agrees that the bodily injury liability insurance herein provided shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for not less than the remainder of the term of this Purchase Order, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Chico State Enterprises, and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event contractor fails to keep in effect at all times insurance coverage as herein provided, Chico State Enterprises may in addition to any other remedies it may have, terminate this Purchase Order upon the occurrence of such event.
- (c) Workers' Compensation insurance coverage as required by the State of California.

### **36. Rights in Work Product**

- (a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by Contractor pursuant to this Purchase Order including papers, reports, charts, computer programs, and other Documentation or improvements thereto, (collectively, the "Work Product"), shall be Chico State Enterprises' exclusive property except as noted below or elsewhere in this Purchase Order. The provisions of this sub-section may be revised in a Statement of Work and/or be a result of requirements of a prime agreement that provides funds to cover the costs of this Purchase Order. In the latter case, other entities may have exclusive or shared rights to Work Product.
- (b) Software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Purchase Order ("Pre-Existing Materials") do not constitute Work Product. If Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Purchase Order constitute Work Product, but other elements do not. Nothing in this Clause will be construed to interfere with Contractor's or its affiliates' ownership of Pre-Existing Materials. Chico State Enterprises will have Rights to the Work Product as a Deliverable or delivered to Chico State Enterprises hereunder and Government entities providing funding to cover the costs associated with this Purchase Order may have "Government Purpose Rights." "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside Chico State Enterprises for any Government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any Government purpose. Such recipients of the Work Product may include, without limitation, Chico State Enterprises, CSU Contractors, California State government, California local governments, the U.S. federal government, and the state and local governments of other states
- (c) The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Purchase Order by the Contractor or jointly by Contractor and Chico State Enterprises may be used by either party without obligation of notice or accounting.
- (d) This Purchase Order shall not preclude Contractor from developing materials outside this Purchase Order that are competitive, irrespective of their similarity to materials which might be delivered to Chico State Enterprises pursuant to this Contract

### **37. Confidentiality of Data**

All financial, statistical, personal, technical and other data and information relating to Chico State Enterprises' operation which are designated confidential by Chico State Enterprises and not otherwise subject to disclosure, and made available to Contractor in order to carry out this Purchase Order, or which become available to Contractor in carrying out this Purchase Order, shall be protected by Contractor using the same level of care in preventing unauthorized disclosure or use of the confidential information that it takes to protect its own information of a similar nature, but in no event less than reasonable care. Contractor shall not be required under the provisions of this clause to keep confidential any data or information that is or becomes publicly available, is already rightfully in Contractor's possession, is independently developed by Contractor outside the scope of this Purchase Order, or is rightfully obtained from third parties.

### **38. Personnel**

Contractor shall make every effort consistent with sound business practices to honor the specific requests of Chico State Enterprises with regard to assignment of its employees; however, Contractor reserves the sole right to determine the assignment of its employees. If a Contractor employee is unable to perform due to illness, resignation, or other factors beyond the Contractor's control, the Contractor shall make every reasonable effort to provide suitable substitute personnel.

## **Additional Terms and Conditions for the Acquisition of Products**

### **39. Warranties and Inspections**

Contractor warrants that all goods or work supplied under this Purchase Order shall conform to specifications, drawings, samples, or other descriptions contained or referenced herein and shall be merchantable, of good quality and workmanship and free from defect. Contractor warrants that all goods covered by this purchase Order which are the product of Contractor or are in accordance with Contractor's specifications, will be fit and serviceable for the purpose intended. All such goods or work shall be subject to Chico State Enterprises' inspection before acceptance, and also to later rejection if use reveals defects not apparent upon receipt; and if rejected will be held at Contractor's risk and expense for storage and other charges. Neither receipt of goods nor payment therefore shall constitute a waiver of this provision.

### **40. Hazardous Materials**

Contractor warrants that all materials ordered herein which have been classified by the U.S. Department of Transportation as hazardous materials for the purposes of transportation will be packaged, marked, labeled, and shipped in accordance with the provisions of Title 49, Code of Federal Regulations, Parts 100 through 199, as amended.

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## **PURCHASES MADE WITH FEDERAL FUNDS**

In addition to the foregoing terms and conditions, contractor agrees and understands that purchases involving Federal funds, as indicated on the cover sheet of each Purchase Order, must be in compliance with the following Federal regulations as appropriate to each specific purchase. These terms and conditions are incorporated herein. Contractor agrees to pass applicable provisions down to any lower tier subcontractor.

1. **Certification regarding Debarment, Suspension, and Other Responsibility Matters**

In accepting this Purchase Order, Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal agency or department. Any change in the debarred or suspended status of Contractor during the life of this Purchase Order shall be reported immediately to Chico State Enterprises. See FAR, Part 52.209-6, Common Rule in Governmentwide Debarment and Suspension.

2. **Certification Regarding Lobbying**

In accepting this Purchase Order, Contractor certifies to the following:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, or an officer or employee of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, Contractor shall complete and submit the Form entitled Disclosure Form to Report Lobbying to Chico State Enterprises.
- (c) Contractor shall require that the language of this certification be included in the award documents for all subcontractors at all tiers and that all subrecipients shall certify and disclose accordingly.  
See Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82.

3. **Office of Management and Budget (OMB) Circulars and Assurances**

Contractor understands and agrees that Contractor shall abide by any OMB circulars and assurances appropriate to Contractor. Educational institutions, in particular, will adhere to OMB Circulars A-21, A-110 and A-133. Contractor agrees to notify Chico State Enterprises of any required audits and adverse findings which may impact this Purchase Order.

4. **Employment Eligibility Verification**

Effective January 15, 2009, Federal law (see Federal Register, November 14, 2008, Vol. 73, No. 221, pages 67651-67705) requires that under certain circumstances that employers engaging in activities involving Federal funds use the E-Verify system administered by the U.S. Department of Homeland Security to ascertain that certain of their



employees are eligible to work in the United States. Contractor understands and agrees that it must determine if this Purchase Order is subject to the E-Verify requirements and, where applicable, to follow the regulations requiring use of the E-Verify system.

5. Equal Employment Opportunity provisions of E.O. 11375, and 41 CFR Part 60, FAR 52.222-26, 35, & 36
6. Copeland Anti-Kickback Act, 18 U.S.C. 874 and 40 U.S.C. 276(c), FAR 52.203-7
7. Davis-Bacon Act as amended, 40 U.S.C. 276a-a7
8. Buy American Requirements, 43 CFR Part 12, Subpart E, FAR 52.225-1 & 13

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