

## Exhibit C - Terms and Conditions

### ADJUSTMENT

An adjustment is a modification to any term(s) in the original grant Agreement (“Agreement”) term(s) that does not require an amendment, including any adjustments to previous adjustments.

Adjustments are not permitted for any modification that requires an Amendment, including, but not limited to, modifications to Indirect Costs, additions or deletions of budget categories, modifications that individually or collectively exceed ten percent (10%) of the Agreement amount, or modification that result in an increase or decrease, by any amount, of the original Agreement amount. (See AMENDMENT clause.)

Adjustments may only be permitted for modifications to the following:

1. Costs identified in the Personnel, Travel, Materials and Supplies, Rent, Equipment, Subrecipient(s), Subcontract(s), or Costs treated as Other Direct Costs budget categories.
  - a. Modifications must not exceed ten percent (10%) of the grant agreement amount and may not increase or decrease the total Agreement amount.
  - b. Budget transfers for any portion of the funds may only be used for purposes consistent with the original intent of the Agreement.
2. Extend deliverable due date up to six (6) months
  - a. Modifications must not extend other related deliverables longer than six (6) months.
  - b. Modifications must not add additional cost.
3. Other modifications in the Department’s discretion and in consultation with the Grantee, so long as such change is not expressly identified as requiring an Amendment. (See AMENDMENT clause.)

To request an adjustment, the Grantee must fully complete and submit the Adjustment/Amendment Request Form, provided by the Department, to the grant manager. The Grantee must follow adjustment procedures specified by the Department. For adjustment requests, the Grantee must include an electronic copy of the current grant agreement, proposed changes annotated by ~~striking through~~ the text to be nullified and **underlining and boldfacing** any proposed replacement text.

The Grantee shall not act on a proposed adjustment until it has received written approval from the Department’s grant manager or their designee.

If approved, an updated document reflecting the adjustment will be developed and shared with the grantee for record-keeping purposes, but the grant agreement will not be re-executed.

## **AMENDMENT**

An amendment is any modification to the following original Grant Agreement terms:

1. Term of the Agreement,
2. Maximum Amount of the Agreement

An amendment also includes modification to the original exhibits attached and incorporated to the Grant Agreement, including:

3. Scope of Work
4. Deliverables
  - a. except modifications that only seek to extend the due date of a deliverable up to six (6) months and do not result in additional costs.
5. Key Personnel Exhibit
6. Use of Intellectual Property and data
7. Budget
  - a. Revisions between identified budget categories totaling more than ten percent (10%) of the grant agreement amount
  - b. Adding or deleting a budget category
  - c. Substitution or addition of Subawardee
8. Budget Justification, including
  - a. Travel not expressly identified in budget justification
  - b. Indirect Costs
  - c. Equipment not expressly identified in budget justification
9. Subawardee (Subcontractor/Subrecipient) Budgets and Budget Justifications, including
  - a. Substitution or addition of subawardee
  - b. Travel not expressly identified in budget justification
  - c. Indirect Costs
  - d. Equipment not expressly identified in budget justification

Amendments are approved at the discretion of the Department. However, a modification to the Maximum amount of the Agreement may only be approved by the Director, in their discretion, when the benefits to Californians have been sufficiently justified. Such an amendment will specifically state the amount changed and the new maximum amount.

No-cost extensions are amendments that lengthen the project period, with no additional funds added to the total budget. No-cost extensions must be submitted no less than 180 days prior to the project period ending and must be fully justified. The Department may deny a project extension request for any reason.

Budget transfers for any portion of the funds may only be used for purposes consistent with the original intent of the Agreement.

To request an amendment, the Grantee must fully complete and submit the Adjustment/Amendment Request Form, provided by the Department, to the grant manager. The

Grantee must follow amendment procedures specified by the Department. In addition, the Grantee must include an electronic copy of the current grant agreement, with proposed changes annotated by ~~striking through~~ the text to be nullified and **underlining and boldfacing** any proposed replacement text.

The Grantee shall not act on a proposed amendment until the amendment has been formally executed by the grant agreement signatories for both the Department and the Grantee.

#### **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**

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

#### **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 the 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 the 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**

Grantee understands and agrees that the Agreement may have been executed before the Department has ascertained the availability of legislative appropriation of funds. As such, and for the mutual benefit of both parties to avoid program and fiscal delays, the Agreement is void if sufficient funds are not made available to the Department by the California State Legislature for the purpose of funding its grant program. In the alternative, if a court of competent jurisdiction determines that the Agreement is valid and enforceable despite the California State Legislature's failure to appropriate sufficient funds, the parties agree that the Department reserves the right to terminate the Agreement or to amend the Agreement to reflect any reduction in funds.

