

UC DAVIS HEALTH SYSTEM

REQUEST FOR PROPOSAL

**TO PROVIDE SERVICES FOR AUDIT AND RECOVERY OF
UNDERPAID MANAGED CARE CONTRACT ACCOUNTS
FOR THE UNIVERSITY OF CALIFORNIA, DAVIS HEALTH
SYSTEM'S PATIENT FINANCIAL SERVICES**

RFP # 09-88888-bc

RELEASE DATE: October 30, 2009

**DUE DATE: November 20, 2009
3:00 pm PST**

Return Response to (In person, by mail or courier, or e-mail)

Buyer Contact: Bill Corbett

Telephone #: 916-734-5951

Fax #: 916-734-7791

E-mail Address: william.corbett@ucdmc.ucdavis.edu

UC Davis Health System

Purchasing Department

4800 2nd Avenue, Suite 3010

Sacramento, CA 95817

Vendors must reference RFP # 09-88888-bc

**The University of California Davis, Medical Center Web address for downloading
this document and any updates until the submittal due date is:**

<http://www.ucdmc.ucdavis.edu/matm>

Table of Contents

Section	Page
Invitation, Scope of Work	3
General Background/Information	4
Schedule of Events	6
Basis of Award.....	6
Cost per Quality Point Factor and Award.....	6
Proposal Conditions	6
Proposal Requirements.....	8
Additional Contract Terms and Conditions.....	10
Final Statement/Authorized Signature	13
Appendix A: UC Terms & Conditions of Purchase.....	14

INVITATION

Purpose of this Request for Proposal

1. To obtain detailed, written proposals from bidders regarding their experience and capabilities in successfully undertaking similar audits and success in obtaining recovery of underpaid funds.
2. To obtain written proposed pricing structures, work plans and schedules, and proposed methodologies to be utilized.
3. To solicit proposals in a standard format which will enable UCDHS to compare and evaluate bidders and award a contract based on the selection criteria specified herein.

UCDHS seeks to secure the services of a firm to provide an audit of inpatient managed care contract accounts to determine if the accounts were correctly paid by the insurer. If the accounts were underpaid, the selected bidder shall recover underpaid funds from the insurer on a commission basis.

Scope of Work

The selected bidder shall review UCDHS's inpatient managed care contract accounts to determine if UCDHS's claims were paid at the correct contract rate. These accounts were paid to UCDHS under contractual arrangements with HMOs or other insurers.

The selected bidder shall review inpatient accounts discharged during the period January 1, 2009 through December 31, 2009 and outpatient accounts with Registration Dates during the same time period. The UCDHS Accounts Receivable Department bills approximately 2,700 inpatient accounts per month with an average value of \$101,803.00 each and 41,000 outpatient accounts with an average value of \$2,346.00 each. The number of accounts to be reviewed will be based on the original billed amount as well as the dollar amounts of discrepancy discovered by the selected bidder.

From a listing of paid managed care contract accounts, the selected bidder will review contract terms, payment remittances and the accounts themselves. For those accounts where a discrepancy exists, the selected bidder shall re-bill with a copy of the original billing and any supporting documents required. Coding changes by the selected bidder are prohibited. The selected bidder will also follow up with the payer to obtain the correct payment amount. All payments will be directed back to UCDHS. On a monthly basis, the selected bidder shall provide UCDHS's Accounts Receivable Department with a complete listing of accounts that have been re-billed, along with the underpayment amount, a brief description of the payment error and the amounts recovered to date.

UCDHS Accounts Receivable Department retains the right to deny re-bill of cases that are not in the best interest of UCDHS to pursue.

At no additional charge, the selected bidder shall provide UCDHS's Accounts Receivable Department with additional information, observations, recommendations for policy and procedural changes and actions designed to reduce the likelihood that payers will make future payment errors. The selected bidder shall assist the Accounts Receivable staff in implementation of recommended changes in UCDHS policies and procedures. The selected bidder shall provide recommendations, analysis and strategies for UCDHS's future use in negotiating with insurance companies to maximize the amount of funds collected.

The selected bidder shall be expected to start the project within one (1) month from the date of the issuance of the resulting contract and shall complete the scope of work within twelve (12) months thereafter.

