



STANDARD TERMS AND CONDITIONS

I. Definitions

“Contract” means a written or electronic document, to include, but not be limited to a purchase order, contract, agreement or click-through agreement approved by The University of Toledo or The University of Toledo Medical Center (collectively **“University”**) authorizing the University’s purchase of Products or Services as defined below.

“Contractor” means any supplier, vendor, seller or any entity to which the University has issued the Contract.

“Products” mean the goods, equipment, materials, hardware, supplies and any other tangible items specifically identified in the Contract including software.

“Services” mean the scope of work or deliverables specifically identified in the Contract.

“Data” means any and all hard copy, electronic or other information that is in the University’s possession and control, and any and all such Data that has been disclosed to Contractor.

II. Order and Payment Provisions

1. Invoice Requirements. Preferred delivery of invoices is electronic. Email invoices to apinvoices@utoledo.edu referencing “email processing” in the subject line with the name of Contractor and invoice number. If hard copy invoices are to be mailed instead of electronically submitted, address as follows: The University of Toledo, Accounts Payable MS-973, 2801 W. Bancroft St. Toledo, OH 43606. Only one invoice submission method should be utilized to avoid processing delays. Proper invoices must be received by the University within ninety (90) days of the University’s acceptance of the Products and Services and match Purchase Order, if applicable, on a line-by-line basis to ensure prompt payment. To be a proper invoice, the invoice must include the following:

- A. The Purchase Order number (if applicable);
- B. University Contract Number (if applicable);
- C. University Billing Address;
- D. Delivery location of Products or Services;
- E. Contractor Name;
- F. Contractor Address;
- G. Contractor’s Unique Invoice Number;
- H. Date that Services were provided or Products were delivered;
- I. Itemization of Product or Services provided, including cost;
- J. For leases, the invoice must also include the payment number (e.g., 1 of 36);
- K. For time and material Contracts, the invoice must reflect labor hours actually worked and, if applicable, Product used; and;
- L. Clear statement of total payment expected.

The University, as instrumentality of the State of Ohio, is exempt from Ohio sales tax, federal excise tax and federal transportation tax. Our Federal ID and tax exemption number is 34-7601483. An exemption certificate is available upon request.

2. **Payment Terms.** Unless otherwise indicated on the Contract, payment terms are NET 30 days and will be latter of: the date Products are received; the date the proper invoice is received; the date of successful installation or performance of Services or the University's written acceptance, as solely determined by the University. The University preferred payment method is credit card, providing no additional fees are assessed, followed by ACH and check. The University will have the option of using any of these methods of payment. All appropriate cash discounts offered will accepted.
3. **Time is of the Essence.** Time is of the essence in the Contract. Contractor must deliver Product and Services as required by the Contract or coordinate an acceptable date and time for delivery with the University. If Contractor fails to meet Contract delivery requirements, the University may obtain any remedy as described herein or any other remedy at law.

III. General Contract Requirements

1. **Term of Contract.** The effective date of the Contract is the effective date stated in the Contract or the date the Contract is fully executed, whichever is later. The Contract will remain in effect until the earliest of: (1) the ending date stated in the Contract; (2) the Contract is fully performed by both parties; or (3) the Contract is canceled, suspended or terminated.
2. **Acceptance of Terms and Conditions.** Contractor's acknowledgment of the Contract, shipment of Product or Service commenced is deemed an acceptance of these Standard Terms and Conditions. No modification of or release from the Contract will be binding on either party unless agreed to in writing by the parties. These Terms and Conditions supersede any other terms and conditions submitted by Contractor in any proposal, acknowledgment or click-through agreement, unless specifically agreed to in writing by the University.
3. **Changes and Completeness.** No substitutions, alteration or additions to the Products or Services are permitted without the advance written consent of the University. The University reserves the right to return Products at Contractor's expense if the Products are billed at a higher price than specified or the Products are non-conforming, unless prior written approval for the modification has been obtained by Contractor from the University. Contractor will be responsible for and assume all travel, office and business expenses incurred in performing the Contract unless pre-approved in writing by the University.
4. **Cancellation.** The University reserves the right prior to shipment of Product or performance of Services, to cancel the Contract without cause in its entirety or in part by verbal notice followed by written confirmation.
5. **Freight Term.** Freight term is FOB Destination for domestic delivery or Delivered Duty Paid (DDP) for Contracts utilizing INCOTERMS. Contractor will suitably package Products and prepare for shipment to secure lowest transportation rate and comply with carrier regulations. Each shipping container shall be clearly marked with (a) Contractor name and address; (b) University name, address and Contract; (c) container number, total number of containers; and, (d) identification of container bearing packing slip. Unless otherwise stated in the Contract, Contractor will be responsible for all freight charges.
6. **Rights of Inspection/Rejection.** All Products will be received subject to the University's right of inspection and rejection on non-conforming or defective goods. Those Products rejected because of

inspection will be held for Contractor's inspection at Contractor's risk and, if Contractor directs, will be returned at Contractor's expense. Freight to and from original destination is Contractor's responsibility.

