



Purchase Order for Commodity Items ("Order")	
Order No:	
Order Date:	

CONTRACTOR	VENDOR
Contractor: Nova Group, Inc. Business Address: 185 Devlin Road Napa, CA 94558 Contact Person: Telephone Number: E-Mail	Vendor/Supplier: Business Address: Contact Person: Telephone Number: E-Mail

SEND INVOICE TO:	NOVA GROUP, INC. 185 Devlin Road Napa, CA 94558 accounting@novagr.com or fax to 707.265.1199	See Section 3. Include the Order Number on all invoices.
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SHIP TO:		Attention:
CALL 24 HOURS PRIOR TO DELIVERY		

EXHIBIT SB TO THIS PURCHASE ORDER IS A CERTIFICATION OF THE VENDOR'S SIZE AND STATUS IN ACCORDANCE WITH THE SMALL BUSINESS ACT AND 13 C.F.R. PARTS 121-127. THIS CERTIFICATION MUST BE COMPLETED AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE VENDOR AND RETURNED TO THE CONTRACTOR. FAILURE TO COMPLETE, SIGN, AND RETURN THIS DOCUMENT WILL PRECLUDE PROCESSING VENDOR'S REQUEST FOR PAYMENTS.

EXHIBIT SC TO THIS PURCHASE ORDER INCLUDES FEDERAL ACQUISITION REGULATIONS (FAR) RELATING TO IMMIGRATION, E-VERIFY REQUIREMENTS, BUSINESS ETHICS & COMPLIANCE, CERTIFICATIONS AND CLAIMS OR PROPOSALS, PAYMENT TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS, AND CLEAN AIR AND WATER. VENDOR, BY SIGNING THIS AGREEMENT, HEREBY CERTIFIES PER THE INCLUDED PROVISIONS.

EXHIBIT FED TO THIS PURCHASE ORDER INCLUDES THE PROVISIONS OF THE FEDERAL ACQUISITION REGULATIONS (FAR) OR CODE OF FEDERAL REGULATIONS (CFR) WHICH ARE APPLICABLE TO THIS ORDER IN ACCORDANCE WITH THE CONTRACT. THE VENDOR SHALL INCLUDE THESE CLAUSES IN ALL LOWER-TIER SUBCONTRACTS AND PURCHASE ORDERS.

EXHIBIT T&C TO THIS PURCHASE ORDER INCLUDES ADDITIONAL TERMS AND CONDITIONS. THE VENDOR, BY SIGNING THIS AGREEMENT, AGREES TO COMPLY WITH ALL THE TERMS AND CONDITIONS OF THIS ORDER.

1. ENTIRE ORDER

Nova Group, Inc. ("Contractor") entered into Contract No. _____, ("Contract" or "Prime Contract") with _____, ("Owner" or "Government"). That Contract and all plans, specifications, amendments, general, special and supplemental conditions, addenda and change orders thereto are incorporated by reference in this Order. Specifications which are incorporated by reference into the Contract are so incorporated by reference into this Order. That Contract can be accessed at _____.

As used in this Order or referenced documents, the term "Subcontractor" means the Vendor or Supplier and the term "Subcontract" or "Agreement" means this Order. This Agreement constitutes the entire agreement of the parties with regard to

the subject matter hereof, and supersedes all previous written or oral representations, agreements and understandings between the parties, whether expressed or implied.

