STOCKTON UNIVERSITY
TERMS AND CONDITIONS

The following Terms and Conditions ("Terms and Conditions") shall apply to all contracts or purchase orders or agreements made with Stockton University. The Terms and Conditions shall prevail and take precedence over any conflicting terms and conditions contained in the Vendor's proposal, invoice, or agreement (collectively, "Agreement").

AUTHORIZATION – The Vendor represents, covenants and agrees that it is authorized to do business in the State of New Jersey and has the legal authority to execute and perform this Agreement.

COMPLIANCE WITH LAWS – The Vendor must comply with all local, State and federal laws, rules and regulations applicable to the Agreement and to the Goods/Services.

BUSINESS REGISTRATION – Pursuant to N.J.S.A. 52:32-44, the University is prohibited from entering into the Agreement with the Vendor unless the Vendor, and each subcontractor named in the Agreement, has a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the New Jersey Department of the Treasury. Prior to the award of this Agreement, the Vendor shall provide the University with its proof of business registration and that of any named subcontractor(s). Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration as required, or that provides false business registration information, shall be liable for a penalty of $25 for each day of violation, not to exceed $50,000, for each proof of business registration not properly provided under a contract with a contracting agency. Any questions can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at: http://www.state.nj.us/treasury/revenue/busregcert.shtml.

NON-DISCRIMINATION – The Vendor agrees not to discriminate in employment and agrees to comply with all anti-discrimination laws including those contained in N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder. The Vendor agrees to the mandatory equal employment opportunity language for Goods, Professional Services and General Service Contracts set forth in N.J.A.C. 17:27-3.5 and 3.7 or N.J.A.C. 17:27-3.6 and 3.8, as if fully restated herein and as stated on the University's website at: https://intraweb.stockton.edu/eyos/purchasing/content/docs/Mandatory%20AA%20Language%20Good&Service.pdf and https://intraweb.stockton.edu/eyos/purchasing/content/docs/Mandatory%20AA%20Language%20Construction.pdf

PREVAILING WAGE ACT – The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq. is hereby made a part of every contract entered into on behalf of the University, except those contracts that are not within the contemplation of the Act. The Vendor's acceptance of this Agreement is the Vendor's guarantee that neither the Vendor nor any subcontractor employed to perform the work covered by this Agreement are listed or are on record in the Office of the Commissioner of the New Jersey Department of Labor and Workforce Development for failure to pay prevailing wages in accordance with the provisions of the Act.

THE WORKER AND COMMUNITY RIGHT TO KNOW ACT – The provisions of N.J.S.A. 35:5A-1 et seq. which requires the labeling of all containers of hazardous substances are applicable to this Agreement. All goods offered for purchase to the University must be labeled by the Vendor in compliance with the provisions of the Act.

OWNERSHIP DISCLOSURE – The Vendor shall comply with N.J.S.A. 52:25-24.2, which requires the disclosure of the names and addresses of all owners holding 10% or more of the firm's stock or interest.

DISCLOSURE OF POLITICAL CONTRIBUTIONS - If the payment under the Agreement exceeds $17,500, the Vendor shall comply with N.J.S.A. 19:44A-20.13 – 20.25 including submission to the State of the Vendor's Certification and Disclosure of Political Contributions.

EQUIPMENT – The Vendor represents, warrants and guarantees that any equipment provided under this Agreement shall be: (i) the manufacturer's latest model in production; (ii) that parts are all in production and not likely to be discontinued; (iii) that trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request may emanate within a 48-hour period; and (iv) that during the warranty period for such equipment the Vendor shall replace immediately any equipment that is rejected for failure to meet the requirements of this Agreement.

GOODS – The Vendor represents, warrants and guarantees that any goods provided under this Agreement shall be: (i) correct and appropriate for the purposes contemplated in this Agreement; (ii) are fit for the purpose for which similar materials and articles are ordinarily employed; (iii) are free from defects in materials and/or workmanship, and merchantable; (iv) were not manufactured and are not being priced or sold in violation of any federal, state or local law, including without limitation those relating to health and safety; (v) will perform or be performed according to industry standards; and (vi) will not infringe or misappropriate the rights of any third-party. These warranties shall survive acceptance of and payment for the goods by the University and shall be in addition to any other warranties or service guarantee, express or implied, given by the Vendor to the University. Replaced and repaired goods shall be warranted for the remainder of the warranty period or six (6) months, whichever is longer.