In addition, the 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 the Agreement.

## **COMPLIANCE REQUIREMENTS**

The Grantee shall procure all authorizations, permissions, permits, and licenses necessary to accomplish the work contemplated in the 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 required by the Grantee in connection with the scope of work covered by the Agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for the Agreement, or as are specifically authorized under the Amendment procedures. Any substitutions in, or additions to, such subcontractors shall be subject to the amendment procedures.

The Grantee shall not contract with any individual or 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, party, or organization on U.S. EPA's List of Violating Facilities. (40 C.F.R. § 31.35, Gov. Code, § 4477, <https://sam.gov/content/home>)

Further, the Grantee certifies to the best of its knowledge and belief, that it, its principals, and any party, individual, or organization it contracts with: 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 the 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. If, during the term of the agreement, the Grantee becomes aware that any of its principals, or any party, individual, or organization it contracts with, violates this requirement, Grantee will immediately terminate its contract or relationships with those party, individual, or organization it contracts with.

## **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 the Agreement 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 or employees, officers, and directors of the Grantee or subcontractor. 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 its subcontractors, employees, officers, or directors receives information in connection with the performance of services hereunder and 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 subcontractor, 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.

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

The Grantee agrees that any remedy provided in the Agreement 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 the Agreement by the Grantee, whether such breach occurs before or after completion of the project. Exercise of any remedy provided by the Agreement 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 the Agreement, 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 the Agreement.

The Department's review of deliverables will not hinder the academic freedom of the research team regarding data, methodology, or conclusions reached within the parameters of the project described in the Agreement.

#### **DIRECT COSTS**

Direct costs are any costs that can be identified as specifically necessary for or unique to the execution of a project. Examples of direct costs include personnel costs for employees executing

the project's specific scope of work, travel, materials and supplies needed for the project work, and publication costs. Some direct costs may be modified by having an indirect cost rate applied to them while others may not (see MODIFIED TOTAL DIRECT COST (MTDC) clause).

## **DISPUTES**

The Grantee shall continue with the responsibilities under the Agreement during any dispute. Any dispute arising under the Agreement that is not otherwise disposed of by agreement of the parties 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 Director of the Department. 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 Department receives from the Grantee a written appeal of the decision. 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. The decision of the Director regarding Grantee's appeal 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. Pending final decision of a dispute, including final decision of an appeal by Grantee, the Grantee shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of the Agreement.

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 grant agreement funds. Equipment means any products, objects, machinery, apparatus, implements or tools purchased, used or constructed within the grant agreement, 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 agreement. The normal useful life of the equipment purchased, funded, or developed with grant agreement funds shall be used to determine the depreciated value of equipment used to accomplish the terms of the grant agreement. The Department may determine the normal useful life of such equipment.

Title to equipment acquired by the Grantee with grant agreement 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 agreement 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 the 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 appropriate local law enforcement agency.

The Grantee should maintain an inventory record for each piece of equipment purchased or built with funds provided under the terms of the grant agreement. 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 upon request by the State.

### **ENTIRE AGREEMENT**

The 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 the 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.

### **GENERATIVE ARTIFICIAL INTELLIGENCE (GenAI)**

#### **GenAI DISCLOSURE OBLIGATIONS:**

- a) The following terms are in addition to the defined terms and shall apply to the Agreement:
  - 1) "Generative AI (GenAI)" means an artificial intelligence system that can generate derived synthetic content, including text, images, video, and audio that emulates the structure and characteristics of the system's training data. (Gov. Code § 11549.64.)
- b) The Grantee shall immediately notify the State in writing if the Grantee or its subcontractors: (1) intends to provide GenAI as a deliverable to the State; or (2), intends to

utilize GenAI, including GenAI from third parties, to complete all or a portion of any deliverable that materially impacts: (i) functionality of a State system, (ii) risk to the State, or (iii) performance of the Agreement. For avoidance of doubt, the term “materially impacts” shall have the meaning set forth in State Administrative Manual (SAM) § 4986.2 Definitions for GenAI.