2. ORDER

- 2.1 Vendor shall furnish all material and equipment on this Order in full accordance with the Contract. All furnished material and equipment is subject to approval of Contractor and Owner.
- 2.2 In particular, refer to specifications, including but not limited to, Specification Section(s): _____]
- 2.3 Submittals: The Vendor shall prepare and submit to Contractor in form and content acceptable to Contractor and Owner all applicable shop drawings, product samples, test data, manufacturers' literature, operating and maintenance instructions manuals, as-builts, and similar submittals as described in the Contract that are directly and indirectly applicable to the Subcontractor's Work. The Subcontractor is responsible for ensuring that all necessary submittals required by the Contract are identified and will be provided.
 - a) Vendor shall prepare and deliver its submittals to Contractor in a manner consistent with the Schedule and in such time and sequence so as not to delay Contractor or Owner in the performance of the Contract.
 - b) In addition to the number of submittals identified in the Contract, provide an additional copy and one (1) electronic of all submittals.
 - c) Contractor/Owner shall have forty-five (45) calendar days for review and approval of the submittals.
 - d) The approval of any Vendor submittal shall not be deemed to authorize deviations, substitutions or changes in the requirements of this Agreement unless express written approval is obtained from Contractor/Owner authorizing such deviation, substitution or change.
 - e) Vendor shall not manufacture, release, ship, or start work until Contractor provides release.
 - f) Vendor shall include a Certificate of Conformance with the submittal data.
 - g) Approved submittals is an express condition precedent to Contractor's obligation to pay Vendor.
- 2.4 Material submittals are due _ weeks after issuance of the order.
- 2.5 Delivery of the material/equipment shall be no later than _ weeks after receipt of approved submittals.
- 2.6 Close out submittals are due _ weeks after delivery of material/equipment.
- 2.7 Order Price
Contractor agrees to pay the vendor the sum of _____ subject to the provisions hereof and to make payments in accordance with this Order. Unless stated otherwise, the prices in this Order are in United States dollars.

Item	Description	UM	Quantity	NTE	Unit Price	Extended Price
SubTotal						
Tax:						
Total:						

NOTES:

- (1) If this Order includes Not-to-Exceed (NTE) amount(s), Vendor shall provide work on a reimbursable basis within the NTE the price identified. Vendor shall notify the Contractor when 75% of the NTE amount has been expended or is expected to be expended. Vendor shall not exceed the NTE amount without approval by the Contractor and issuance of a revised Order.
- (2) If this Order includes unit price(s), Vendor acknowledges that the unit price(s) stated shall represent full payment for items identified above, including direct and indirect costs and profit.

3. PAYMENT

- 3.1 Invoices.
 - (1) The Vendor's invoices shall be submitted to the Contactor in form and content acceptable to Contractor and Owner. Contractor reserves the right to return to the Vendor for correction all invoices containing errors and/or not in agreement with this Order. If the Order includes an Order/Delivery/Payment Worksheet (due to the number of line items associated with the purchase order) the provided table will serve as the order, receiving documents, and invoice/payment. Prior to submission of an invoice, request a delivery/receipt copy from Nova

Project Team certifying that the items have been received. Attach a copy of the most current receipt document associated with the proposed invoice for payment.

- (2) Invoices must be submitted after the material is received. Invoices received before delivery will be returned.
- (3) Vendor's invoices will be the basis for determining amounts earned by the Vendor.
- (4) The invoice must identify by Line-Item No. (identified in Section 2 above or attached Order/Delivery/Payment Worksheet) the quantities billed. Invoices that do not identify the Line-Item will be returned.
- (5) The invoice must have a distinctive invoice number and must include the Purchase Order number. Invoices that do not include the Purchase Order will be returned.

3.2 Payment Schedule. Notwithstanding anything to the contrary as identified in this Order, the amounts shall be paid by the Contractor as follows:

- (1) Payments will be made to Vendor each month in an amount equal to the value of material/equipment delivered and accepted, as determined by Contractor, payable within thirty (30) calendar days after receipt of a proper invoice. Partial payments shall not be construed as an acceptance of the material/equipment or waiver of any of Contractor's rights. Acceptance of final payment shall constitute a release by Vendor in favor of Owner and of Contractor and its surety of all claims with respect to this Order, other than claims excepted by the written consent of Contractor.

4. SMALL BUSINESS PARTICIPATION

4.1 North American Industry Classification System (NAICS) The NAICS for the Work under this Order is:

NAICS Number:		Size Standard:	
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4.2 Size Standards

Small Business Size Standards matched to North American Industry Classification System (NAICS) are found at www.naics.org or www.census.gov. Upon request, Contractor will provide Vendor with a copy of the Small Business Size Standards matched to NAICS.

4.3 Small Business Subcontracting Plan

Vendor shall be bound to the extent applicable to the provisions of FAR 52.219-9, Small Business Subcontracting Plans and, to the extent that Vendor is a large business, Vendor acknowledges that Vendor is expressly subject to FAR 52.219-9. If Vendor is a large business and this Order is in excess of \$1,500,000.00, then Vendor shall adopt a Small Business Subcontract plan as described in FAR 52.219-9 and submit to Contractor as provided for in FAR 52.219-9. Complete Plan no later than ten (10) calendar days after issuance of this Order. Submit Individual Subcontract Report (ISR) as required.

