

CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) SPECIAL PROVISIONS – NON-IT GOODS

DEFINITIONS:

Unless otherwise specified in the Statement of Work or context requires otherwise, the following terms shall be given the meaning shown.

- a) **“Agreement”** means an Agreement issued by the CMAS unit, based on pricing, products and/or services assessed and awarded on a Federal General Services Administration schedule or bid, or awarded on another accepted multiple award contract.

1. CMAS - ORDER OF PRECEDENCE:

In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Agreement, the following order of precedence shall apply:

- a) Non-IT Goods General Provisions
- b) contract form, i.e., Purchase Order Standard 65, etc., and any amendments thereto;
- c) these Special Provisions – Non-IT Goods;
- d) Federal General Services Administration (GSA) (or other multiple award agreement) terms and conditions;
- e) Statement of Work, including any specifications incorporated by reference herein;
- f) special terms and conditions; and
- g) all other attachments incorporated in the Contract by reference.

2. CMAS - CONTRACTOR’S LICENSE REQUIREMENTS:

Contracts that include installation or the wording “Furnish and Install” require at the time of Contract award that Contractors possess a valid California State Contractor’s License. If subcontractors are used, they must also possess a valid California State Contractor’s License. All businesses which construct or alter any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the Contractors State License Board (CSLB) if the total cost (labor and materials) of the project is \$500 or more. Failure to be licensed or to keep the license current and in good standing shall be grounds for Contract revocation.

3. CMAS-PUBLIC WORKS REQUIREMENTS (LABOR/INSTALLATION):

Prior to the commencement of performance, the Contractor must obtain and provide to the State, a payment bond, on Standard Form 807, when the Contract involves a public works expenditure (labor/installation costs) in excess of \$5,000. Such bond shall be in a sum not less than 100 percent of the Contract price. Forms shall be provided to the Contractor.

4. CMAS - TERMINATION OF CMAS AGREEMENT:

- a) The State may terminate this CMAS Agreement at any time upon 30 days prior written notice.
- b) Upon termination or other expiration of an Agreement, each party will assist the

CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) SPECIAL PROVISIONS – NON-IT GOODS

other party in orderly termination of the Agreement and the transfer of all assets, tangible and intangible, as may facilitate the orderly, nondisrupted business continuation of each party.

This provision shall not relieve the Contractor of the obligation to perform under any purchase order or other similar ordering document executed prior to the termination becoming effective.

5. CMAS - DEBARMENT CERTIFICATION (FEDERALLY FUNDED CONTRACTS):

When federal funds are being expended, the prospective recipient of federal assistance funds is required to certify to the Buyer, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

6. CMAS - PURCHASE ORDERS FUNDED IN WHOLE OR PART BY THE FEDERAL GOVERNMENT:

All Contracts which are funded in whole or in part by the federal government may be canceled with 30 days' notice, and are subject to the following:

- a) It is mutually understood between the parties that this Contract may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Contract were executed after that determination was made.
- b) This Contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal year during which the order was generated for the purposes of this program. In addition, this Contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress that may affect the provisions, terms or funding of this Contract in any manner.
- c) It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Contract shall be amended to reflect any reduction in funds. The department has the option to void the Contract (order) under the 30-day cancellation clause or to amend the Contract to reflect any reduction of funds

7. CMAS - WARRANTY:

The warranty language is in addition to the warranty language provided in the federal GSA Multiple Award Schedule or other multiple award base agreement used to establish this CMAS Agreement. When there is a conflict between the language, the General Provisions, Non-IT Goods language overrides.

8. CMAS - RENTAL AGREEMENTS:

The State does not agree to:

- Indemnify a Contractor;
- Assume responsibility for matters beyond its control;
- Agree to make payments in advance;
- Accept any other provision creating a contingent liability against the State; or

CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) SPECIAL PROVISIONS – NON-IT GOODS

- Agree to obtain insurance to protect the Contractor.

The State's responsibility for repairs and liability for damage or loss is restricted to that made necessary by or resulting from the negligent act or omission of the State or its officers, employees, or agents.

If the Contractor maintains the equipment, the Contractor must keep the equipment in good working order and make all necessary repairs and adjustments without qualification. The State may terminate for default or cease paying rent should the Contractor fail to maintain the equipment properly.

Personal property taxes are not generally reimbursed when leasing equipment (State Acquisitions Manual 8736).

9. CMAS - LIQUIDATED DAMAGES:

In the event that the Contractor fails to deliver in accordance with the Contract requirements, the parties agree that the delay will interfere with the proper implementation of the State's programs, to the loss and damage of the State. From the nature of the case, it would be impracticable and extremely difficult to fix the actual damages sustained in the event of any such delay. The State and Contractor, therefore, presume that in the event of any such delay the amount of damage which will be sustained from a delay will be the amounts set forth in the Statement of Work, and the State and the Contractor agree that in the event of any such delay, the Contractor shall pay such amounts as liquidated damages and not as a penalty. Amounts due the State as liquidated damages may be deducted by the State from any money payable to the Contractor. The State shall notify the Contractor in writing of any claim for liquidated damages pursuant to this paragraph on or before the date State deducts such sums from money payable to the Contractor.

10. CMAS - PROGRESS PAYMENTS/PERFORMANCE BONDS:

In accordance with PCC 10314: Any Contract for Goods to be manufactured by the Contractor specially for the State and not suitable for sale to others in the ordinary course of the Contractor's business may provide, on such terms and conditions as the department deems necessary to protect the State's interests, for progress payments for work performed and costs incurred at the Contractor's shop or plant, provided that not less than 10 percent of the Contract price is required to be withheld until final delivery and acceptance of the Goods, and provided further, that the Contractor is required to submit a faithful performance bond, acceptable to the department, in a sum not less than one-half of the total amount payable under the Contract securing the faithful performance of the Contract by the Contractor.

11. CMAS - CONTRACTOR EVALUATION:

In accordance with PCC 10367 and 10369, performance of the Contractor under orders issued against this Contract will be evaluated. The ordering agency shall complete a written evaluation, and if the Contractor did not satisfactorily perform the work specified, a copy of the evaluation will be sent to the DGS Procurement Division.