

## **Non-UC/CSUS Applicants: Exhibit C - Terms and Conditions**

### **ADJUSTMENT**

An adjustment is required for a minor change to a grant agreement in cases where an amendment is not required (See AMENDMENT clause). The Grantee may request adjustments by submitting a written request to the Grant Manager. Requests to adjust the budget must include an electronic copy of the most current approved budget (Exhibits B1-B4), including any previously annotated changes, with the proposed changes annotated by ~~striking through~~ the current amounts to be nullified, and **underlining and boldfacing** the proposed amounts. Requests must also include a description of how the requested adjustments will affect the deliverables and the implementation of the project. Budget adjustments are limited to the approved budget categories (Personnel, Equipment, Travel, etc.); deleting or adding a budget category is not permitted as an adjustment (See AMENDMENT clause). The total of all budget adjustments must not exceed ten percent (10%) of the total budget and may not increase or decrease the total grant amount. The Grantee must not proceed to act on a proposed adjustment to this grant agreement until it is approved in writing by the Grant Manager. The Department may also propose adjustments to the budget.

### **ALLIANCE TEAM (FOR USE WITH ALLIANCE GRANT AGREEMENTS ONLY)**

The Alliance Team should include interested parties such as commodity group representatives, growers, academic and private researchers, school district representatives, representatives of public health entities, urban or industry representatives, sustainability or certification programs, NGOs, and other entities. The Department's grant manager will actively participate as a member of the Alliance Team to help create collaborative partnerships, set priorities, and assist in carrying out the project.

### **AMENDMENT**

An amendment is required for any substantial change to an executed grant agreement, such as the term, the scope of work, the content or due date of a deliverable, and a change of Principal Investigator or key personnel. An amendment is also required to move funds totaling more than ten percent (10%) of the grant agreement amount between budget categories (See ADJUSTMENT clause). Grant amendment requests must include an electronic copy of the most current grant agreement or amendment. The proposed changes must be annotated by ~~striking through~~ the text to be nullified and **underlining and boldfacing** any proposed replacement text. The request must also include a description of how the proposed amendments will affect the deliverables and the implementation of the project. The Grantee must not proceed to act on a proposed amendment until the amendment has been formally executed by the grant agreement signatories for both the Department and the Grantee. The Department may also propose grant agreement amendments.

### **APPROVAL TO PROCEED**

The Grantee may not begin work on the project until authorized in writing by the Department. Such authorization will be transmitted via email.

## **ASSIGNMENT**

This grant agreement is not assignable by the Grantee, either in whole or in part, without the written consent of the Department because the Department awarded this grant in part based on the expertise of the persons or entity awarded this grant.

## **AUDIT**

The Grantee agrees that the Department, the California State Auditor, or their designated representative shall have the right to audit and/or review, and copy any records and supporting documentation pertaining to the performance of this grant agreement if it exceeds \$10,000. The Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of record retention is stipulated in this grant agreement. If any litigation, claim, or audit begins prior to the expiration of the retention period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken. The Grantee agrees to refund to the Department any amounts claimed for reimbursement and paid to the Grantee which are later disallowed by the Department after audit or inspection of records.

## **BUDGET CONTINGENCY**

It is mutually understood between the parties that this grant agreement may have been written before ascertaining the availability of legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if this grant agreement were executed after that determination was made. This Agreement is valid and enforceable only if sufficient funds are made available to the California State Legislature for the purpose of this program. In addition, this grant agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature that may affect the provisions, terms, or funding of this grant agreement. It is mutually agreed that if the California State Legislature does not appropriate sufficient funds for the program, the Department has the option to terminate this grant agreement or to amend this grant agreement to reflect any reduction in funds.