4.3.1 Subcontracting Plan Information

Contract Number:	
Contract SAM UEI:	
Contractors Official for receipt or rejecting ISR:	

5. TERMS AND CONDITIONS. The terms and conditions of this Order are included and binding per Exhibit "T&C NON-COMMODITIES".

CONTRACTOR:

By: _____

VENDOR:

By: _____
(Signature)

Print Name/Title

**EXHIBIT SB
BUSINESS STATUS CERTIFICATION**

Subcontractor/Vendor, by signing this Subcontract/Order/Agreement, certifies to the following (complete shaded blocks):

1 SAM UEI, CAGE CODE, AND NAICS CODE

Subcontractor/Vendor hereby certifies himself/herself/itself:

SAM Entity ID (if applicable):			
CAGE Code (if applicable):			
NAICS:		Size Standard:	

NOTE: The SBA has determined that NAICS Codes for Sector 42 (Wholesale Trade) cannot be used by Federal Government contractors when subcontracting for acquisition for supplies. The applicable manufacturing code shall be used to classify acquisitions for supplies. A Wholesale Trade or Retail Trade business concerns submitted an offer or a quote on a supply acquisition is categorized as a nonmanufacturer and deemed small if it has 500 or fewer employees and meets the requirements of 13 CFR 121.406).

See: [eCFR :: 13 CFR Part 121 -- Small Business Size Regulations](#)

13 CFR 121.406 (b) defines:

(b) **Nonmanufacturers.**

(1) A firm may qualify as a small business concern for a requirement to provide manufactured products or other supply items as a nonmanufacturer if it:

- (i) Does not exceed 500 employees (or 150 employees for the Information Technology Value Added Reseller exception to NAICS Code 541519, which is found at § 121.201, footnote 18);
- (ii) Is primarily engaged in the retail or wholesale trade and normally sells the type of item being supplied;
- (iii) Takes ownership or possession of the item(s) with its personnel, equipment or facilities in a manner consistent with industry practice; and
- (iv) Will supply the end item of a small business manufacturer, processor or producer made in the United States, or obtains a waiver of such requirement pursuant to paragraph (b)(5) of this section.

Accordingly, a NAICS Code Sector 31-33 Manufacturing has been identified on this action. If you have any questions, please contact Ms. Mona Carlson mona.carlson@novaqrp.com or Ms. Teri Miller teri@novaqrp.com

2 CERTIFICATIONS

Subcontractor/Vendor hereby certifies himself/herself/itself:

<input type="checkbox"/> Government, state, local, municipal or "Not for Profit" organization	
<input type="checkbox"/> Large Business Concern	
<input type="checkbox"/> Small Business Concern (check all other boxes that apply)	<input type="checkbox"/> Small Disadvantaged Business Concern <input type="checkbox"/> HUBZone Small Business Concern <input type="checkbox"/> Woman-Owned Small Business Concern <input type="checkbox"/> Veteran Owned Small Business Concern <input type="checkbox"/> Service-Disabled Veteran Owned Small Business Concern
Large and Small Business Concerns (check all boxes that apply)	<input type="checkbox"/> Minority Business Enterprise (MBE) <input type="checkbox"/> Women Business Enterprise (WBE) <input type="checkbox"/> LGBTQ-owned Business Enterprise (LGBTQBE) <input type="checkbox"/> Disability-Owned Business Enterprise (DOBE)

The offeror represents and certifies that the above information is true and understands that whoever for the purpose of securing a contract or subcontract under subsection (a) of Section 1207 of Public Law 99-661 misrepresents the status of any concern or person as a Small Business (SB) concern, Small Disadvantaged Business (SDB), Historically Underutilized Business Zone (HUBZone), Woman Owned Small Business (WOSB), Veteran Owned Small Business (VOSB), or Service-Disabled Veteran Owned Business (SDVOSB) (as described below) shall be

- (i) punished by imposition of a fine, imprisonment, or both;
- (ii) be subject to administrative remedies including suspension and disbarment; and,
- (iii) be ineligible for participation in programs conducted under the authority of the Small Business Act.