7. Contract Remedies.

- A. **Actual Damages.** Contractor is liable to the University for all actual and direct damages caused by Contractor's default. The University may self-perform or buy substitute Deliverables from a third party for those that were to be provided by Contractor. The University may recover the costs associated with acquiring substitute Deliverables, less any expenses or costs avoided by Contractor's default.
- B. **Liquidated Damages.** If actual and direct damages are uncertain or difficult to determine, the University may recover liquidated damages. Unless otherwise specified, liquidated damages will be in the amount of 1% of the value of the order, Deliverable, or milestone that are the subject of the default, for every day that the default is not cured by Contractor.
- C. **Deduction of Damages from Contract Price.** The University may withhold payment and deduct all or any part of the damages resulting from Contractor's default from any part of Contractor's compensation still due on the Contract.

8. Data and Information Control

- A. **Confidentiality.** Contractor agrees to hold in strict confidence and will not disclose any Data obtained by Contractor as a result of the Contract, without the written permission of the University. Contractor must assume that all University information, documents, data, source codes, software, models, know-how, trade secrets, or other material is confidential. Contractor shall not use or disclose Data received from or on behalf of University except as required by law, or as otherwise authorized in writing by University. Similarly, Contractor agrees that any and all Data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor, or passed to other vendors or interested parties except on a case-by-case basis as specifically agreed to in writing by University.

Contractor must return all originals of any Data provided by the University and destroy any copies Contractor has made on termination or expiration of the Contract. Contractor will be liable for the disclosure of any confidential information. The parties agree that the disclosure of confidential information of the University may cause the University irreparable damage for which remedies other than injunctive relief may be inadequate, and Contractor agrees that in the event of a breach of the obligations hereunder, the University shall be entitled to temporary and permanent injunctive relief to enforce this provision without the necessity of proving actual damages. This provision shall not, however, diminish or alter any right to claim and recover damages.

- B. **Security & Safety Rules.** When using or possessing Data provided by the University or accessing University networks and systems, Contractor, its employees, subcontractors and agents must comply with all applicable federal, state and local laws as well as University rules, policies, and regulations regarding University-provided IT resources, data security and integrity. When on any property owned or controlled by the University, Contractor must comply with all security and safety rules, regulations, and policies applicable to those premises.
- C. **Patient Privacy.** To the extent applicable to a Contract, the parties hereto agree to comply with the Health Information Technology for Economic and Clinical Health Act of 2009, as amended (

"**HITECH ACT**"), the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, as amended, and as codified at 42 USC § 1320d through d-8 ("**HIPAA**") and any current and future regulations promulgated under either the HITECH Act or HIPAA including without limitation the federal privacy regulations contained in 45 CFR Parts 160 and 164 (collectively "**Federal Privacy Regulations**"), the federal security standards contained in 45 CFR Parts 160, 162 and 164 ("**Federal Security Regulations**" and the federal standards for "**Electronic Transactions Regulations**"), all as may be amended from time to time, and all collectively referred to herein as "**HIPAA Requirements**." The parties further agree not to use or disclose any "**Protected Health Information**" (as defined in 45 CFR § 164.501) or "**Individually Identifiable Health Information**" (as defined in 42 USC § 1320d), other than as permitted by HIPAA Requirements and the terms of a Contract. The parties agree to enter into any further agreements as necessary to facilitate compliance with HIPAA Requirements.

D. Ohio Public Records Act. The parties acknowledge that the University, as an instrumentality of the State of Ohio, is subject to the Ohio Revised Code 149.43, et seq., as amended and any and all laws pertaining to public records and is therefore, obligated to disclose public records. Should the University receive a request involving information related to Contractor, including the Contract, the University will immediately notify Contractor of the request. Contractor will have 10 calendar days from the date of the notice to assert any applicable legal rights prohibiting disclosure of the information being sought before such information is released. Contractor hereby perpetually releases the University from all liability associated with the release of such information after this 10 calendar day period. It is understood and agreed that the provisions of this section will survive the termination of the Contract.