SERVICES – The Vendor represents, warrants and guarantees that any services provided under this Agreement shall be: (i) conducted in a timely manner, and in accordance with the Agreement, applicable law and university policy; (ii) correct and appropriate for the purposes contemplated in this Agreement and befitting an institution of higher learning; and (ii) provided in a skillful, workmanlike and highly-professional manner and consistent with generally accepted industry practices and

procedures. The Vendor will obtain all required governmental and third-party licenses, approvals, and permits appropriate for the provision of the services.

PAYMENT – After delivery of goods or services, Vendor must submit a properly executed and/or signed invoice/billing to the University's Accounts Payable Department. All billings must reference the University Purchase Order Number. The Vendor's express receipt and/or packing slip and related papers must be sent to the consignee with the merchandise. Payment shall be made in accordance with the New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq. The University reserves the right to withhold payment to such extent as may be necessary to protect against loss. Since University is exempt from New Jersey Sales, Use Tax and Local Taxes, and from federal Excise Taxes, these taxes shall not be included in Vendor invoices.

PERFORMANCE – Vendor shall deliver the goods and services in strict accordance with the Agreement and Vendor's proposal. Time is of the essence in the performance of this Agreement. If Vendor fails to deliver the goods or services in accordance with this Agreement, then the University may immediately terminate the order and this Agreement by providing notice to Vendor and Vendor shall indemnify University against any losses, claims, damages, and reasonable costs and expenses directly attributable to Vendor's failure to deliver the goods or services on the delivery date.

CONFIDENTIALITY/NONDISCLOSURE – If the Vendor obtains University data that includes nonpublic personal and/or propriety information, the Vendor shall comply with the terms of the University's Confidentiality/Nondisclosure Agreement located at the following link: www.stockton.edu/NDA.

AUTOMATIC RENEWAL – The University shall not be bound by any automatic renewal terms in any Vendor form or agreement unless the University agrees to such terms in writing.

INDEMNIFICATION – The Vendor will indemnify, hold harmless and defend the University, its trustees, faculty, students, agents, and employees against any and all damages, suits, actions, claims, liabilities, losses, judgments, costs and expenses arising out of or relating to (i) any personal or bodily injury (including death) or property damage caused by the Vendor's negligent, willful, or unlawful acts or omissions or breach of this Agreement, or (ii) an infringement or misappropriation of any third-party intellectual property or proprietary rights (including, without limitation, trademark, trade secret, copyright or patent) by the Vendor. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOST PROFITS, LOST BUSINESS OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES.

INSURANCE – The Vendor shall maintain, at its own cost and expense, the insurance policies described herein and shall submit to the University upon execution of this Agreement the form of current certificates of insurance certifying all coverage. All policies and certificates of insurance, except workers' compensation, shall be endorsed to name the University and the State of New Jersey as an additional insured. Such coverage shall be deemed primary coverage irrespective of any insurance maintained by the University. The insurance required by this section shall be issued by an insurance company rated A- or better in the A.M. Best Key Rating Guide or the generally acceptable equivalent rating category. A "per project endorsement" shall be included, so that the general aggregate limit applies separately to the project that is the subject of this Agreement. If the Vendor is a sole proprietor, partnership or limited liability company, then the insurance policy and certificate must indicate that the proprietor, partners, members are "included", unless such inclusion is not permitted by law. Upon request, the Vendor will provide certificates of insurance to the University Purchasing Office prior to the start of the Agreement and periodically during the course of a multi-year contract. All policies and certificates shall contain the provision that the insurance shall not be cancelled for any reason, except after thirty (30) days written notice to the University. Failure to maintain insurance coverage consistent with the provisions of this Agreement shall be considered a material breach of this Agreement. The following insurance coverage is the minimum required and shall not relieve the Vendor of any liability where liability for injury, death, and property damage is greater than the insurance coverage:

(i) Commercial General Liability Insurance. Shall cover Bodily Injury and Property Damage with limits not less than: $1,000,000 Each Occurrence for Bodily Injury liability and $1,000,000 Each Occurrence for Property Damage liability, and must be aggregated at $3,000,000 or better. This policy shall include broad form contractual liability, products liability and completed operations coverage.