See also FAR 52.219(e)(4). The offeror represents and certifies that by submission of its offer and execution of this Subcontract/Order/Agreement the certifications in System for Awards Management, www.sam.gov (if registered), as of the date of the offer for this subcontract are correct and complete

3 **BUSINESS TYPE DEFINITIONS**

Small Business Concern: A concern including affiliates, that is independently owned and operated, not dominated in its field of operations in which it is bidding on Government Contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

Woman-Owned Small Business Concern: A small business concern that is at least 51% owned by a woman or women who are U.S. citizens and who also control and operate the business and has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that effects its eligibility.

City-State/Government/Non-Profit Organization: Offering goods or services at no profit.

Small Disadvantaged Business (SDB) Concern: A small business concern that is at least 51% unconditionally and directly owned (13 CFR 124.105) by one or more socially disadvantaged (13 CFR 124.103) and economically disadvantaged (13 CFR 124.104) individuals who are citizens of the United States and each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.1002..

HUBZone Small Business Concern: A small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126. **NOTE:** HUBZone small businesses must be certified by SBA.

Veteran Owned Small Business Concern: A small business concern that is at least 51% owned by one or more veterans or, in the case of any publicly owned business, not less than 51% of the stock of which is owned by one or more veterans and that management and daily business operations of which are controlled by one or more veterans.

Service-Disabled Veteran Owned Small Business Concern: A small business concern that is at least 51% owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51% of the stock of which is owned by one or more veterans and that management and daily business operations of which are controlled by one or more service-disabled veteran. A service-connected disability is defined in 38 U.S.C. 101 (2) and 38 U.S.C. 101(16).

For internal company reporting, the following definitions are provided:

Women Business Entity. A business enterprise that is at least 51% owned, operated, and controlled on a daily basis by one or more female American citizens. WBEs may be large or small business concerns. Subcontractor/Vendor may be required to provide proof of classification.

Minority Business Entity. Minority group members are United States citizens who are: Asian-Indian, Asian-Pacific, Black, Hispanic, and Native American. Ownership by minority individuals means the business is at least 51% owned by such individuals or, in the case of a publicly owned business, at least 51% of the stock is owned by one or more such individuals (i.e., the management and daily operations are controlled by those minority group members.). MBEs may be large or small business concerns. Subcontractor/Vendor may be required to provide proof of classification.

LGBTQ-owned Business Enterprise. A business enterprise that is at least 51% owned, operated, and controlled by a LGBTQ individual(s). LGBTQEs may be large or small business concerns. Subcontractor/Vendor may be required to provide proof of classification.

Disability-owned Business Enterprise. A for-profit business enterprise that is at least 51% owned, managed and controlled by a person with a disability regardless of whether or not that business owner employs person(s) with a disability. DOBEs may be large or small business concerns. Subcontractor/Vendor may be required to provide proof of classification.

SUBCONTRACTOR/VENDOR:

By: _____ Dated: _____

Print Name _____

Print Title _____

EXHIBIT SC
SUBCONTRACTOR CERTIFICATION

1. IMMIGRATION

Subcontractor by signing this Subcontract represents and warrants that it is, and will remain, in compliance with any and all provisions of the Immigration Reform and Control Act of 1986 (IRCA), as amended, the Immigration and Nationality Act, as amended, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and all other applicable immigration laws, rules, and regulations (Immigration Laws) including all form I-9 verification, E-Verify, and record keeping requirements.

Subcontractor shall Indemnify and hold Contractor and its Surety harmless from any claims, liabilities including any damages resulting from work stoppages or delays occasioned by or arising from any subcontractor noncompliance with IRCA or any such immigration laws, ordinances, rules, regulations, orders or decisions, as relates to the work of this Subcontract. The Subcontractor agrees to submit a certification, acceptable to contractor that its employees have presented the correct documents to legally work in the United States. Subcontractor also agrees to insert the substance of this clause, including this paragraph, in all Subcontracts or Purchase Orders hereunder.