- c) Notification shall be provided to the grant manager identified in the Grant Agreement.
- d) At the direction of the State, the Grantee and its subcontractors shall discontinue the provision to the State of any previously unreported GenAI that results in a material impact to the functionality of the System, risk to the State, or Grant performance, as determined by the State.
- e) If the use of previously undisclosed GenAI is approved by the State, then the Grantee will update the Deliverable description, and the Parties will amend the Grant Agreement accordingly, which may include incorporating the GenAI Special Provisions into the Grant Agreement, at no additional cost to the State.
- f) The State, at its sole discretion, may consider the Grantee’s failure to disclose or discontinue the provision or use of GenAI as described above, to constitute a material breach of Agreement when such failure results in a material impact to the functionality of the System, risk to the State, or Grant performance. The State is entitled to seek any and all remedies available to it under law as a result of such breach, including but not limited to termination of the Grant Agreement.

## **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 the Agreement, including those stated in incorporated documents. The Grantee shall fulfill all assurances and commitments made in its grant application, 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 to comply with, all applicable laws, policies, and regulations, including those noted in the SUBCONTRACTING REQUIREMENTS clause.

## **HARASSMENT FREE WORKPLACE**

It is the policy of the Department that its employees, contractors, consultants, third parties, and temporary staff (hereafter referred to as “employees”) have the right to work in an environment that is free from all forms of discrimination, including specifically, sexual harassment. Sexual harassment is harassment based on sex/gender, gender identity, gender expression or conduct of a sexual nature that results in the creation of an intimidating, hostile or offensive work environment or that otherwise interferes with an individual's employment or work performance.

The Grantee and its subcontractors shall maintain a standard of conduct that is respectful, courteous, and free from sexually harassing acts, to all Department employees and all other persons during the performance of the Agreement. Grantee acknowledges that if the Department, in its sole discretion, determines that Grantee, its employee(s), or subcontractor(s) have violated this clause, the Department shall have the right to require that Grantee remove those persons from any further performance of work under the Agreement or to require different remedy for such violation.

### **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 the Agreement.

### **INDEPENDENT ACTOR**

The Grantee, and its subcontractors 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**

Indirect costs (IDC), also called overhead or facilities and administrative costs (F&A), are costs that cannot be identified as specifically necessary for or unique to the execution of the project. Common examples include costs for facilities operation, office space rentals and leases, administrative expenses (such as staffing for payroll, human resources, or other general support; office supplies and furniture; and phone and internet access), and utilities.

These costs generally may not be separately charged to the project as direct costs. In a case where costs generally considered to be IDC are deemed project-specific, the Department may consider them to be direct costs if they are identified and justified in the grant agreement. In these cases, supporting documentation may be requested that clearly indicates the specificity of the costs using the provided backup documentation template.

IDC may not exceed 25% of the Modified Total Direct Cost (MTDC). See MODIFIED TOTAL DIRECT COST (MTDC) clause for expenses not included in the MTDC. Multiple IDC rates are not allowed. If indirect costs are charged, a single IDC rate should be applied to the entirety of the MTDC.

### **IN-KIND SERVICES**

In-kind services are defined as project activities by team members that have been approved by their employers to be compensated with existing employer funds at the time of the grant application submission.

- *Allowed:* personnel time given to project by team members; travel costs, including out-of-state travel; the use of team members' 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 the Agreement. The Grantee acknowledges that the project records and locations are public records.

## **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 an amendment to the grant agreement.

A co-principal investigator (Co-PI) designation is nominal only. Co-PIs do not carry any role or responsibility beyond that of key personnel and have no role or responsibility in the financial or administrative management of the project or control of project funds.

## **LIABILITY**

- A. 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 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.
- B. 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 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.
- C. If the Grantee provides funds to any subcontractor, excluding any agency or department of the United States, to accomplish any of the work of this Agreement, the Grantee shall first enter into a written agreement with each subcontractor by which the subcontractor agrees to indemnify and hold harmless the State of California, the State and its officers, agents, and employees from any and all liabilities, losses, claims, demands, damages, or costs, including without limitation litigation costs and attorney's fees, resulting from or arising out

of the subcontractor's performance under its agreement with the Grantee, 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 subcontractor, its respective officers, agents or employees. The foregoing does not limit any breach of contract action that the State may have against the Grantee.