GENERAL BACKGROUND/INFORMATION

The University of California, Davis Health System (UCDHS) provides the organizational framework that enables the University of California Davis to fulfill teaching, research, patient-care and public service missions. It consists of the School of Medicine (UCDSOM), the UC Davis Medical Center (UCDMC), the UC Davis Medical Group (UCDMG), and several specific centers such as the UC Davis Cancer Center, the UC Davis Children's Hospital and the UC Davis. M.I.N.D. Institute. Together they deliver primary, secondary and tertiary care throughout inland Northern California. The UC Davis Medical Group, the health system's physician network, includes over 500 physicians and 150 areas of medical specialty geographically dispersed in 25 locations.

UC Davis Medical Center (UCDMC) is one of five teaching hospitals operated by The Regents of the University of California. UCDMC is a 577-bed, fully accredited hospital, which serves as the main clinical education site for the UCD School of Medicine.

UCDMC is a Level 1 trauma and transplant center serving the Sacramento-Sierra area and the primary tertiary care referral center for a 33-county area of more than six million residents. Each year UCDMC admits approximately 33,500 inpatients, while its 150-plus clinics log more than 858,000 outpatient and emergency visits.

GENERAL INFORMATION FOR PROPOSAL SUBMITTAL INSTRUCTIONS

1. RFP Responses

Prospective bidders are required to submit one (1) hardcopy original and three (3) additional hardcopies to the address indicated below:

UCDHS Purchasing Department
4800 2nd Avenue, Suite 3010
Sacramento, CA 95817
Attn: Bill Corbett
REF: 09-88888-BC

All proposals submitted must be received in the UCDHS Purchasing Department **no later than 3:00 p.m. PST on November 20, 2009. Any responses after this due date will be rejected.**

Proposals must include a complete response addressing all information requested in this RFP.

Proposal responses shall include a listing of all exceptions taken to this RFP and attached specifications. Where exceptions are taken, the bidder must provide an explanation for the exceptions and their proposed solution for the capability or service not provided.

Unless stated otherwise in the Bidder's response, the Owner will assume that all products and services will be provided in complete compliance with this RFP and attachments. All responses should be concise and to the point.

Proposals shall include a title page identifying the Vendor and name, address, telephone, fax and e-mail address of the representative responsible for negotiation of the final agreement.

2. RFP Question and Answer Period

If you have questions or require clarification of various aspects of the RFP, submit them to UCDHS, **Bill Corbett** via plain text e-mail no later than **November 11, 2009, 4:00 pm, PST.**

Individual questions will not be answered directly to submitter. All questions submitted shall be responded to as an addendum to the RFP. The addendum will be e-mailed to each potential responder of record and posted on the UCDCM Purchasing web site at: <http://www.ucdmc.ucdavis.edu/matmgt/>. The identity of the submitter of any particular question will not be disclosed.

Inquiries and questions regarding this RFP will not be entertained after the **November 11, 2009.**

3. Addendum or Supplement to RFP

UCDHS may modify the RFP prior to the RFP due date, by issuance of amendments sent by e-mail, facsimile, overnight courier, and certified mail and posted on the UCDHS web site. Amendments will be clearly marked as such. Each amendment will be numbered consecutively and will become part of this RFP. Any vendor who fails to receive such amendments shall not be relieved of any obligation under this quotation as submitted. SPECIFICATIONS OR RFP REQUIREMENTS MAY BE REVISED ONLY THROUGH WRITTEN NOTICE OF AN ADDENDUM ISSUED BY BILL CORBETT,

UNIVERSITY OF CALIFORNIA, DAVIS, HEALTH SYSTEM, PURCHASING DEPARTMENT. CHANGES BY ANY OTHER INDIVIDUAL ARE NOT AUTHORIZED.

4. Distribution of RFP

The University of California, Davis Health System Purchasing Department is the agency authorized to distribute this RFP. Distribution of this RFP to parties other than those specifically designated by the UCDHS Purchasing Department is not authorized. Failure to observe this guideline may result in disqualification.

SCHEDULE OF EVENTS

Key activities and estimated completion dates are set forth below. UCDHS may change these dates at its sole discretion and convenience, without liability.