1.1 E-Verify Requirement

Subcontractor by signing this Subcontract, Subcontractor hereby certifies that it has previously enrolled in the U.S. Citizenship and Immigration Services E-Verify program or shall enroll in that program within 30 calendar days of the award of this Subcontract. Subcontractor hereby agrees that:

- (1) it shall use the E-Verify program to verify the employment eligibility of all new hires thereafter;
- (2) it shall use the E-Verify program to verify the employment eligibility of all employees assigned to perform work or services related to this subcontract/purchase order; and
- (3) shall include this clause in all covered subcontracts and purchase orders.

Upon request, Subcontractor shall furnish evidence of its enrollment in the E-Verify program. If the Subcontract is \$3,500.00 or less or is for commercial off-the-shelf items ("COTS items") or COTS items except for minor modifications as defined in FAR § 2.101(3)(ii), this clause shall not be applicable.

2. BUSINESS ETHICS & COMPLIANCE

2.1 Contractor Code of Business Ethics and Conduct.

The Subcontractor, by signing this Agreement, hereby certifies that it has reviewed the requirements of FAR §§ 52.203-13 and 52.203-14, that it has or will adopt a written code of business ethics and conduct within 30 days of the award of this subcontract, and will otherwise comply with the applicable requirements of the above referenced FAR provisions, and will include the substance of those FAR provisions in subcontracts or purchase orders in excess of \$6,000,000 and a performance period in excess of 120 days unless said lower tier subcontract (purchase order) is for the acquisition of a commercial product or shall be performed entirely outside of the United States. Upon Contractor's request, the Subcontractor shall furnish a copy of its written code business ethics and conduct. This clause is not applicable if the subcontract or purchase order is less than \$6,000,000.

2.2 Debarment

The Subcontractor, by signing this Agreement, certifies to the best of its knowledge and belief, that:

- (a) Subcontractor and/or any of its principals are not presently debarred, suspended, proposed for debarment, or declared ineligible for contracts by any federal agency;
- (b) Subcontractor and/or any of its principals have not within a three-year period preceding this date been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of recording, making false statement, or receiving stolen property;
- (c) Subcontractor and/or any of its principals are not presently indicted of, or otherwise criminally or civilly charged by a governmental entity with the commission of any of the offenses enumerated in (b) above;

- (d) Subcontractor has not, within a three (3)-year period preceding this offer, had one or more contracts terminated for default by any federal agency; and
- (e) Subcontractor shall provide immediate written notice to Contractor if, at any time hereafter during the term of this subcontract and until Contractor has been fully released by the federal governments under its prime contract, if Subcontractor learns that these certifications were erroneous at the execution hereof or have become erroneous by reason or changed circumstances.

2.3 Reporting Executive Compensation

By executing this Subcontract, Subcontractor acknowledges and understands that:

- (1) FAR 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (OCT 2018) is incorporated into the Prime Contract and, to the extent applicable, is incorporated into this Subcontract;
- (2) by the end of the month following the month of award of this subcontract, if it has value of \$30,000 or more, Contractor shall report electronically information concerning the awarded subcontract and the subcontractor as prescribed by FAR 52.204-10 d(2); and
- (3) that this information, with the exception of information concerning Subcontractor executive compensation, is publicly assessable.

By executing this Agreement, Vendor agrees to furnish Contractor within fifteen (15) days of award of this Subcontract, if the Subcontract price \$30,000 or more, and annually thereafter, the names and total compensation of each of the five most highly compensated executives for the Subcontractor's preceding completed fiscal year, if the Subcontractor's received:

- (1) 80% of more in annual gross revenues from federal contacts (and subcontracts), loan, grants (and subgrants), cooperative agreements, and other forms of federal financial assistance, and
- (2) \$25,000,000 or more in annual gross revenues from federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance.

3. CERTIFICATIONS AND CLAIMS OR PROPOSALS

3.1 Contract Disputes Act Certifications

With respect to any Subcontractor claims submitted by Contractor to Owner, Subcontractor agrees to provide at the time of the submission of the claim to Contractor a certification signed by a senior company official in charge of the work involved, that the claim is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the contract adjustment for which Subcontractor believes the Owner is liable. Subcontractor agrees Contractor may rely exclusively on this certification in providing any certification Contractor may be required to submit to the Owner insofar as the claim includes a claim for or on behalf of Subcontractor. Subcontractor further agrees to recertify its claim in the above form at any time requested by Contractor.

