

|                                       |
|---------------------------------------|
| AGREEMENT NUMBER<br><b>REQ0012850</b> |
| REGISTRATION NUMBER                   |

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

Department of Consumer Affairs, Dental Board of California

CONTRACTOR'S NAME

County of San Bernardino

2. The term of this Agreement is July 1, 2014 or upon approval, whichever occurs later through June 30, 2017


Agreement is:

3. The maximum amount of this Agreement is: \$5,760.00  
 (Five thousand seven hundred fifty dollars and zero cents)

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

- |   |  |
|---|--|
| Exhibit A – Scope of Work   | 2 pages  |
| Attachment I - San Bernardino County General Terms and Conditions   | 3 pages  |
| Attachment II - Supplies and Services Provided by the San Bernardino County Sherriff's Department for Use of the Range Facilities | 1 page   |
| Attachment III - Cost Schedule – Charges for Range  | 1 page   |
| Attachment IV – Notice - Range Safety Advisory  | 1 page   |
| Attachment V – Live Fire House (LFH) Regulations and Safety Rules   | 1 page   |
| Exhibit B – Budget Detail and Payment Provisions  | 1 page   |
| Exhibit C – General Terms and Conditions (as modified)  | 4 pages <u>GTC 610</u> <u>6/9/2010</u><br>(Number) (Dated) |
| Exhibit D – Special Terms and Conditions  | 1 page   |
| Exhibit E – Additional Terms and Conditions   | 2 pages  |

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

|   |                           |   |
|---|---------------------------|---|
| <b>CONTRACTOR</b>   |                           | <i>California Department of General Services Use Only</i> |
| CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)<br>County of San Bernardino |                           |   |
| BY (Authorized Signature)<br>             | DATE SIGNED (Do not type) |   |
| PRINTED NAME AND TITLE OF PERSON SIGNING<br>Janice Rutherford, Chair, Board of Supervisors                                  |                           |   |
| ADDRESS<br>655 East Third Street<br>San Bernardino, CA 92415  |                           |   |
| <b>STATE OF CALIFORNIA</b>  |                           |   |
| AGENCY NAME<br>Department of Consumer Affairs, Dental Board of California   |                           |   |
| BY (Authorized Signature)<br>             | DATE SIGNED (Do not type) |   |
| PRINTED NAME AND TITLE OF PERSON SIGNING<br>Brian Dawley, Contract Operations Manager                                       |                           |   |
| ADDRESS<br>1625 N. Market Blvd., Suite S-103<br>Sacramento, CA 95834  |                           |   |

## EXHIBIT A

### SCOPE OF WORK

1. The Contractor shall provide the Department of Consumer Affairs (DCA), Dental Board of California (DBC) with shooting range access, as described herein.
2. The services shall be performed at the Frank Bland Regional Training Center Weapons Firing Range, located at 1800 West Institution Road, Devore, CA 92407.
3. The services shall be performed during the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday, except State holidays.
4. The Project Coordinators during the term of this Agreement will be:

Department of Consumer Affairs  
Dental Board of California  
Name: Sharon Langness  
Phone: (916) 263-0967  
Fax: (916) 263-2140  
Email: sharon.langness@dca.ca.gov

County of San Bernardino  
Bureau of Administration  
Name: Roxann Jenkins  
Phone: (909) 387-0310  
Fax: (909) 387-3444  
Email: rjenkins@sbcasd.org

Direct all agreement inquiries to:

Department of Consumers Affairs  
Contracts Unit  
Attention: Celia Reyes  
Address: 1625 N. Market Blvd., Suite S-103  
Sacramento, CA 95834  
Phone: (916) 574-7295  
Fax: (916) 574-8658  
Email: celia.reyes@dca.ca.gov

County of San Bernardino  
Bureau of Administration  
Name: Roxann Jenkins  
Address: 655 East Third Street  
San Bernardino, CA 92415  
Phone: (909) 387-0310  
Fax: (909) 387-3444  
Email: rjenkins@sbcasd.org

5. The Contractor shall provide the DBC with access to the Firing Range as per the following requirements:
  - a. The DBC's Peace Officers are required to shoot from the holster, using both standard and tactical courses of fire. This type of training requires that personnel be segregated from the public for safety reasons.
  - b. The Contractor shall safely accommodate 40 caliber semi-automatic pistols and Remington 870 shotguns. The ammunition for pistols includes 180 grain, jacketed hollow point rounds and 115-grain ACP rounds. The ammunition for shotguns includes 00 buckshot and slugs.