Release of RFP to vendors	October 30, 2009
Deadline for Vendor inquiries & questions	November 11, 2009
Final addendum issued	November 16, 2009
Vendor RFP responses due	November 20, 2009
Evaluation of proposals	Week of November 23, 2009
Oral presentations by finalists, If deemed necessary	Week of December 7, 2009
Notification of award to successful Vendor*	December 14, 2009

* This date may change.

BASIS OF AWARD

UCDHS shall make an award to a responsive, responsible bidders' offer whose proposal, in the sole opinion of UCDHS is deemed best able to serve the current and future needs of the UCDHS. The successful bidder will be selected by a committee of UCDHS representatives. Committee participants will review and evaluate each proposal received. In addition, reference checks and other information in the possession of or accessible to UCDHS will be utilized in the evaluation process. If deemed necessary, the committee may request the bidders to present an oral presentation before the evaluation committee.

COST PER QUALITY POINT FACTOR AND AWARD

A cost per quality point analysis will be performed as part of the award process based on the following factors (not in priority order):

- Firm's qualifications
- Provision of all information requested in the RFP, attachments and addenda
- Acceptance of the University of California Terms of Conditions of Purchase
- Demonstrated ability to provide the full range of products and services needed
- References

PROPOSAL CONDITIONS

Notwithstanding any other provision of the RFP, Vendors are hereby advised that this RFP is a solicitation for proposals only and is not to be construed as an offer to enter into any contract or agreement. Thus, UCDHS reserves the unqualified right to reject any or all proposals for any reason.

UCDHS shall have the unconditional right to withdraw, cancel, or amend this RFP at any time. Vendors shall bear all costs associated with the preparation and furnishing of responses to this RFP. UCDHS, in its sole discretion, reserves the right to determine whether any Vendor meets the minimum qualification standards, to determine whether a proposal is responsive, and to select proposals which best serve its programmatic objectives. UCDHS reserves the right to negotiate a binding agreement contract with the selected Vendor(s).

Responses to this RFP should be made according to the instructions contained herein. Failure to adhere to RFP instructions may be cause for rejection of the proposal. Any RFP, which contains conditions or limitations set up by the Vendor, may be deemed irregular and subsequently rejected by UCDHS.

False, incomplete, or unresponsive statements in the proposal response may be cause for rejection of the proposal. The evaluation and determination of the fulfillment of the RFP requirements will be the responsibility of UCDHS and its judgment shall be final.

UCDHS reserves the right to interpret or change any provision of the RFP at any time prior to the proposal submission date. Such interpretation or change shall be in the form of a written addendum to this RFP. Such addendum will become part of the RFP and any resultant contract. Such addendum shall be available to each company that has received an RFP. Should such addendum require additional information not previously requested, a Vendor's failure to address the requirements of such addendum in the proposal response may result in the proposal not being considered.

UCDHS has, at its sole discretion, the unconditional and unqualified right to determine that a time extension is required for submission of proposals, in which case, a written RFP addendum issued by UCHDS shall indicate the new submission date for proposals.

Prior to the final submission date, any Vendor may retrieve its proposal to make additions or alterations. Such retrieval, however, shall not extend the final submission dated.

Vendors wishing to submit proposals in response to this request do so entirely at their own expense, and submission of a proposal indicated acceptance of the conditions contained in the RFP unless clearly and specifically noted otherwise.

The Vendors will assume all costs it incurs in providing responses to this RFP prior to executing a definitive contract and for providing any additional information required by UCDHS to facilitate the evaluation process.

UCDHS considers all proposals, and proposal pricing, submitted by the Vendor in response to the RFP best and final. Modifications to the Vendor proposals will not be

accepted after submission unless solicited by UCDHS due to increased or reduced scope-of-work.

Public disclosure: Responses to Become Public Records: All materials submitted in response to this solicitation become a matter of public record and shall be regarded as public record.

Designation of Confidential Information: The Regents will recognize as confidential only those elements in each response, which are trade secrets as that term is defined in the law of California and which are clearly marked as “TRADE SECRET,” “CONFIDENTIAL,” or “PROPRIETARY.” Vague designations and blanket statements regarding entire pages or documents are insufficient and shall not bind The Regents to protect the designated matter from disclosure.