3.2 Proposals and Representations

If the Owner-Contractor Agreement is subject to the Contract Disputes Act of 1978, the False Claims Act (Title 31 of the United States Code, Section 231, *et seq.*), the Forfeiture Statute (Title 28 of the United States Code, Section (2514), Title 18 of the United States Code, Section 287, Title 18 of the United States Code, Section 1001, Title 10 of the United States code, Section 2306(1), and Title 41 of the United States Code Section 254, or any other federal laws or any state law which impose requirements of good faith, accuracy, completeness and fair dealing in connection with the presentation of cost proposals or claims against, or the provisions of statements to, any party. Subcontractor and its surety hereby undertake to defend at its own cost with its own legal counsel, indemnify and hold harmless Contractor and their respective officers, directors, employees, sureties and agents, from any and all loss, cost, penalty, damage, claim, demand, expense and assessment whatsoever, including reasonable attorney's fees, arising from, relating to or in any manner connected with any allegation or claim of, or finding of, a violation of one or more applicable federal or state laws, provided that the alleged violation relates to, is directed at or is attributable to the Subcontractor, specifically, or relates to, is directed at or is attributable to those claims and supporting data submitted by Subcontractor in connection with the presentation of any claim by the Subcontractor for additional compensation, or adjustment of the contract terms, payment request, or any other act or statement by the Subcontractor.

3.3 Certification and Disclosure Regarding Payment to Influence Certain Federal Transactions

The Subcontractor, by signing this Agreement, hereby certifies that to the best of his or her knowledge it complies with the requirements set forth in FAR 52.203-11 - Certification and Disclosure Regarding Payment to Influence Certain Federal Transactions (Sept 2007), that to the best of its knowledge and belief no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract, and that the Subcontractor will include the language of this certification in all subcontracts, purchase orders, purchase agreements, etc., awards in excess of \$150,000 and require that all recipients of such a subcontract, purchase order, purchase agreement, etc., to certify and disclose accordingly and to obtain the equivalent certification from lower tier subcontractors or suppliers with contracts or purchase orders in excess of \$150,000.

4. ENVIRONMENTAL COMPLIANCE

4.1 Clean Air and Water

The Subcontractor, by signing this Agreement, hereby certifies that:

- (a) Any facility to be used in the performance of this proposed contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- (b) The Offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the EPA, indicating that any facility that the Offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and
- (c) The Subcontractor will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt Subcontract.

EXHIBIT FED
FEDERAL LAW & REGULATION COMPLIANCE

Subcontractor, by signing this Agreement, agrees to abide by the provision of the Federal Acquisition Regulations (FAR) or Code of Federal Regulations (CFR) which are applicable to this Subcontract in accordance with the Contract. Particular attention is directed to the requirements of the following provisions. The Subcontractor shall include these clauses in all lower-tier subcontracts and purchase orders.

1. FEDERAL LAW & REGULATION COMPLIANCE

To comply with all applicable federal, state and municipal laws, regulations, orders, citations and standards and with the programs and policies of Owner and Contractor that pertain to the Work including, without limitation:

- (i) those pertaining to prevailing wage (specifically the current Davis-Bacon Act, 40 U.S.C. Section 276a) and amendments thereto;
- (ii) those pertaining to affirmative action and the elimination of discrimination in employment and employment practices because of race, creed, color, national origin, sex, and age (specifically, the provisions of the following laws are hereby made a part of this Subcontract by reference: Executive Order #11246, as amended, Sec. 503 of the Rehabilitation Act of 1973, Sec. 402 of the Vietnam Era Veterans Readjustment Assistance Act, the Americans with Disabilities Act), the federal Family and Medical Leave Act),
- (iii) those pertaining to occupational health, safety, accident prevention and safety equipment, and
- (iv) those pertaining to hazardous substances

and to conduct all training, make all reports and maintain all records required by any of the foregoing or by Owner or Contractor.

2. EQUAL EMPLOYMENT OPPORTUNITY VIOLATIONS

Subcontractor is aware that Contractor is an EEO employer, and Subcontractor at its expense agrees to comply and conform to the equal employment opportunity policies of Contractor and any and all applicable Governmental authorities.

