

**49ER FOUNDATION GENERAL PROVISIONS**  
**for**  
**INFORMATION TECHNOLOGY ACQUISITIONS 12/10/2014**

**Definitions**

Throughout this document, the following words have the following meanings.

- a) "49er Foundation" shall mean California State University, Long Beach 49er Foundation.
- b) "Contractor" shall mean the person or entity providing the information technology.
- c) "The Parties" shall mean "49er Foundation" and "Contractor."
- d) "University" shall mean California State University, Long Beach,

**Commencement of Work**

Contractor shall not commence work under the Contract until Contractor has received a fully executed Contract and been given written approval to proceed. Any work performed by Contractor prior to the date of approval shall be considered as having been performed at Contractor's own risk and as a volunteer

**Entire Agreement, Modification & Integration**

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of each party. No modification, alteration or variation of the Contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated in writing in the Contract shall be binding on any of the parties hereto.

**Severability**

Contractor and 49er Foundation agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of its presumed non-applicability. Should the illegal or unenforceable provision be a material or essential term of the Contract, the Contract shall be terminated in a manner commensurate with the interests of both parties, to the maximum extent reasonable.

**Independent Status**

Contractor and its employees and agents, and subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers, employees or agents of 49er Foundation or the State of California. While Contractor may be required by this Contract to carry Workers' Compensation Insurance, in no event shall Contractor and its employees and agents be entitled to unemployment or Workers' Compensation benefits from the 49er Foundation.

**Governing Law**

To the extent not inconsistent with applicable federal law, this Contract shall be construed in accordance with and governed by the laws of the State of California.

**Contractor's Power and Authority**

Contractor warrants it has full power and authority to enter into this Contract and will hold 49er Foundation harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor shall not enter into any arrangement, agreement or contract with any third party that might abridge any rights of the 49er Foundation under this Contract.

**Assignments**

Contractor shall not assign this Contract, either in whole or in part, without 49er Foundation's written consent, which will not be unreasonably withheld.

**Personnel**

Contractor shall give its personal attention to the performance of the Contract and shall make every effort consistent with sound business practices to honor 49er Foundation's requests regarding Contractor's assignment of its employees. However, Contractor maintains the sole right to determine the assignment of its employees in order to keep all phases of work under i wor.7 ( k)13.en thisctwtom(9)11 (e)2(s)9.3 ( i)5 (n e ev13.7(or)6.7r)6.7 (a)11 (c)

work in any manner deemed proper by the 49er Foundation. The cost to the 49er Foundation shall be deducted from any sum due the Contractor under the Contract, and the balance, if any, shall be paid the Contractor upon demand.

**Rights and Remedies of 49er Foundation for Default**

- e) In the event any Deliverables furnished or services provided by Contractor in the performance of this Contract should fail to conform to the requirements herein, or to the sample submitted by Contractor, 49er Foundation may reject the same, and it shall thereupon become Contractor's duty to forthwith reclaim and remove all nonconforming deliverables and correct the performance of services, without expense to the 49er Foundation, and to immediately replace all such rejected items with others conforming to the specifications or samples. Should Contractor fail, neglect, or refuse to do so, 49er Foundation shall thereupon have the right, but not the obligation, to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct the cost of such cover from any moneys due or that may thereafter become due to Contractor.
- f) In the event Contractor fails to make prompt delivery of any item as specified in the Contract, the same conditions as to 49er Foundation's right, but not obligation, to purchase in the open market and receive reimbursement from Contractor, as set forth in (a), above shall apply.
- g) In the event the 49er Foundation terminates this Contract, either in whole or in part, for Contractor's default or breach, Contractor shall compensate 49er Foundation, in addition to any other remedy 49er Foundation may have available to it, for any loss or damage sustained and cost incurred by the 49er Foundation in procuring any items that Contractor agreed to supply.
- h) 49er Foundation's rights and remedies provided above shall not be exclusive and shall be in addition to any other rights and remedies provided by law, equity or this Contract.

o) Insurance Provisions

performance of this Contract.

**Invoices**

Invoices shall be submitted, in arrears, to the address provided in the Contract. Each invoice must contain the Contract number and Contractor's Identification number. Final invoice shall be marked as such. Contractor shall submit invoices to 49er Foundation for payment of goods and services

acknowledges and agrees to comply with Federal privacy laws, such as the Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions,



aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of this Contract.

**Contractor's Staff**

Contractor warrants that its staff, which is assigned to performing work under this Contract, is legally able to perform such duties in the country where the work is being performed.

**Debarment and Suspension**

By accepting a contract with the 49er Foundation, Contractor certifies neither it nor its principals or its subcontractors are presently debarred,