The California Public Records Act limits The Regents’ ability to withhold prequalification and bid data to trade secrets or records, the disclosure of which is exempt or prohibited pursuant to federal or state law. If a submittal contains any trade secrets that a Contractor does not want disclosed to the public or used by The Regents for any purpose other than evaluation of the Contractor’s eligibility, each sheet of such information must be marked with the designation “Confidential.” The Regents will notify the submitter of data so classified of any request to inspect such data so that the submitter will have an opportunity to establish that such information is exempt from inspection in any proceeding to compel inspection.

The Regents Not Liable for Required Disclosure:

The Regents shall not in any way be liable or responsible for the disclosure of any records if they are not plainly marked “TRADE SECRET,” “CONFIDENTIAL,” or “PROPRIETARY,” or if disclosure is required by law or by an order of the court.

PROPOSAL REQUIREMENTS

YOUR PROPOSAL MUST INCLUDE A RESPONSE TO EVERY QUESTION AND SECTION THAT REQUESTS INFORMATION, REFER TO THE SECTION AND CORRESPONDING ITEM NUMBER.

Failure to provide the information necessary to fully evaluate the bid response may result in disqualification of the bid.

**SECTION 1
QUALIFICATIONS**

The Qualification Statement must contain a description of the Bidder’s corporate qualifications, area of expertise, and prior experience with providing services similar to those described in this RFP, including but not limited to the following:

1. Company Ownership and Management

- a. Company name:
Address:
Phone:
Fax:
E-mail:
Internet address:
- b. Provide names and titles of company principals.
- c. When was your company founded?
- d. Who owns the company? If a subsidiary of another company, please provide name and location of headquarters.
- e. Provide the name and title of the individual, telephone number, and e-mail address with whom to communicate if further information about your proposal is desired.

2. Company Organization and Staff

- a. Provide profiles or resumes of principal staff that will be assigned to UCDHS.
- b. UCDHS would prefer that work is not subcontracted out. Unless otherwise indicated in the proposal response, the successful bidder will perform all work. Any work, which is subcontracted out by the bidder, must be indicated and will be subject to the terms and conditions of this RFP and any resultant contracts awarded.

3. Company Experience

- a. List the large medical institutions that you have contracted with in the past.
- b. Describe any other company experience you believe would be relevant or useful if you were to be awarded the project.

4. References

Each bidder must provide a reference list of at least three (3) clients for whom similar services have been performed within the past. The references may be from current or prior clients. The references will be used as a basis for inquiry concerning the bidder's quality of service. Furnishing incorrect and/or incomplete reference information may lead to bidder's elimination from consideration for award. The decision to eliminate bidder from consideration for award for poor reference checks or for incorrect and/or incomplete reference information shall be at the sole discretion of UCDHS and shall not be subject to appeal.

5. Conflict of Interest

Identify by name and University position any University officer, faculty member, or other employee who holds a position of director, officer, partner, trustee, manager, or employee in the bidder's organization, as well as the name of any near relatives who are employed by the University.

Provide a statement of the total dollar amount of work performed for the University of California in the past twelve (12) months and listing of the campus(es) served. The contract will not be awarded to any person, company, or corporation that has failed to perform in a satisfactory or faithful manner on any previous contract or purchase order with the University of California.

**SECTION 2
TECHNICAL PROPOSAL**

1. Provide an executive summary of the services that you can provide for the scope of work described in the purpose of this request for proposal.
2. Give details of your specific approach and the steps that will be taken to generate maximum recovery amounts. Bidders are encouraged to provide suggestions and recommendations to the University.
3. Provide a description of any resources which UCDHS would be required to provide.
4. Describe your firm's area of expertise performing patient account audits and recovery of underpaid funds.
5. Describe any other company experience you believe would be relevant or useful if you were to be awarded the project.

**SECTION 3
PRICING PROPOSAL**

1. Furnish definitive information regarding the proposed commission rate per the sliding scale below. The commission rate is defined as a percentage of the total recoverable received by UCDMC as a direct result of above-described services performed under the resulting contract. The commission rate will be the sole compensation provided and must include all travel, hotel, and other expenses incurred in providing these services.

A commission rate must be quoted for each bracket listed below. UCDMC will accept only one commission for the amounts recovered in excess of \$1,000,000.00.