(ii) General Automobile Liability Insurance. Shall cover all owned, non-owned, and hired vehicles with minimum limits of $1,000,000 Combined Single Limit Bodily Injury and Property Damage.

(iii) Workers' Compensation Insurance. Shall provide statutory coverage in accordance with the Workers' Compensation Laws of the State of New Jersey.

(iv) Employer's Liability Insurance. Shall provide coverage with limits of not less than: $1,000,000 Each Accident, $1,000,000 Each Employee for Injury by Disease, and $1,000,000 Injury by Disease.

TITLE AND RISK OF LOSS; INSPECTION – Title to and risk of loss shall remain with the Vendor until receipt by the University, subject to the University's right of inspection and rejection in the event of nonconformance. For a reasonable time after delivery and before acceptance, the University shall have the right to inspect and test the goods/services. The University shall notify the Vendor if the goods/services do not conform to this Agreement. At its sole option, the University may return to the Vendor any rejected goods. Such rejected goods shall remain at the Vendor's risk until returned to the Vendor at the

Vendor's expense. The University may, at its sole option, demand that the Vendor promptly correct, repair or replace all nonconforming goods/services at its sole expense. Payment for goods/services by the University prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that the University may have against the Vendor.

PRICE FLUCTUATIONS DURING CONTRACT – All prices quoted shall be final and not subject to increase during the term of this Agreement. If a manufacturer's price decreases during the term of this Agreement, then the University shall receive the full benefit of such decrease on any undelivered purchase order and on any subsequent order placed during the term. The University must be notified in writing of any price reduction within five (5) days of the effective date.

TERMINATION FOR CONVENIENCE – The University may terminate this Agreement in whole or in part at any time without cause upon at least 30 days' written notice to the Vendor. If the University terminates this Agreement without cause, the University will promptly pay the Vendor for the goods or services performed through the effective date of termination, in accordance with the terms of this Agreement.

TERMINATION FOR CAUSE - Either Party may terminate this Agreement upon at least 30 days' written notice to the other Party, for breach of this Agreement by the other Party, unless during such notice period, the Party fully cures the breach to the other Party's reasonable satisfaction. No action or failure to act by University shall constitute a waiver of any right it may have under the terms of the Agreement.

WORK MADE FOR HIRE – All goods and services delivered by the Vendor and for which the Vendor receives payment by the University shall be the sole and exclusive property of the University. The Vendor agrees that performance of this Agreement constitutes "work made for hire."

ASSIGNMENT OR SUBCONTRACTING – The Vendor shall not assign or subcontract in whole or in part any of the goods or services to be furnished under this Agreement without the prior written consent of the University.

DELIVERY COSTS – Unless noted otherwise in the Agreement, all prices for items in Vendor's proposal are to be submitted "F.O.B. Destination." The Vendors shall assume all liability and responsibility for the delivery of merchandise in good condition. F.O.B. Destination does not cover "spotting" but does include delivery on the receiving platforms of the University unless otherwise specified. No additional charges will be allowed for any transportation costs resulting from partial shipments made at Vendor's convenience when a single shipment is ordered. The weights and measures determined by the University shall govern.

SET-OFF FOR STATE TAX NOTICE - Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S Corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods and services or construction projects, at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set-off that taxpayer's, partner's or shareholder's share of the payment of that indebtedness. The amount set-off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off.

The Director of the Division of Taxation shall give notice of the set-off to the taxpayer, partner or shareholder and shall provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established by N.J.S.A. 54:49-18. No requests for conference, protect or subsequent appeal to the Tax Court from any protest permitted under N.J.S.A. 54:49-19 shall stay the collection of the indebtedness. Interest that may be payable by the State to the taxpayer, pursuant to P.L. 1987, c. 184 (N.J.S.A. 52:32-35) shall be stayed.