### **MATERIALS 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 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 the Agreement. At the Department's sole discretion, the Department will require the Grantee to use one of the following disclaimers:

- This project was funded by the Department of Pesticide Regulation (DPR). The contents may not necessarily reflect the official views or policies of DPR or the State of California. Mention of a trade name or brand name does not constitute endorsement or disparagement by DPR or the State of California over similar products or vendors.
- This project was funded by the Department of Pesticide Regulation (DPR). The contents do not represent the official views or policies of DPR or the State of California. Mention of a trade name or brand name does not constitute endorsement or disparagement by DPR or the State of California over similar products or vendors.

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."

### **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 involving the release of any physical or electronic materials (web page, social media, etc.), publicizing the accomplishments and/or results of the Agreement, 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, and subcontractors (up to the first \$25,000 of each subcontract). Not included in the MTDC are charges for equipment, capital expenditures, patient care charges, tuition remission, rental costs, 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 the Agreement, the Grantee and its subcontractors 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 shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. The Grantee and its subcontractors 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 the Agreement by reference and made a part hereof as if set forth in full. The Grantee and its subcontractors 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 the Agreement.

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

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

### **PAYMENT AND INVOICING**

The Grantee may not invoice or be paid or reimbursed for any costs or work on the project that occurred prior to the date the grant agreement is fully executed by the parties.

#### **1. Reimbursement**

- a. The total amount of funds disbursed under the Agreement shall not exceed the total amount specified. The Department will reimburse direct and indirect costs in accordance with the approved budget.

- b. 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 is not limited to, time reports and/or calendar entries.
- c. The Department shall withhold 10% of each invoice pursuant to Public Contract Code section 10346. The total withhold amount will be paid after submission and approval of a final 10% Retention Invoice at the conclusion of the project.

## 2. Expense Allowability / Fiscal Documentation

- a. The Grantee will maintain financial records and supporting documentation of all costs incurred in the performance of the 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 within five (5) business days. If any expenditures are disputed by the Department, pending resolution, the Department agrees to pay all other undisputed invoiced costs.

## 3. Invoicing

- a. 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 project findings or final conclusions.
- b. 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.
- c. Invoices shall:
  - i. Bear the Grantee's name as shown on the Agreement.
  - ii. Include the Agreement number and the Grantee's fund/reference number, if applicable.
  - iii. Identify the billing and/or performance period covered by the invoice and provide a detailed backup documentation ledger, including payroll detail, for the same period using the backup documentation ledger template provided by the Department.
  - iv. Provide the Grantee's invoice contact, telephone number and/or email address.
  - v. Be prepared in accordance with the approved cost categories identified in Exhibit B and the elements contained in Exhibit B4.
  - vi. 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.
- d. A copy of the invoice/detailed backup documentation 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.

- e. The Grantee shall promptly notify the Department in writing when it has completed all work on the project to assure prompt and final payment. In addition to this notification, the Grantee shall submit a final invoice and a 10% Retention Invoice to the Department, no later than ninety (90) calendar days after the Agreement’s final report due date. The final invoice shall be clearly marked “Final Invoice” and must be received no later than 90 days after the Agreement’s final report due date. The 10% Retention Invoice shall be clearly marked “xxx” and must be received no later than 90 days after the Agreement’s final report due date. Any invoice(s) submitted more than 90 days after the Agreement’s final report due date will be considered null and void and have no legal effect.
  - i. If the project is terminated (see TERMINATION clause), the Department reserves the right to retain all withheld funds, or a portion thereof, at the Department’s discretion.
- f. The invoice and backup documentation ledger must contain the expenditures for the invoice period, approved budget, cumulative expenditures, and budget balance available by approved budget category (Exhibits B and B2). Microsoft Excel invoice and backup documentation ledger templates will be provided by the Department for every invoice period.
  - i. At the Department’s discretion, substitute backup documentation formats may be provided in lieu of the required provided backup documentation ledger template.

## **PRINCIPAL INVESTIGATOR**

The principal investigator (PI) must be one individual. The PI may be paid for work performed under the Agreement under the Personnel budget category so long as they are employed by the Grantee. PIs may not receive payment for services performed under the Agreement through a subaward/subcontract with the Grantee.

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 the Agreement.
4. Monitoring the performance and expenditures of subcontractors and subrecipients prior

to approving their invoice.

A co-principal investigator (Co-PI) designation is nominal only. Co-PIs do not carry any role or responsibility beyond that of key personnel and have no role or responsibility in the financial or administrative management of the project or control of project funds. (See KEY PERSONNEL clause).

### **PROFESSIONALS**

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

### **PROJECT TEAM**

The Project Team may 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 may participate as a member of the Project Team to help create collaborative partnerships, set priorities, and assist in carrying out the project.