AMOUNT RECOVERED	COMMISSION RATE	COMMISSION EARNINGS
From \$0 to \$250,000	%	
\$250,001 to \$500,000	%	
\$500,001 to \$750,000	%	
\$750,001 to \$1,000,000	%	
Over \$1,000,000	%	

ADDITIONAL TERMS AND CONDITIONS

1. The University's Terms and Conditions of Purchase (See Appendix A) shall apply to any contract for equipment and/or services awarded from this solicitation for proposals. The selected Vendor will be required to comply with all the terms and conditions as specified therein. A Vendor's inability to comply with, or exceptions and modifications

to, the terms and conditions incorporated in Appendix A agreement must be stated in its proposal and may disqualify Vendor from further consideration.

2. To facilitate timely award of this contract, each Vendor must certify its ability to comply with the insurance requirements outlined in Appendix A. The University will require the selected Vendor to furnish a certificate of insurance naming The Regents of the University of California as an additional insured. Such certificate of insurance shall be in a form as issued by an insurer approved by the University and shall contain an endorsement requiring not less than thirty (30) days' written notice to the University prior to any cancellation or modification thereof. Thereafter, a certificate evidencing the renewal of each such policy shall be furnished to the University at least ten (10) days prior to the expiration of the term of said policy. Failure to comply with this requirement may result in cancellation of any contract resulting from this Request for Proposal.

3. The University reserves the right to adjust the minimum insurance limits specified in Appendix A, based on the overall risk assessment of the project. Each Vendor must provide evidence of its current coverage with its proposal.

4. The University reserves the right to cancel any contracts resulting from this RFP at any time should insufficient funds be budgeted to continue the contract, by giving 90 days prior written notice to the Vendor.

5. The Vendor awarded a contract as a result of this RFP may not assign or sublet the whole or any part of the contract without the prior written consent of the University

6. No form of the University's name shall be used in promotional materials, signs, announcements, or other forms of communication or advertising originated by Vendor unless the University's express written permission for such use has been obtained in advance.

7. Health Care Criminal Offense Exclusion

Bidder certifies that neither Bidder, nor its shareholders, members, directors, officers, agents, employees or members of its workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deterred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by an federal , state or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. Each Party further agrees to notify the other Party

immediately after the Party becomes aware that any of the foregoing representation and warranties may be inaccurate or may become incorrect.

Bidder shall notify the Hospital immediately in the event that (1) Bidder is convicted of a criminal offense related to health care and/or related to the provision of services paid for by Medicare, Medicaid, or another federal health care program; or (2) Bidder is excluded from participation in any federal health care program, including Medicare and Medicaid.

Hospital may terminate this Agreement immediately in the event that (1) Bidder is convicted of a criminal offense related to health care and/or related to the provision of services paid for by Medicare, Medicaid or another federal health care program; or (2) Bidder is excluded from participation in any federal health care program, including Medicare and Medicaid.

8. Confidentiality of University Medical and Patient Information

All efforts will be made to protect private and confidential information concerning the academic health center and health system's patients and the respective health care practices of those entities. The vendor chosen for this contract will be required to sign a HIPPA Business Associate agreement.

Bidder personnel shall not reveal or disclose proprietary, confidential patient information, or trade secret information to unauthorized or non-university persons including, but not limited to, family, friends, relatives, associates, suppliers, vendors, customers, and competitors. If an employee is uncertain as to whether the individual or entity is an authorized source or whether the information must be released under the California Public Records Act, Information Practices Act, or other statutes requiring the release of information, the employee should review the request with a supervisor, chief compliance officer, or university legal counsel.

Confidential patient information should be discussed with or disclosed to university personnel on a limited, "need to know only" basis and to a patient or others only in response to a legal or authorized request. At no time should confidential patient or hospital information be discussed with or disclosed to non-university personnel, including the family or business and social acquaintances of agency/employee, customers, suppliers or others. Vendor personnel who have any questions regarding patient confidentiality should refer to university policies for additional information and consult with the appropriate supervisor or risk management.

9. UCDHS will pay invoices 30 days from date of receipt. Invoices are to be rendered only if the items or services in this contract have been furnished. Invoices must be itemized; all applicable discounts must be identified, and must reference the purchase order number.

10. The final contract with the selected firm will be prepared by the UCDCM's Purchasing Department and will incorporate this Request for Proposal, the submitted proposal and Appendix A. The University reserves the right to negotiate a purchase contract with the selected vendor.