3. AFFIRMATIVE ACTION FOR VETERANS AND THE DISABLED

Subcontractor acknowledges that as a Government contractor, Contractor is subject to various federal laws, executive orders, and regulations regarding equal opportunity and affirmative action which may also be applicable to Subcontractor. Accordingly, Subcontractor shall, to the extent they apply, abide by the requirements of 41 CFR §§ 60-1.4(a), 60-4.3, 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individual based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, 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, national origin, protected veteran status or disability.

4. BUY AMERICAN ACT

The Buy American Act applicable to this contract is: _____

Subcontractor is required to provide a letter of certification.

5. ORDER RATING

Subcontractor acknowledges this is a rated order certified for national defense, emergency preparedness, and energy program use, and the Contractor shall follow all the requirements of the Defense Priorities and Allocations System regulation (15 CFR 700). This order is rated DO-C2 in accordance with provisions of DPAS Regulation 1 and/or DMS Regulation 1 as follows:

- (a) Rated orders take precedence over all unrated orders as necessary to meet required delivery dates. Among rated orders, DX rated orders take precedence over DO rated orders.
- (b) Persons receiving rated orders must give them preferential treatment as required by this part.
- (c) All rated orders must be scheduled to the extent possible to ensure delivery by the required delivery date as identified in Section 2 and Section 6.
- (d) Persons who receive rated orders must in turn place rated orders with their suppliers for the items they need

to fill the orders. This provision ensures that suppliers will give priority treatment to rated orders from contractor to subcontractor to suppliers throughout the procurement chain.

6. MANDATORY FLOW DOWN CLAUSES

In accordance with the Contract, the clauses listed below are incorporated by reference as a part of this Agreement with the same force and effect as if they were set forth herein in full text, and apply as prescribed below. The Subcontractor shall include the listed clauses in its subcontracts at any tier, to the extent applicable.

For the Subcontractor's convenience the clauses in full text can be found _____

SAMPLE

**EXHIBIT T&C
TERMS AND CONDITIONS**

All succeeding purchase orders must include the following terms and conditions.

- (1) **RELEASE OF INFORMATION.** Vendor shall not publicly release information, photographs, or other documents concerning any aspect of the materials or services relating to this contract without the prior written approval of the Contractor.
- (2) **CHANGES IN THE WORK.** Contractor shall have the right to change the scope of the Work in any respect by written order to Vendor. The order may direct Vendor:
- (i) to submit to Contractor a substantiated written proposal for an adjustment of the Agreement price and/or time for performance before commencing the changed Work or
 - (ii) to commence with the changed Work and then submit such a proposal to Contractor.

Vendor shall comply with the order and submit the proposal to Contractor within ten (10) business days after receipt of the order. Promptly after the submission of the proposal, the parties shall agree in writing upon such an adjustment. If the parties do not so agree, the adjustment, if any, shall be made in accordance with the changes clause in the Contract.

Contractor shall not be liable for any backcharge from Vendor unless the subject and amount of the backcharge was first authorized in writing by Contractor.

- (3) **SCHEDULE.** Time is of the essence. Vendor shall provide Contractor with any scheduling information proposed by Vendor. Following consultation with Contractor, Vendor shall prepare a coordinated Progress Schedule, and furnish such to Contractor. Vendor shall furnish and deliver the materials or equipment in strict accordance with the Progress Schedule. Vendor agrees that late, incomplete or inaccurate compliance with the terms of this Agreement can interrupt the critical path of Contractor's contract causing increased labor and material costs and possible contract penalties. Vendor shall indemnify Contractor for any damages Contractor suffers as a result of Vendor's late, incomplete or inaccurate compliance with the terms of this Agreement.

- (4) **INSPECTION AND WARRANTY.** Vendor warrants:

- a. All material/equipment shall be new and is subject to the approval of the Contractor and Owner.
- b. All material/equipment is free and clear of all liens, claims or encumbrances whatsoever and Vendor has good and marketable title thereto.
- c. All material/equipment is furnished only by entity designated herein.
- d. All material/equipment meets and conforms to the plans and specifications of the prime contract, including all amendments, drawings, conditions and addenda and modifications to date, identified on the face of this Agreement; said prime contract and all modifications thereof are incorporated herein by this reference.
- e. Contractor will suffer no work stoppage, loss or claim arising from infringement of any patent, patented process, copyright or trademark by reason of purchasing or using any item herein.
- f. Any defective item which does not comply with the Contract specifications may, at Vendor's risk and expense, either be returned to Vendor or disposed of by Contractor for Vendor's account without prejudice to Contractor's claim for damage or loss under this contract.
- g. Except in cases of emergencies, if Contractor chooses the repair of nonconforming materials, Contractor will provide Vendor written notice of such nonconformance and request Vendor to repair such nonconformance. Within seven (7) calendar days after receipt of written notification, Vendor must commence and continue satisfactory correction of such nonconformance with diligence and promptness, or Contractor may undertake such repair.
- h. Contractor may inspect and/or reject any item herein either before or after delivery without waiver or alteration of any warranty, express or implied, by Vendor.
- i. The Owner and/or Owner's Representative shall have the right to inspect all materials or equipment during any stage of manufacture or production by Vendor or Vendor's supplier, to audit quality assurance programs, and to otherwise assure quality control in the production and manufacture of the materials or equipment hereunder by Vendor or Vendor's supplier, and Seller shall provide reasonable access, facilities, and assistance for the safe and convenient inspection or audit at Vendor's plant or its supplier's plant.

- (5) **SHIPPING, LOADING, AND DELIVERY.** Vendor agrees:

- a. No charge may be added or billed for packing, boxing, storage, cartage or any other service or contingency related to transportation or delivery unless specified on this Agreement.

- b. Whenever physically possible, Contractor's order shall be shipped in carload lots. In smaller orders, all units shall be shipped in one load unless otherwise requested by Contractor with any decrease in freight charges being credited to Contractor where freight is part of the price hereon.
- c. Vendor is responsible for packing all items in conformance with all tariff or classification requirements and will be responsible for damage or loss in transit unless otherwise specified hereon.
- d. Where any charge is levied or computed in connection therewith, all blocking or dunnage not constituting part of the car which is used to secure or protect any unit or item in transit shall be separately listed by weight on the bill of lading. Installation and listing shall be sole responsibility of Vendor.
- e. A notice or shipping receipt shall be sent to Contractor when any part of this Agreement is shipped, identifying each item shipped, the route of shipment and Vendor's name. No shipment shall be considered complete until Contractor receives the bill of lading or express or mail receipt therefor.
- f. In any instance in which Vendor, its agents, employees or Vendors, enter upon any publicly or privately-owned premises for any purpose related to completing or implementing Vendor's express or implied obligations under this Agreement, Vendor shall:
 - i. Take all reasonable and necessary precautions to prevent injury to said premises and to any and all persons entering thereon;
 - ii. Carry adequate liability and workmen's compensation insurance relating to the activity and exposure; and if performing any work on a Government site, carry commercial general liability, workers' compensation and vehicle insurance as required by the Government and provide Contractor, upon Contractor's request, with certificates of insurance meeting Government requirements.
 - iii. Comply with all pertinent laws;
 - iv. Indemnify and hold Contractor harmless from any claim and expense (including attorney fees, costs of suit, tax liability and government fines or penalties) relating to or arising from said entry or activity.

- (6) **PERMITS AND LICENSES.** At Vendor's cost and expense, Vendor shall comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the work; obtain all necessary permits and licenses therefore; pay all manufacturer's taxes, sales taxes, use taxes, processing taxes and all Federal and State taxes, insurances and contributions for Social Security and Unemployment which are measured by the wages, salaries or other remunerations paid to Vendor's employees whether levied under existing or subsequently enacted laws.
- (7) **ASSIGNMENT.** Vendor shall not assign this contract or sublet the same or any part thereof without first obtaining the written consent of Contractor which will not be reasonably denied.
- (8) **HAZARDOUS MATERIALS.** As an express condition precedent to payment, manufacturers and suppliers of materials identified as "hazardous" as per 29 CFR 1926.59, and which may be a part of this Agreement, Vendor must provide Material Safety Data Sheets (MSDS's, OSHA form 174 (or its equivalent).
- (9) **INTERGRATION.** All prior representations, conversations or preliminary negotiations shall be deemed to be merged into this Agreement, and no changes will be considered or approved unless this Order is modified by an authorized representative of Contractor in writing. The terms and conditions of this Agreement cannot be altered or changed in follow-on documents such as Credit Applications, shipping documents, etc.
- (10) This Order is made in and subject to the laws of the State of California.