## **BUDGET FLEXIBILITY**

Budget revisions between identified budget categories in cost reimbursement agreements that are within the total grant amount, comply with the prior approval requirements, and do not change the scope of work or substitute a Principal Investigator or key personnel, as defined in this grant agreement, are allowed as described below:

- Up to 10% of the total award is allowed under the adjustment procedures with prior written approval of the Department's Grant Manager, or as otherwise agreed to by the parties.
- Budget transfers that would cause any portion of the funds to be used for purposes other than those consistent with the original intent of this grant agreement are not allowed.
- Notwithstanding the above provision, the Department may proceed with a formal amendment to this grant agreement for budget revisions.

## **COMPLIANCE REQUIREMENTS**

The Grantee shall procure all authorizations, permissions, permits, and licenses necessary to accomplish the work contemplated in this grant agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful execution of the work. If landowner agreements are required, signed copies must be submitted to the grant manager before work begins. If permits are required, the permits must be obtained and signed copies must be submitted to the grant manager before work begins.

## **CONTRACTING AND DEBARMENT**

Any subcontractors, subawardees, or consultants required by the Grantee in connection with the scope of work covered by this grant agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for this grant agreement, or as are specifically authorized under either the Adjustment or Amendment procedures. Any substitutions in, or additions to, such subcontractors, subawardees, or consultants, shall be subject to the Adjustment or Amendment procedures.

The Grantee shall not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension." The Grantee shall not contract with any individual or organization on U.S. EPA's List of Violating Facilities. (40 C.F.R. § 31.35, Gov. Code, § 4477, <https://echo.epa.gov/facilities/enforcement-case-search>) The Grantee certifies to the best of its knowledge and belief, that it and its principals: are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or the grantee; have not, within a three-year period preceding the execution of this grant agreement, been convicted of or had a civil judgment rendered against them for: fraud or other offense in connection with a public (federal, state, or local) transaction or contract; violation of federal or state antitrust statutes; or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, and; are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses listed above.

## **COMPUTER SOFTWARE**

The Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Grant for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

## **CONFLICT OF INTEREST**

The Grantee certifies that it is in compliance with applicable state and/or federal conflict of interest laws. The Department intends to avoid any real or apparent conflict of interest on the part of the Grantee, subawardees, or employees, officers, and directors of the Grantee or subawardee. Thus, the Department reserves the right to determine, in its reasonable discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the Grantee to submit additional information or a plan for resolving the conflict, subject to the Department review and prior approval.

Conflicts of interest include, but are not limited to:

- An instance where the Grantee or any of its subawardees, or any employee, officer, or director of the Grantee or any subawardee receiving information in connection with the performance of services hereunder has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing such services would result in private or personal benefit.
- An instance where, in connection with the performance of services hereunder, the Grantee's or any subawardee's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.

## **DATA MANAGEMENT**

The project includes appropriate data management activities so that project data can be incorporated into appropriate DPR data systems.

## **DELIVERABLES INTENDED FOR DISCLOSURE TO THIRD PARTIES**

All deliverables intended for disclosure to third parties or the public must be approved by the Department before final release to ensure the project or portions of the project are within the scope of work described in this agreement and do not promote or disparage any brand or trade name. The Department's review of the deliverables shall be provided within twenty (20) business days after receipt and will not hinder the academic freedom of the research team regarding data, methodology, or conclusions reached within the parameters of the project described in this agreement. The evaluation of the Department's regulatory program is outside the scope of this project and will not be funded.

## **DEPARTMENT ACTION, COSTS, AND ATTORNEY FEES**

The Grantee agrees that any remedy provided in this Grant is in addition to and not in derogation of any other legal or equitable remedy available to the Department as a result of breach of this Grant by the Grantee, whether such breach occurs before or after completion of the Project. Exercise of any remedy provided by this Grant by the Department shall not preclude the Department from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties arising from this Grant, it is agreed that both parties shall be entitled to such reasonable costs and/or attorney fees as may be ordered by the court entertaining such litigation.

## **DEPARTMENT REVIEWS**

The parties agree that review or approval of project applications, documents, permits, plans, and specifications, or other Project information by the Department is for administrative purposes only and does not relieve the Grantee of its responsibility to properly plan, design, construct, operate, maintain, implement, or otherwise carry out the project. The provisions of this section shall survive the term of this grant agreement.