9. Compliance. Contractor hereby covenants and agrees that in the course of Contractor's performance of its contractual duties, Contractor will comply with all applicable federal, state, local government statutes, ordinances, regulations and accreditation standards applicable to the University, including those requirements imposed by the Joint Commission, the Medicare/Medicaid conditions of participation and any amendments thereto, as well as, all University policies and procedures. Contractor will immediately provide the University with lawful information, as may be required by the University, pertaining to Contractor's staff who are providing Services. This may include, but is not limited to, educational background, work experience, qualifications, competency levels, criminal background check, personal immunizations, safety training, patient privacy training and blood borne pathogens training.

10. Nondiscrimination. Pursuant to Ohio Rev. Code § 125.111, as amended and The University of Toledo Nondiscrimination Policy, Contractor agrees that Contractor will not discriminate, by reason of race, color, religion, sex, age, national origin, ancestry, sexual orientation, gender identity and expression, military or veteran status, the presence of a disability, genetic information, familial status, political affiliation, or participation in protected activities in the performance of the contracted work.

11. Accessibility. Contractor acknowledges and understands that all Products under a Contract must comply with the Americans with Disabilities Act ("**ADA**"), 42 U.S.C. 12101 et seq., as amended and Sections 504 and 508 of the Rehabilitation Act 29 U.S.C. 701 et seq., as amended as those laws apply to the University and meet current Web Content Accessibility Guidelines set forth by the World Wide Web Consortium ("**W3C**"). Contractor will indemnify, defend and hold the University and their respective

trustees, employees, students, agents and servants harmless from all fines, penalties, expenses or awards related to any claims, including requests for accommodations concerning administration of the software and/or hardware under the Contract including but not limited to ADA compliance. Contractor agrees to promptly address and resolve any complaint related to compliance with ADA accessibility requirements of the Products that has been identified and brought to the attention of Contractor. Contractor agrees that Contractor's failure to comply with this section is a material breach of the Contract.

12. Drug Free Workplace. Contractor agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall make a good faith effort to ensure that all Contractor employees, while working on University property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

13. Ethical Conduct and Conflict of Interest. Contractor represents, warrants and certifies that it and its employees engaged in the administration or performance of this Contract are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws including but not limited to Chapter 102 and Sections 2921.42 and 2921.43 of the Ohio Revised Code. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws.

14. Use of Marks/Advertising. Contractor will not appropriate or make use of the University's name or other identifying marks or property in any promotion, advertising, or in any manner without prior written consent of the University's Office of Marketing and Communications.

15. Independent Contractor.

- A. Contractor agrees that it is an independent contractor, and not an agent, partner or employee of the University. Contractor understands that it does not have the authority to sign agreements, notes or obligations or to make purchases or dispose of property for or on behalf of the University. Contractor's personnel are not employees or agents of the University at any time or for any purpose. Where University is directing the work of Contractor, Contractor will treat this as a directive for final result or expectations only.
- B. This includes application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code and for state revenue and tax laws, state workers' compensation laws and state unemployment insurance laws. Contractor accepts full responsibility for payment of all taxes including without limitation, unemployment compensation insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Contractor in the performance of the Services authorized by the Contract.
- C. Contractor accepts full responsibility for payment of all taxes including without limitation, unemployment compensation insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Contractor in the performance of the Services authorized by this Agreement.

16. Material Transfer.

- A. If applicable, the University may provide material to Contractor for the sole purpose of performing Services. Contractor will only use the material for the designated purpose and return or destroy any remaining material upon completion or termination of the Contract.

- B. Any material delivered pursuant to the Contract is understood to be experimental in nature, and UNIVERSITY MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER RIGHTS.
- C. In no event will the University be liable for any use by Contractor of the material or for any loss, claim, damage, expense, or liability, of any kind or nature, that may arise from or in connection with Contractor's use, handling, storage, or disposal of the material, except as such claims demands, costs, or judgments may arise from the University's gross negligence or willful misconduct. Contractor assumes responsibility for, and agrees to indemnify and hold harmless the University and the University's trustees, officers, agents, and employees from any liability, loss, or damage they may suffer as a result of any claims, demands, costs, or judgments against them arising out of the use, handling, storage, or disposal of the material by Contractor, except as such claims, demands, costs, or judgments may arise from the University's gross negligence or willful misconduct.
- D. The material will in no event be used in human beings (including for diagnostic purposes), or provided to any third party, nor will any animals or plants exposed to materials, or products of such animals or plants, be used for food. All use, receipt, and disposal of the material will be conducted in accordance with all federal, state, and local laws, regulations, and ordinances governing such use.