### **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 the 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 the 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 Grantee use funds from any disbursement under the Agreement to pay costs or fees associated with any litigation the Grantee pursues in any matter, including against the Department or in relation to the Agreement.

### **REMEDIES**

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

## **RENTALS**

The Department may, upon request, consider rental costs for items or spaces wholly owned and operated by the Grantee, to qualify for inclusion in modified total direct costs if they are identified and justified in the grant agreement. The Department may request supporting documentation to verify Grantee's ownership and/or operation of these items or spaces.

## **RIGHT TO PUBLISH**

Subject to any restrictions on the publication, disclosure, dissemination, and use of information or use of data set forth in the 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 the Agreement, including deliverables.

The Grantee will provide publications, presentations and other public releases resulting from work performed under the 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 the Agreement or by any applicable law. Any of the above-mentioned time periods may be modified upon agreement of both parties. Neither party may unreasonably deny such requests.

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 (<https://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 grants that resulted in published works.

## **RIGHTS IN DATA**

Reports specifically created for use by the Department under the Agreement 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 the Agreement, subject to appropriate acknowledgement of credit to the Department for financial support.

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

## **SEVERABILITY**

The invalidity or unenforceability of any provision(s) of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement, which shall remain in full force and effect.

## **SUBCONTRACTING REQUIREMENTS**

Each subcontract issued by the Grantee under the purview of this agreement must include the following elements:

1. Requirement for subcontractor(s) to comply with all applicable laws, policies, and regulations (see GRANTEE REPRESENTATIONS clause);
2. Harassment free workplace provisions (see HARASSMENT FREE WORKPLACE clause);
3. Indemnification of the State of California (see LIABILITY clause – subsection C);
4. Nondiscrimination and compliance provisions (see NONDISCRIMINATION clause);
5. The provision listed in the TERMINATION clause allowing for suspension or termination of the contract;
6. The stipulations included in the GENERATIVE ARTIFICIAL INTELLIGENCE (GenAI) clause.

## **SURVIVAL**

The parties' obligations under the AUDIT, EQUIPMENT, LIABILITY, PAYMENT AND INVOICING, and RIGHTS IN DATA clauses will survive the expiration and termination of this Agreement.

## **TERMINATION**

The Department's authorized official may terminate the 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 make reasonable efforts to limit or terminate all financial commitments and shall not incur new obligations under the Agreement. In accordance with the invoice provisions of the 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 the Agreement.

The Grantee's authorized official may terminate the Agreement for good cause and upon thirty (30) calendar days written notice to the Department of the cause for termination. Good cause is defined as impossibility of performance or frustration of purpose. Good cause does not include material breach by Grantee or termination for convenience. Upon submission of the Grantee's notice of termination, the Grantee shall make reasonable efforts to limit or terminate all financial commitments and will not incur new obligations under the Agreement. In accordance with the invoice provisions of the 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 the Agreement.

In the case of early termination, the Grantee will submit, within ninety (90) days of the termination notice, an invoice and a report covering services up to the termination date. Any deliverable as described in the 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 the 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 the 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 retained for work under the Agreement a provision that entitles the Grantee to suspend or terminate the agreement with the subcontractor for any reason on written notice and on the same terms and conditions specified in this section.

## **TIMELINESS**

Time is of the essence in the 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 to be reimbursed under the Agreement. Any out-of-state travel for project purposes must be explicitly listed as an in-kind contribution in Exhibit B2 (see IN-KIND SERVICES clause for further information).

Travel and reimbursement for travel costs associated with lodging, meal, and incidental expenses (per diem) shall be in accordance with the California Department of Human Resources' (CalHR's) travel policy in effect as of the date the cost is incurred. The CalHR travel policy is found at <https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>.

Travel by air is limited to economy airfare. First class or business class air travel is not permitted under the Agreement. Rental vehicles are limited to mid-size/economy size cars. In a case where larger size vehicles (such as a truck) are needed to carry out the project, the Department may consider them to be reimbursable if they are identified and justified in the grant agreement.

Receipts are required for reimbursement of travel expenses associated with lodging, airfare, rental vehicles, and fuel purchases. Receipts are not required to claim meal and incidental expenses (per diem) up to the maximum allowable reimbursement rates; however, associated receipts must be maintained by the Grantee and provided upon request.

### **VENUE**

The Department and the grantee agree that any action arising out of the 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 the Agreement, if applicable.

### **WAIVER**

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