## **DISCLAIMER AND DISCLOSURE REQUIREMENTS**

The following disclaimer statements are required to be included in any publicly available brochure, document, electronic media, presentation, publication, report, or website prepared in whole or in part by this Grant. At the State's sole discretion, the State will require the Grantee to use one of the following disclaimers:

- This project was funded by the Department of Pesticide Regulation. The contents may not necessarily reflect the official views or policies of the State of California.
- This project was funded by the Department of Pesticide Regulation. The contents do not represent the official views or policies of the State of California.

In addition, signage must be posted in a prominent location at the Project site (if applicable) and must include the Department of Pesticide Regulation logo (available from the grant manager) and the following disclosure statement: “Funding for this project has been provided in full or in part through a Grant awarded by the Department of Pesticide Regulation.”

## **DISPUTES**

The Grantee shall continue with the responsibilities under this Grant during any dispute. Any dispute arising under this Grant that is not otherwise disposed of by agreement shall be decided by the Chief Deputy Director of the Department, or his or her authorized representative. The decision shall be reduced to writing and a copy thereof furnished to the Grantee and to the Department’s Director. The decision of the Chief Deputy Director shall be final and conclusive unless, within thirty (30) calendar days after mailing of the decision to the Grantee, the Grantee mails or otherwise furnishes a written appeal of the decision to the Director. The decision of the Director shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal under this clause, the Grantee shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute, the Grantee shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of this Grant. This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the Department, or any official or representative thereof, on any question of law.

## **EQUIPMENT**

Equipment is defined as having a useful life of at least one year, having an acquisition unit cost of at least \$5,000, and purchased with Department funds. Equipment means any products, objects, machinery, apparatus, implements or tools purchased, used or constructed within the Grant, including those products, objects, machinery, apparatus, implements or tools from which over thirty percent (30%) of the equipment is composed of materials purchased for the Grant. The normal useful life of the equipment purchased, funded, or developed with Grant funds shall be used to determine the depreciated value of equipment used in the Grant. The Department may determine the normal useful life of such equipment.

Title to equipment acquired by the Grantee with grant funds shall vest in the Grantee. The Grantee shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the Department continues to support the project or program with grant funds. The Grantee shall not encumber, sell, or damage the equipment without Department approval. When no longer needed for the original project or program, the Grantee shall contact the Department for disposition instructions.

For the purposes of this grant agreement, “damage” is defined as physical harm that is sustained by the equipment that prevents its functioning as designed or manufactured. The Department

may, at its option, repair any damage or replace any lost or stolen items and deduct the cost thereof from the contractor's invoice to the Department, or require the Grantee to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the Department with no expense to the Department. In the event of theft, a report must be filed immediately with the CHP.

The Grantee should maintain an inventory record for each piece of equipment purchased or built with funds provided under the terms of a contract. The inventory record of each piece of such equipment should include the date acquired, total cost, serial number, model identification (on purchased equipment), and any other information or description necessary to identify said equipment. In addition, theft-sensitive items of equipment costing less than \$5,000 should be inventoried. A copy of the inventory record must be submitted to the Department on request by the State.

### **ENTIRE AGREEMENT**

This grant agreement constitutes the entire agreement between the parties with respect to its subject matter and constitutes and supersedes all prior agreements, representations and understandings of the parties, written or oral.

### **FISCAL MANAGEMENT SYSTEMS AND ACCOUNTING STANDARDS**

The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of all grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or this grant agreement. The Grantee further agrees that it will maintain separate project accounts in accordance with generally accepted accounting principles.

### **FORCE MAJEURE**

Neither Party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods, and other natural disasters such that performance is impossible.

### **GOVERNING LAW**

This grant is governed by and shall be interpreted in accordance with the laws of the State of California.