17. Hazardous Material. Contractor will ensure that all packaging, transportation and handling of hazardous material used in fulfillment of the Contract will be in accordance with applicable state and federal regulations including, but not limited to, the Material Safety Data Sheet provision of OSHA and Hazard Communication Standard 29 CFR 1910, 1200.

18. Export Control. Contractor acknowledges that University may use the services of employees, visiting professionals, and students who are not U.S. citizens or permanent resident aliens. Contractor will comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations ("**ITAR**") (22 CFR §§ 120-130) and Export Administration Regulations ("**EAR**") (15 CFR § 730-780). Contractor will not disclose or provide to any employee or agent of the University any information subject to the licensing provisions of the ITAR or EAR without the prior written approval of the University, which may be requested by contacting exportcompliance@utoledo.edu.

19. Audits. During the performance of Services required of Contractor by the Contract and for a period of seven (7) years after its completion, Contractor shall maintain auditable records of all charges pertaining to the Contract and shall make such records available to the University as the University may reasonably require.

20. Rights in Data, Patent and Copyrights/Public Use. The University shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data or materials prepared by Contractor pursuant to this Agreement. No such documents or other materials produced (in whole or in part) with funds provided to Contractor by the University shall be subject to copyright or patent by Contractor in the United States or any other country. Contractor agrees that all deliverables hereunder shall be made freely available to the general public to the extent required by law.

21. Parking. Contractor's personnel and vehicles under this Agreement will adhere to all vehicle laws of the state of Ohio and UToledo policies and procedures ("**Laws and Policies**"), including but not limited to: parking only in designated spaces; keeping vehicles off sidewalks and pedestrian paths; not blocking any type of traffic; no speeding/reckless driving, and ensuring that all vehicles and delivery drivers have the proper licensure and permits. Contractor is responsible for all parking fines and towing expenses incurred for its vehicles that are noncompliant with Laws and Policies. Contractor is responsible for any applicable unpaid parking fines, including but not limited to, parking in a handicap space, incurred by Contractor's personnel while performing Services. While performing Services, vehicles which are clearly marked as a service vehicle ("**Active Service Vehicle**") may park in designated Active Service Vehicle spaces without a parking permit. All vehicles, except an Active Service Vehicle, must have a parking permit and comply with Laws and Policies, including but not limited to, those vehicles used for Service-related meetings.

IV. Liability Provisions

- 1. General Warranties and Representations.** Contractor warrants and represents that the Services performed and Products supplied hereunder will be of first quality, in full compliance with requirements of this Agreement, and free from defects in material, workmanship and design for one (1) year from initial operations. Contractor warrants that:
- A. The recommendations, guidance, and performance of Contractor under the Contract will be in accordance with the industry's professional standards, the requirements of the Contract and without any material defect.
 - B. No Deliverable will infringe on the intellectual property rights of any third party.
 - C. All warranties are in accordance with Contractor's standard business practices.
 - D. The Deliverables are merchantable and fit for the particular purpose described in the Contract and will perform substantially in accordance with its user manuals, technical materials, and related writings.
 - E. The Deliverables comply with all governmental, environmental and safety standards.
 - F. Contractor has the right to enter into the Contract.
 - G. Contractor has not entered into any other contracts or employment relationships that restrict Contractor's ability to perform under the Contract.
 - H. Contractor will observe and abide by all applicable laws and regulations, including those of the University regarding conduct on any premises under the University's control.
 - I. Contractor has good and marketable title to any Deliverable delivered under the Contract for which title passes to the University.
 - J. Contractor has the right and ability to grant the license granted in any Deliverable for which title does not pass to the University.

If any aspect of the above warranty will be breached, Contractor will, upon receipt of notice thereof from the University and at Contractor's sole cost and expense, promptly repair or replace the defective materials, workmanship, or design or pay the University the costs and expenses incurred by the University in conducting such repair and replacement.

- 2. Indemnification.** Contractor will at all times during the term of the Contract and thereafter indemnify, defend and hold the University, its trustees, officers, employees, affiliates, agents, students as applicable and State of Ohio harmless against all claims, proceedings, demands and liabilities of any kind whatsoever, including legal expenses and attorneys' fees, resulting from the acts or omissions of Contractor or arising

out of the manufacture, sale, use, lease, consumption or advertisement of any Products or Services purchased or acquired under the Contract. It is understood and agreed that the provisions of this section will survive the termination of the Contract.