6. The DBC shall have access to the Firing Range as per the following requirements:
  - a. The DBC training is conducted under the absolute direction of the DBC's Range Masters, who are solely responsible for the safety of DBC's Peace Officers. The DBC's Peace Officers shall be equipped with eye and ear protection. The eye and ear protection shall be provided by the DBC.
  - b. The DBC's Peace Officers shall utilize the California Highway Patrol combat targets for qualifications, as well as other targets deemed necessary for training purposes. The target distances may vary from three (3) to thirty-five (35) yards. The targets will be supplied by the DBC.
7. The actual dates and times for use of the Range shall be determined and scheduled two (2) to three (3) weeks prior to range use.

## Attachment I

### AGREEMENT FOR USE OF SAN BERNARDINO COUNTY SHERIFF DEPARTMENT'S WEAPONS FIRING RANGE FACILITIES

This agreement is made and entered into on this first day of July, 2014, (the "Execution Date"), by and between State of California, Department of Consumer Affairs, Dental Board of California (hereinafter the "DBC") and the County of San Bernardino (hereinafter the "COUNTY").

**WHEREAS**, the COUNTY operates a Weapons Firing Range (Range) and a Live Fire House (LFH), located at the Frank Bland Regional Training Center; **AND**

**WHEREAS**, the DBC desires to enter into a contract for the use of said Weapons Firing Range for the purpose of firearms training or periodic chemical agent (tear gas) training and/or periodic firearms qualification shoots and of said Live Fire House for the purpose of firearms training;

**NOW, THEREFORE**, the parties agree as follows:

#### A. SCOPE OF SERVICES

- A.1** DBC shall make use of the Range and the Live Fire House at approximately quarterly intervals during each contractual year. DBC shall be provided access to the Range as many times as required to ensure that all DBC's law enforcement personnel and/or students have successfully completed qualifying shoots and/or training sessions. Use of the Range shall take place during normal Range operating hours, at times and dates specified by the Sheriff's Range Master and/or Range Safety Officer. Available Range facilities shall include, but are not limited to, the following: pistol range, rifle range, and classroom facilities.
- A.2** DBC shall coordinate with a designated COUNTY Range Safety Officer regarding the proper use of the Range and LFH facilities. DBC shall ensure that all DBC's personnel and students utilizing the Range or LFH are knowledgeable with regard to the proper use of Range and/or LFH facilities
- A.3** Use of the Live Fire House must be approved by the Sheriff's Range Master or designee to assure proper training and qualification and is limited to use by SWAT teams.
- A.4** Instructors must consult with the Sheriff's Range Safety Officer for an update of LFH procedures if a 12 month period of non-use has occurred.
- A.5** The DBC shall supply, at no cost to the COUNTY, a qualified Range Master, who has successfully completed a California Peace Officer Standards of Training (P.O.S.T.) approved (or equivalent) firearms instructor course, who shall personally supervise and control the course of training of DBC's personnel and students at the Range and LFH, subject to oversight and approval of the Sheriff's Range Master and Range Safety Officer. DBC shall always have at least two safety persons (approved by Sheriff Department's staff) per scenario on site at the LFH during any training activity. Depending upon the nature of the training activity, Sheriff's Range Master or Range Safety Officers or equivalent Range/LFH personnel may take direct control of the course of training of DBC's personnel and students with the assistance of DBC's Range Master.
- A.5.1** All participants shall conduct themselves in accordance with Range Rules and Regulations, as detailed in Attachment IV and with Live Fire House Regulations and Safety Rules, as detailed in Attachment V, attached hereto and incorporated herein by reference.

**A.5.2** Violations of Range rules and regulations may result in immediate termination of DBC's Range and LFH privileges.

**A.6** The DBC shall limit the use of COUNTY Sheriff Department's Range and LFH facilities to those personnel and students currently employed or enrolled with DBC at the time the Range or LFH is used.

**A.7** DBC shall supply and bear the cost of all necessary supplies or equipment, necessary for shoots or training, above those detailed in Attachment II attached hereto and incorporated herein by reference. DBC shall supply all necessary ammunition and weapons. All expended shell casings shall become the sole property of the COUNTY.