### **GRANTEE REPRESENTATIONS**

The Grantee accepts all terms, provisions, and conditions of this grant agreement, including those stated in incorporated documents. The Grantee shall fulfill all assurances and commitments made in its Concept Application, Proposal, other accompanying documents, and written communications (e.g., email, correspondence) filed in support of its request for grant funding. The Grantee shall comply with, and require its subcontractors and consultants to comply with, all applicable laws, policies, and regulations.

## **INCOME RESTRICTIONS**

The Grantee agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Grantee under this Grant shall be paid by the Grantee to the Department, to the extent that they are properly allocable to costs for which the Grantee has been reimbursed by the Department under this Grant.

**INDEPENDENT ACTOR:** The Grantee, and its agents and employees, if any, in the performance of this Grant, shall act in an independent capacity and not as officers, employees or agents of the Department.

## **INDIRECT COSTS**

Overhead/Indirect Cost (IDC) may not exceed 25% of the Modified Total Direct Cost. Tuition/fee remissions cannot be included in calculations for indirect costs.

## **IN-KIND SERVICES**

Project activities by team members that have been approved by their employers to be compensated with existing employer funds at the time of the proposal submission.

- *Allowed:* personnel time given to project by team members; the use of team member's existing equipment or facilities, and; donations of materials by team members.
- *Not allowed:* project tasks that are simultaneously funded by more than one source, and; project tasks that rely on labor or outcomes of activities that are not part of the Department-funded project.

## **INSPECTION**

Throughout the life of the project, the Department shall have the right to inspect the facilities (e.g., fields, orchards, offices, laboratories) to ascertain compliance with this grant agreement. The Grantee acknowledges that the project records and locations are public records.

## **INSURANCE**

Grantees, subcontractors, and consultants shall, throughout the life of the project, provide and maintain auto insurance with the limits set at a minimum of \$100,000, \$300,000, and \$100,000 for property damage and liability. This insurance shall be issued by a company or companies admitted to transact business in the State of California. Proof of insurance shall be provided to the Grant Manager prior to starting work on the project.

## **KEY PERSONNEL**

Key personnel are individuals who contribute to the scientific development or execution of the project in a substantive, measurable way, whether or not salaries are requested. Typically, they have doctoral or other professional degrees, although other individuals should be included if their involvement meets the definition of key personnel. Key personnel do not include students or other named staff not specifically required for the completion of the scope of work. The time commitment/percent of effort of key personnel must be documented. Key personnel must devote a measurable percentage of effort to the project. It is important to only list key personnel in the Exhibits, as any changes in key personnel throughout the project will require prior approval.

## **LIABILITY**

To the extent permitted by law, the Grantee shall defend, indemnify and hold harmless the State, its officers, employees and agents from and against any and all liability, loss, expense, attorneys' fees, or claims for injury, or damages arising out of the performance of this grant agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Grantee, its respective officers, agents or employees.

To the extent permitted by law, the State shall defend, indemnify and hold harmless the Grantee, its officers, employees and agents from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages arising out of the performance of this grant agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the State, its respective officers, agents or employees.

## **MEDIA EVENTS**

The Grantee shall notify the Department's Grant Manager in writing at least twenty (20) working days before any public or media event, physical or electronic (web page, social media, etc.), publicizing the accomplishments and/or results of this Grant, and provide the opportunity for attendance and participation by the Department's representatives.

## **MODIFIED TOTAL DIRECT COST (MTDC)**

The MTDC includes all salaries and wages, fringe benefits, materials, supplies, services, travel, subcontractors, and consultants (up to the first \$25,000 of each subcontract). Not included in the MTDC are charges for equipment (equipment is distinguished from materials as purchases of over \$5,000), capital expenditures, patient care charges, tuition remission, rental costs of off-site facilities, scholarships and fellowships, and the portion of any subcontract in excess of \$25,000. The IDC rate in the approved budget will remain in effect for the entire funded project period of an agreement.

