

## Exhibit G – Negotiated Alternative UTC Terms

By mutual agreement, the parties to this agreement agree that certain terms and conditions contained in Exhibit C are inappropriate or inadequate for this project. Accordingly, Exhibit G supersedes and eliminates Exhibit C, Copyrights clause, and; Exhibit C, Data Rights clause. Exhibit G supersedes any inconsistent provisions in Exhibit C. Terms appearing in both Exhibit C and Exhibit G which are not inconsistent apply in tandem with one another. Exhibit G also provides some additional terms which were not provided for in Exhibit C.

### Adjustment

An adjustment is required for a minor change to a project's budgeted costs in cases where an amendment is not required (See Exhibit G, 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 (Exhibit B), 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). The total of all budget adjustments must not exceed ten percent (10%) of the grant agreement amount and may not increase or decrease the total grant agreement 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 (Applicable to 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, non-governmental organizations, 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, or changing or adding principal investigators 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 in Exhibit B (See Exhibit G, Adjustment clause for movement of funds totaling less than 10% of the grant agreement amount). At the discretion of the Director, when the benefits to Californians have been sufficiently justified, the Director may elect to approve budget augmentations through an amendment. Such amendments changing the contract amount will state specifically the amount changed, along with the new total contract amount.

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.

**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 agreement in part based on the expertise of the persons or entity awarded this grant agreement.

**Budget Flexibility**

Budget revisions between identified budget categories in cost reimbursement agreements that are within the total grant agreement 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 under the following conditions:

- Up to 10% of the grant agreement amount 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 subrecipients or subcontractors 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 the amendment procedures. Any substitutions in, or additions to, such subrecipients or subcontractors shall be subject to the 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://sam.gov/content/home>) 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.

### **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 grant agreement and do not promote or disparage any brand or trade name. Products regulated by the Department may only be referenced by active ingredient and may not include references to any product 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 grant agreement. Any evaluation of the Department's regulatory program is outside the scope of this project and will not be funded.

### **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 Exhibit G, Modified Total Direct Cost (MTDC) clause).

### **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.

### **Indirect Costs (syn. "Overhead," "Facilities and Administrative Costs (F&A)")**

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.

IDC may not exceed 25% of the Modified Total Direct Cost (MTDC). See Exhibit G, 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 in-kind services include 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 in-kind services include 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, with 24-hour prior notice to the principal investigator. The Grantee acknowledges that the project records and locations are public records.

### **Invoice Elements**

The invoice, summary report, and/or transaction/payroll ledger shall be certified by the Grantee's financial contact and the principal investigator or their respective designees.

Invoices shall be submitted in arrears not more frequently than once a month and not less frequently than every three months, to the Department's invoice contact. Invoices may be submitted electronically by email.

The invoice or a separate summary document must contain the expenditures for the invoice period, approved budget, cumulative expenditures, and budget balance available by approved budget category (exhibits B and B2). For salaries and wages, these elements should be included in the detailed transaction ledger. If all elements are not contained in the transaction ledger, then a separate payroll ledger should be provided with the required elements. If this information is not on the invoice or summary attachment, it may be included in a detailed transaction ledger. A Microsoft Excel file invoice template will be provided by the Department for every invoice period.

Information that must be included in a detailed transaction ledger and/or payroll ledger:

- 1) Department award number
- 2) Fund number
- 3) Invoice period (must match that of the invoice summary)
- 4) GL account/object code
- 5) Document type (or subledger reference)
- 6) Transaction reference
- 7) Transaction description, vendor and/or employee name
- 8) Transaction posting date
- 9) Time worked
- 10) Transaction amount

## **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 (see Amendment clause).

## **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 or the release of any physical or electronic materials (web page, social media, etc.) publicizing the accomplishments and/or results of this grant 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 of off-site facilities, scholarships and fellowships, and the portion of any subcontract in excess of \$25,000. The budgeted indirect cost (IDC) rate listed in exhibits B and B2 will remain in effect for the entire funded project period of the 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 grant 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**

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 was signed by the Director of the Department.

### **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 B.
- 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 Exhibit B.

- 3) The Department shall reimburse salaries and wages based upon the approved budget (Exhibit B) 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 Exhibit B. 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 and 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. Equipment purchases shall comply with Department of General Services State Contracting Manual (SCM) Section 7.29 – Equipment Purchases, if applicable. For the purposes of this grant agreement, “damage” as used in paragraph B of SCM 7.29 – Equipment Purchases is defined as physical harm that is sustained by the equipment that prevents its functioning as designed or manufactured.

#### 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.
- 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 Exhibit B and the elements contained in Exhibit B3.
  - 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 grant 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 or budget
- 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 subrecipients or subcontractors

### **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 subrecipients or subcontractors prior to approving their invoice

### **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).

### **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.

### **Right to Publish**

The disclaimer statements required by Exhibit C, Right to Publish clause, 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 agreement.

### **Rights in Data**

Reports specifically created for use by the Department under this grant 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 this grant 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 agreement that is not specified for delivery.

### **Survival**

The parties' obligations under exhibit C, liability clause; exhibit C, audit clause; exhibit G, equipment clause, and; exhibit G, rights in data clause, will survive the expiration and termination of this grant agreement.

### **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 university employee travel costs shall be in accordance with the University's travel policy in effect as of the date the cost is incurred.

### **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.