FINAL STATEMENT/AUTHORIZED SIGNATURE

Signature below of bidder's authorized representative indicates acceptance of all terms, conditions, specifications, requirements, and certifications outlined throughout this RFP. Any exceptions must be noted on a separate page, marked "Exceptions," and attached to bidder's response. Additionally, the bidder agrees that all its bid documents and responses to this RFP will, at the option of UCDHS, become a legally binding and essential portion of the final contract between the awardee and UCDHS

Signature/Authorized Representative

Printed Name and Title

Printed Company Name

Telephone Number (including area code)

Fax Number (including area code)

E-mail Address

Date of Execution

University of California Appendix A Terms and Conditions of Purchase

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

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

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

ARTICLE 4 - TERMINATION

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

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

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

C. If University determines that Seller has been delayed in the work due to causes beyond the control and without the fault or negligence of Seller, University may extend the time for completion of the work called for by this order, when promptly applied for in writing by Seller; any extension granted shall be effective only if given in writing. If such delay is due to failure of University, not caused or contributed to by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of the order shall be subject to change under the Changes Article. Sole remedy of Seller in event of delay by failure of University to perform shall, however, be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of the delay. No allowance will be made for anticipated profits.

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

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

ARTICLE 5 - LIABILITY FOR UNIVERSITY - FURNISHED PROPERTY. Seller assumes complete liability for any tooling, articles or material furnished by University to Seller in connection with this order and Seller agrees to pay for all such tooling, articles or material

damaged or spoiled by it or not otherwise accounted for to University's satisfaction. The furnishing to Seller of any tooling, articles, or material in connection with this order shall not, unless otherwise expressly provided, be construed to vest title thereto in Seller.

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

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

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

ARTICLE 9 - FORCED, CONVICT, AND INDENTURED LABOR

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

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

(1.) The contract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the University.

(2.) Seller may be removed from consideration for University contracts for a period not to exceed 360 days.

ARTICLE 10 - INDEMNITY.

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

B. Proprietary Rights. Seller shall indemnify, defend, and hold harmless University, its officers, agents, and employees against all losses, damages, liabilities, costs, and expenses (including but not limited to attorneys' fees) resulting from any judgment or proceeding in which it is determined, or any settlement agreement arising out of the allegation, that Seller's furnishing or supplying University with parts, goods, components, programs, practices, or methods under this order or University's use of such parts, goods, components, programs, practices, or methods supplied by Seller under this order constitutes an infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party. The foregoing shall not apply unless University has informed Seller as soon as practicable of the suit or action alleging such infringement. Seller shall not settle such suit or action without the consent of University. University retains the right to participate in the defense against any such suit or action.

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

The University agrees to provide Seller with prompt notice of any such claims and to permit Seller to defend any claim or suit, and that it will cooperate fully in such defense.

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

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

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

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

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

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

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

A. Liens. Seller agrees that at any time upon request of University he will submit a sworn statement setting forth the work performed or material furnished by subcontractors, suppliers and material men, and the amount due and to become due to each, and that before the final payment called for hereunder, will if requested, submit to University a complete set of vouchers showing what payments have been made for materials and labor used in connection with the work called for hereunder.

Seller shall:

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

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

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

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

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

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

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

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

ARTICLE 17 - INSURANCE

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

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

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

Each Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Personal and Advertising Injury	\$ 1,000,000
General Aggregate (Not applicable To the Comprehensive Form)	\$ 2,000,000

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

B. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit not less than 1,000,000 dollars (\$) per occurrence.

(REQUIRED ONLY IF SELLER DRIVES ON UNIVERSITY PREMISES IN THE COURSE OF PERFORMING WORK FOR UNIVERSITY.)

C. Professional Liability Insurance with a limit of 2,000,000 dollars
(\$ _____) per occurrence with an aggregate of not less than

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

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

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

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

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

ARTICLE 19 - COOPERATION. Seller and its subcontractors, if any, shall cooperate with University and other vendors and contractors on the premises and shall so carry on their work that other cooperating vendors and contractors shall not be hindered, delayed or interfered with in the progress of their work, and so that all of such work shall be a finished and complete job of its kind.

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

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

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

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