## **NONDISCRIMINATION**

During the performance of this grant agreement, the Grantee and its subcontractors and consultants shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The Grantee and its subcontractors and consultants shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. The Grantee and its subcontractors and consultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 et seq.). The applicable regulations of the Fair Employment and Housing Council implementing Government Code section 12990, set forth in Subchapter 5 of Division 4.1 of Title 2 of the California Code of Regulations are incorporated into this grant agreement by reference and made a part hereof as if set forth in full. The Grantee and its

subcontractors and consultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. The Grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts to perform work under this grant agreement.

### **NO THIRD-PARTY RIGHTS**

The parties to this grant agreement do not create rights in, or grant remedies to, any third-party as a beneficiary of this grant agreement, or of any duty, covenant, obligation or undertaking established in this grant agreement.

### **NOTICE**

The grantee shall promptly notify the Department's Grant Manager in writing of events or proposed changes that could affect the scope or budget of the project proposed under this grant agreement. The Grantee agrees that no material change in the scope of the project will be undertaken until written notice of the proposed change has been provided to the Department and the Department has given written approval for such change as provided by the grant agreement adjustment and amendment processes. "Material" is defined as "More or less necessary; having influence or effect; going to the merits."

All notices permitted or required under this Agreement shall be in writing and shall be delivered in person or transmitted to the mailing address or email address of the party as specified in this grant agreement.

### **PAYMENT and INVOICING**

#### **A. Reimbursement**

- 1) The total amount of funds disbursed under this grant agreement shall not exceed the total amount specified. Subject to the budget contingency clause of this grant agreement, the amounts payable for each fiscal year, if applicable, will be identified in Exhibit B1.
- 2) Costs for this grant agreement shall be computed in accordance with the Generally Accepted Accounting Principles (GAAP). The Department will reimburse direct and indirect costs in accordance with the approved budget.
- 3) The Department shall reimburse salaries and wages based upon the approved budget and the actual payments made with the following caveat: the Grantee must retain supporting documentation that shall substantiate actual costs and shall be available for review by the Department upon request. Supporting documentation may include, but not be limited to, time reports and/or calendar entries.
- 4) Indirect Costs shall be calculated in accordance with the Grantee budgeted indirect costs in the approved budget. The rate in effect for the first year of a multi-year grant agreement will be the rate used for the entire project.
- 5) Nothing herein contained shall preclude a ten-percent payment withhold pursuant to section 10346 of the Public Contracts Code.

#### **B. Expense Allowability / Fiscal Documentation**

The Grantee will maintain financial records and supporting documentation of all costs incurred

in the performance of this grant agreement. If the Department requires clarification of any expenditure prior to payment of an invoice, the Grantee will provide documentation of such expenditure to support its allowability. If any expenditures are disputed by the Department, pending resolution, the Department agrees to pay all other undisputed invoiced costs.