3. **Insurance.** Contractor warrants and represents that it has acquired and will maintain during the term of the Contract the insurance coverage as specified in the University's website: http://www.utoledo.edu/depts/risk/rm/policies/contractor_insurance_frontpage.html . Verification of acceptable coverage meeting University requirements will be furnished to University prior to commencement of Services.
4. **Limitation of Liability.** Notwithstanding any limitation provisions contained in the documents and materials incorporated by reference into the Contract, the parties agree as follows:
 - A. Neither party will be liable for any indirect, incidental or consequential loss or damage of any kind including but not limited to lost profits, even if the parties have been advised, knew, or should have known of the possibility of damages.
 - B. Contractor further agrees that Contractor shall be liable for all direct damages due to the fault or negligence of Contractor.

V. Miscellaneous Provisions

1. **Governing Law.** This Contract and rights of the parties will be governed by the laws of the State of Ohio and only Ohio courts will have jurisdiction over any action or proceeding concerning the Contract and/or performance.
2. **Assignment.** Neither party may assign the Contract or any rights, duties or obligations under the Contract without the advance written consent of the other party.
3. **Amendments.** No change to any provision of the Contract will be effective unless it is in writing and signed by both parties. Notwithstanding the foregoing, the University may reduce nonmaterial changes to writing and provide notice to Contractor
4. **Waiver.** Waiver by either party of a breach of any of the terms or provisions of the Contract by the other party at any time or times will not be deemed or construed to constitute a waiver of any subsequent breach or breaches of the Contract at any subsequent time or times.
5. **Headings.** The headings in this Agreement have been inserted for convenient reference and will not be considered in any questions of interpretation or construction of this Agreement.
6. **Severability.** The provisions of the Contract are severable and independent, and if any such provision will be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision will, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.
7. **Notices.** All notices related to the Contract must be sent to the address on the face page of Contract or Purchase Order by certified mail, return receipt requested, by overnight courier service, or by personal delivery and will be deemed effective upon receipt. The sender shall pay postage and delivery charges.

8. **Injunctive Relief.** Nothing in the Contract is intended to limit the University's right to injunctive relief if such is necessary to protect its interests or to keep it whole.
9. **Force Majeure.** Neither party will be liable or deemed in default for any delay or failure in performance under the Contract or interruption of service resulting directly or indirectly from acts of God, civil or military authority, acts of the public enemy, war, riots, civil disturbances, insurrections, accidents, fires, explosions, earthquakes, floods, the elements or any other cause beyond the reasonable control of such party.
10. **Unresolved Findings.** Contractor warrants that it is not subject to an "unresolved" finding for recovery under O.R.C. 9.24. If the warranty is deemed to be false, the Contract is void ab initio and Contractor must immediately repay to the State of Ohio any funds paid under the Contract.
11. **Free Trade.** Pursuant to R.C. 9.76(B) Contractor warrants that Contractor is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the Contract period.
12. **Debarment.** Contractor certifies that Contractor is not currently now and nor will be during the term of the Contract suspended or debarred by the Federal Government or State of Ohio from contracting with the University or other health care entities. Further, Contractor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC Section 153.02 or ORC Section 125.25. If this representation and warranty is found to be false, the Contract is void ab initio and Contractor will immediately repay to the University any funds paid under the Contract.

For Contracts utilizing federal funds, Contractor must comply with applicable Office of Management and Budget (OMB) requirements including the following provisions:

1. Equal Employment Opportunity – All contracts require compliance with E.O. 11246, “Equal Employment Opportunity”, as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

This contractor and subcontractor shall abide by the requirements of 41 CFR 60–1.4(a), 60–300.5(a) and 60–741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

2. Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) – All contracts and sub grants in excess of \$2000 for construction or repair awarded require compliance with the Copeland “Anti-Kickback” Act (19 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Finances in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or sub recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a – a-7) – When required by Federal program legislation, all construction contracts awarded by the recipients and sub recipients of more than \$2000 require compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination by the Secretary of Labor, In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) – where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do

not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under the Contract or Agreement – Contracts are agreements for the performance of experimental, development or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq), as amended – Contracts and sub grants of amounts in excess of \$100,000 shall contain a provision that requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq) violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contracts who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connections with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. Debarment and Suspension (E.O.s 12549 and 12689) – No contract shall be made to parties listed on the General Services Administration’s List of parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

9. Federal Subcontract. If the Contract constitutes a sub-agreement under a prime contract with a federal agency, the terms and condition of the prime contract will prevail.