MAINTENANCE OF RECORDS – The Vendor shall maintain records for products or services delivered against the Agreement for a period of three (3) years from the date of final payment. Such records shall be made available to the University upon request.

INDEPENDENT CONTRACTOR – The Vendor shall be an independent contractor. This Agreement is not intended to establish any employer/employee, joint venture, or partnership relationship, either expressly or by implication between the University and the Vendor.

USE OF NAME – The Vendor shall not use the name, insignia, or symbols of the University, or any variations or combination thereof, or the name of any trustees, faculty member, other employee, or student of the University for any purpose whatsoever without the prior written consent of the University.

COLLECTION, ATTORNEY OR LITIGATION – Each party will be responsible for their own attorney, litigation, or collection fees. Each party will be responsible for their own arbitration and or court cost no matter who is the prevailing party.

SEVERABILITY – If any provision of this Agreement shall be determined to be void, invalid, unenforceable or illegal for any reason, it shall be ineffective only to the extent of such prohibition and the validity and enforceability of all the remaining provisions shall not be affected thereby.

LAW & JURISDICTION – The Agreement shall be governed and construed in accordance with the laws of the State of New Jersey. Any and all claims, disputes or other matters in question between Vendor and University arising out of or relating to

the Agreement, or alleged breach thereof, shall be subject to and determined by a court of competent jurisdiction venued in Atlantic County, New Jersey. Each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. This Agreement is subject to the New Jersey Tort Claims Act, N.J.S.A.59:1-1 *et seq*. and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 *et seq*.

AMENDMENTS - No change to this Agreement is binding upon the University unless it is in writing and signed by an authorized representative of University.

NOTICES – All notices required under this Agreement shall be in writing and shall be validly and sufficiently served by the University upon the Vendor if addressed and mailed by certified mail to the address set forth in the Vendor's proposal. Notices from the Vendor to the University shall be addressed and mailed by certified mail to the attention of the Director of Procurement and Contracting, Stockton University, 101 Vera King Farris Drive, Galloway, NJ 08205.

RIDER FOR PURCHASES FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Rider apply to all purchases funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

I. PROCUREMENT OF RECOVERED MATERIALS

To the extent that the scope of work or specifications in the contract requires the contractor to provide any of the following items, this Section 7.1 of the Standard Terms and Conditions modifies the terms of the scope of work or specification.

Pursuant to 2 CFR 200.322, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $ 10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

A. Designated items are those set forth in 40 CFR 247 subpart B, as may be amended from time to time, including:
   1. Paper and paper products listed in 40 C.F.R. 247.10;
   2. Certain vehicular products as listed in 40 CFR 247.11;
   3. Certain construction products listed in 40 C.F.R. 247.12;
   4. Certain transportation products listed in 40 C.F.R. 247.13;
   5. Certain park and recreation products, 40 C.F.R. 247.14;
   6. Certain landscaping products listed in 40 C.F.R. 247.15;
   7. Certain non-paper office products listed in 40 C.F.R. 247.16; and
   8. Other miscellaneous products listed in 40 C.F.R. 247.17.

B. As defined in 40 CFR 247.3, "recovered material" means:
   1. waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process; and
   2. for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term recovered materials includes:
      a. Postconsumer materials such as -
         i. Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and
         ii. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and
      b. Manufacturing, forest residues, and other wastes such as -
         i. Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
         ii. Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;
         iii. Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;
         iv. Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and
         v. Fibers recovered from waste water which otherwise would enter the waste stream.

C. For contracts in an amount greater than $ 100,000, at the beginning of each contract year, contractor shall provide the State estimates of the total percentage of recovered material utilized in the performance of its contract for each of the categories listed is subsection (A). For all contracts subject to this Section 7.1 of the Standard Terms and Conditions, at the conclusion of each contract year, contractor shall certify to the State the minimum recovered material content actually utilized in the prior contract year.

II. EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said

rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

III. DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of $ 2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

IV. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of $ 100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

V. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

VI. CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Contracts and subgrants of amounts in excess of $ 150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

VII. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

VIII. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding $ 100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.