### C. Invoicing

- 1) For services satisfactorily rendered in accordance with the scope of work and budget, and upon receipt and approval of invoices, the Department agrees to reimburse the Grantee for actual allowable expenditures. Approval of invoices shall not be withheld based on scientific differences between the Grantee and the Department in the interpretation of the research data and final conclusions.
- 2) Invoices shall be submitted in arrears not more frequently than once a month and not less frequently than every three months to the Department invoice contact. Invoices may be submitted electronically by email. If submitted electronically, the invoice must include the following certification for State certification to the State Controller's Office, in compliance with SAM 8422.1: "This bill has been checked against our records and found to be the original one presented for payment and has not been paid. We have recorded this payment so as to prevent a later duplicate payment."
- 3) Invoices shall:
  - (a) Bear the Grantee's name as shown on this grant agreement.
  - (b) Include this grant agreement number and the Grantee's fund/reference number if applicable.
  - (c) Identify the billing and/or performance period covered by the invoice and provide a detailed transaction ledger, including payroll detail, for the same period.
  - (d) Provide the Grantee's invoice contact, telephone number and/or email address.
  - (e) Be prepared in accordance with the approved cost categories identified in the approved budget and the elements contained in Exhibit B5.
  - (f) Be certified in ink or by an electronically scanned copy of a signature by the Grantee's Financial Contact (or designee) as true, correct, and the sole bill for the charges invoiced.
- 4) A copy of the invoice/detailed transaction ledger shall be certified in ink or by an electronically scanned copy of a signature by the Principal Investigator or designee for costs incurred, with the following statement: "By signing this invoice I certify, under penalty of law, that this document and any attachment was prepared by me or under my direction in accordance with the terms and conditions of the Grant Agreement and, to the best of my knowledge and belief, is accurate and complete. I am aware that there are significant penalties for submitting false or misleading information." This certified document may be transmitted electronically to the Department's invoice contact and Grant Manager.
- 5) The Grantee shall submit the final invoice and the 10% retention invoice to the Department, no later than ninety (90) calendar days after the agreement completion date.
- 6) The final invoice shall be clearly marked FINAL INVOICE and be received no later than 90 days after the project end date. Additionally, the Grantee shall promptly notify the Department in writing of completion of work on the project to assure payment of the ten percent (10%) retention withheld from the Grantee's funding (invoiced separately). Absolutely no funds may be requested or invoiced after 90 days after the project end date.

Any invoice(s) submitted more than 90 days after the project end date, will be considered null and void and have no legal effect.

### **PRIOR APPROVAL REQUIREMENTS**

The following changes require prior approval of the Department as an amendment to this grant agreement, whether or not the change has a budgetary impact:

- 1) Change in scope of work.
- 2) Change in Principal Investigator or Key Personnel.
- 3) Inclusion of restricted use data or copyrighted works in deliverables.
- 4) Travel not included in the approved budget.
- 5) Equipment not included in the approved budget.
- 6) Computer (or theft sensitive equipment) not included in the approved budget.
- 7) Substitution or addition of subcontractors or consultants.

### **PRINCIPAL INVESTIGATOR**

The Principal Investigator has the primary responsibility for financial management and control of project funds and is responsible for all aspects of project administration including:

- 1) Ensuring the scientific integrity and management of the project.
- 2) Ensuring the financial management of project funds.
- 3) Adherence to the Department's terms and conditions including reporting and record keeping requirements contained in this grant agreement.
- 4) Monitoring the performance and expenditures of subcontractors and consultants prior to approving their invoice.

### **PROFESSIONALS**

The Grantee agrees that only licensed professionals will be used to perform services under this Grant where such services are called for.

### **REASONABLE EFFORTS**

The parties agree that the work described in the scope of work is to be conducted on a "reasonable efforts" basis. Additionally, Principal Investigators are obligated to conduct the project of the highest possible quality (For example, see UC Contracts and Grants Manual, Proposal Submission and Award Acceptance/Administration 2- 635, Revised September 2012).

### **RECORDS**

The Grantee agrees to maintain project accounts in accordance with generally accepted accounting principles. The Grantee further agrees to: Establish an official file for the project which shall adequately document all significant actions relative to the project; Establish separate accounts which will adequately and accurately depict all amounts received and expended on this project, including all grant funds received under this grant agreement; Establish separate accounts which will adequately depict all income received which is attributable to the project, especially including any income attributable to grant funds disbursed under this grant agreement;

Establish an accounting system which will adequately depict final total costs of the project, including both direct and indirect costs, and; Establish such accounts and maintain such records as may be necessary for the Department to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations.

### **RELATED LITIGATION**

Under no circumstances may a Grantee use funds from any disbursement under this grant agreement to pay costs associated with any litigation the Grantee pursues against the Department.

### **REMEDIES**

Any rights and remedies of the Department provided for in this grant agreement are in addition to any other rights and remedies provided by law.

### **RIGHTS IN DATA**

Reports specifically created for use by the Department under this Grant shall be the property of the Department. The Department has the right to use submitted information and data for all governmental purposes. The Grantee may disclose, disseminate, reproduce, and use in whole or in part, any final form data and information received, collected, and developed under this Agreement, subject to appropriate acknowledgement of credit to the Department for financial support.

The Department makes no other claim to intellectual property developed under this Grant that is not specified for delivery.

### **RIGHT TO PUBLISH**

Subject to any restrictions on the publication, disclosure, dissemination, and use of information or use of data set forth in this grant agreement or under any applicable law, the Grantee shall have the right to publish, disclose, disseminate and use, in whole and in part, any data and information received or developed under this grant agreement.

The Grantee will provide publications, presentations and other public releases resulting from work performed under this grant agreement to the Department for review at least thirty (30) calendar days prior to publication and will identify the proposed recipients. During the first twenty (20) calendar days of such review period, the Department may provide notice to the Grantee that it intends to rebut some or all aspects of the presentation, publication or other media release. The Department will then have thirty (30) calendar days from the date of notice to prepare and submit such rebuttal to the recipients identified by the Grantee. Within the review period, the Department may provide feedback to the Grantee; the Grantee will give good faith consideration to such feedback, but has no obligation to make any changes in said material, other than the removal of any material whose disclosure is prohibited or restricted by this grant agreement or by any applicable law. Any of the above referenced time periods may be modified upon agreement of both parties. Neither party may unreasonably deny such requests.

At the Department's sole discretion, the Department will require the Grantee to use one of the

following disclaimers in any publication, presentation or other public release:

- 1) "This project was funded by the California Department of Pesticide Regulation. The contents may not necessarily reflect the official views or policies of the State of California."
- 2) "This project was funded by the California Department of Pesticide Regulation. The contents do not represent the official views or policies of the State of California."

These disclaimer statements are required to be included in any publicly available document, publication, report, brochure, website, or electronic media prepared in whole or in part by this grant.

The parties shall comply with Government Code 13989 et seq, including but not limited to:

- 1) The Grantee is responsible for ensuring that any publishing or copyright agreements concerning submittal of peer-reviewed manuscripts fully comply with Government Code section 13989 et seq.
- 2) For a peer-reviewed manuscript accepted for publication, the Grantee shall ensure that the peer-reviewed manuscript be available no later than 12 months after the official date of publication on a publicly accessible repository approved by the State, including but not limited to:
  - (a) CSU ScholarWorks at the Systemwide Digital Library (<http://scholarworks.calstate.edu>).
  - (b) UC California Digital Library (<https://www.cdlib.org/>).
  - (c) PubMed Central (<https://www.ncbi.nlm.nih.gov/pmc/>).
- 3) The Grantee shall instruct the Principal Investigator to report to the Department the final disposition of the peer-reviewed manuscript, including but not limited to:
  - (a) Whether it was published.
  - (b) Where it was published.
  - (c) When it was published.
  - (d) When the 12 month period after publication expires.
  - (e) Where the manuscript will be available for open access.
- 4) The Department shall retain information regarding all issued research grants that resulted in published works.

## **SEVERABILITY**

The invalidity or unenforceability of any provisions of this grant agreement shall not affect the validity or enforceability of any other provision of this grant agreement, which shall remain in full force and effect.

## **SURVIVAL**

The parties' obligations under the Audit, Equipment, Liability, and Rights in Data clauses will survive the expiration and termination of this agreement.

## TASK BUDGET

Estimates of the direct costs of each task included in the Scope of Work in Exhibit A1 must be entered in tabular form (refer to the following example table) to be included in Exhibit B4. The Task Budget is for DPR estimation purposes only and Exhibit B1 will serve as the principal budget.

Example Task Budget Table

Objective	Tasks or Deliverables	Cost
1	Task 1.1	\$100
1	Task 1.2	\$500
1	Task 1.3	\$750
2	Task 2.1	\$1,500
2	Task 2.2	\$5,000
3	Task 3.1	\$50,000
3	Task 3.2	\$4,500
4	Task 4.1	\$20,000
	<b>Total</b>	\$82,350

## TERMINATION

The Department's authorized official may terminate this grant agreement with or without cause upon thirty (30) calendar days written notice to the Grantee. Upon receipt of the Department's notice of termination, the Grantee shall take reasonable efforts to limit or terminate all financial commitments and will not incur new obligations under this grant agreement. In accordance with the invoice provisions of this grant agreement the Department shall reimburse the Grantee for costs incurred up to the effective date of termination and for costs incurred due to non-cancellable obligations, up to the undisbursed balance of funds authorized in this grant agreement.

The Grantee's authorized official may terminate this grant agreement for good cause and upon thirty (30) calendar days written notice to the Department of the cause for termination. Upon submission of the Grantee's notice of termination, the Grantee shall take reasonable efforts to limit or terminate all financial commitments and will not incur new obligations under this grant agreement. In accordance with the invoice provisions of this grant agreement the Department shall reimburse the Grantee for costs incurred up to the effective date of termination and for costs incurred due to non-cancellable obligations, up to the undisbursed balance of funds authorized in this grant agreement.

Good cause is defined as impossibility of performance or frustration of purpose. Good cause does not include material breach or termination for convenience.

In the case of early termination, the Grantee will submit, within ninety (90) days of the termination date, an invoice and a report covering services up to the termination date. Any deliverable as described in this grant agreement that is fully or partially completed up to the

termination date will be provided to the Department.

Upon receipt of the invoice, progress report, data, and work product, a final payment will be made to the Grantee. This payment shall be for all costs incurred in accordance with this grant agreement, and shall include labor and materials purchased or utilized (including all non-cancellable obligations) up to the termination date, and pro rata share of indirect costs as specified in the budget.

If either party notifies the other of a material breach, the breaching party will have fifteen (15) calendar days to respond with a remedy to correct the breach. The receiving party has fifteen (15) calendar days to accept or reject the proposed remedy or offer an alternative remedy. Upon approval of the proposed remedy, the breaching party has thirty (30) calendar days to implement the cure. In the event the breaching party does not cure the breach within the thirty-day period, the non-breaching party may terminate for cause immediately upon written notice. All notifications, acceptances and/or rejections must be submitted in writing.

Pursuant to a Governor's Executive Order or equivalent directive, such as a court order or an order from a federal or state regulatory agency, the Department may issue a Suspension Notice. The Notice must identify the specific Executive Order or directive and this grant agreement number subject to the suspension. Work charged to the Department must stop immediately upon receipt of the Notice. The Grantee retains the right to reimbursement of costs incurred to date, including non-cancellable obligations, and reserves the right to seek reimbursement through administrative or legal action.

The Grantee shall include in any agreement with any subcontractor or subawardee (UC/CSUS only) retained for work under this grant agreement a provision that entitles the Grantee to suspend or terminate the agreement with the subcontractor or subawardee (UC/CSUS only) for any reason on written notice and on the same terms and conditions specified in this section.

### **TIMELINESS**

Time is of the essence in this grant agreement and the Grantee shall proceed with and complete the project in an expeditious manner.

### **TRAVEL AND PER DIEM EXPENSES**

No travel outside the State of California is permitted under this grant agreement. Travel and reimbursement for travel costs shall be in accordance with the California Department of Human Resources' (CalHR) travel policy in effect as of July 1st of the fiscal year in which the Grant Agreement is executed. The CalHR travel policy is found at:

<https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>

### **UNENFORCEABLE PROVISION**

In the event that any provision of this grant agreement is held to be unenforceable, then the parties agree that all other provisions of this grant agreement shall continue to have full force and effect.

**VENUE**

The Department and the grantee agree that any action arising out of this grant agreement shall be filed and maintained in the Superior Court, County of Sacramento, California, or in the United States District Court, Eastern District of California. The Grantee waives any existing sovereign immunity for the purposes of this Grant, if applicable.

**WAIVER**

Any waiver of rights with respect to a default or other matter arising under this grant agreement at any time by either party shall not be considered a waiver of rights with respect to any other default or matter.