**A.8** DBC shall submit a course of fire to the Sheriff's Range Master or Range Safety Officer prior to DBC's initial use of the Range or LFH facilities. DBC shall submit a new course of fire prior to making any change in use of the Range or LFH facilities. DBC shall also supply copies of all related certifications of all instructors/safety officers.

**A.9** DBC shall supply the Range Master or Range Safety Officer with contact information for a lead instructor/Range Master.

**B. TERM AND TERMINATION**

The term of this contract shall be for a period commencing on July 1, 2014 or Upon Approval, whichever occurs later, and ending on June 30, 2017. Notwithstanding the foregoing, this contract may be terminated at any time with or without cause by DBC or by SHERIFF upon written notice given to the other party at least thirty (30) days prior to the date specified for such termination. Any such termination date shall coincide with the end of a calendar month. In the event of such termination, each party shall fully pay and discharge all obligations in favor of the other accruing prior to the date of such termination, and each party shall be released from all obligations or performance which would otherwise accrue subsequent to the date of termination. Neither party shall incur any liability to the other by reason of termination.

**C. FISCAL PROVISIONS**

**C.1** DBC shall compensate the COUNTY at the rates detailed in the Attachment III attached hereto and incorporated herein by reference, per agency, based upon the actual number of hours per session. Sessions up to four hours will be considered a half day session. Sessions more than four hours will be considered a whole day session.

**C.2** DBC is responsible for session charges. If multiple agencies train together, the charges cannot be combined and will be separately billed.

**C.3** CANCELLATION POLICY: DBC agrees to pay the full cost of any scheduled facility session according to the Attachment III charges for the specific time booked unless the reserved time has been cancelled within twenty-four (24) hours prior to the scheduled session time. DBC may cancel scheduled session by calling the SHERIFF's Range office at (909) 473-2549.

**C.4** DBC shall be billed in arrears on a quarterly basis. DBC will submit payment to the Sheriff Department's Bureau of Administration for the costs billed.

**C.5** COUNTY shall have the right to renegotiate the rates for the Range facilities and supplies provided under this contract at the end of each fiscal year for the ensuing fiscal year. Any rate change shall be agreed to in writing by both parties in the form of an amendment to this contract.

**C.6** It shall be the sole responsibility of the DBC to ensure that all shooters arrive for all shoots and/or training sessions. DBC is required to submit a roster of individuals in attendance at Training Center.

**D. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

**D.1 Indemnification**

To the extent covered by Government Code 895.2 and 895.6, or otherwise permitted by law, the DBC agrees to indemnify, defend, and hold harmless the COUNTY and its officers, employees, agents, and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this contract from any errors or omissions of any persons acting within the scope of their employment with DBC and for any costs or expenses incurred by the COUNTY on account of any claim, therefore, except where such indemnification is prohibited by law. DBC specifically agrees that this indemnification/defense clause and hold harmless clause is intended to extend to all acts of active or passive negligence whether sole or concurrent, and that DBC's duty to indemnify, defend and/or hold harmless is intended to be as broad and inclusive as is permitted by the law of the State of California, and that further if any portion thereof is held invalid, it is agreed that the balance, shall, notwithstanding, continue in full legal force and effect. Nothing herein is intended to preclude DBC from seeking indemnity from the COUNTY to the extent the COUNTY, or its employees, agents, or volunteers, are negligent or committed tortious acts.

**D.2 Insurance**

Both DBC and COUNTY are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability, and Workers' Compensation. DBC and COUNTY warrant that through their respective program of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this agreement.

**E. NOTICES**

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County Sheriff's Department  
Bureau of Administration  
P.O. Box 569  
San Bernardino, CA 92402-0569

State of California, Department of Consumer Affairs  
Dental Board of California  
2005 Evergreen Street, Suite 1550  
Sacramento, CA 95815

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

**F. ENTIRE AGREEMENT**

This Contract, including all Exhibits and Attachments, which are attached hereto and incorporated by reference, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. Any amendment to this contract shall be in writing signed by both parties. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

## **ATTACHMENT II**

### **SUPPLIES AND SERVICES PROVIDED BY THE SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT FOR USE OF THE RANGE FACILITIES:**

1. Target backing.
2. Target frames (stands).
3. Gun cleaning supplies and a designated area for gun cleaning.

### **ADDITIONAL INFORMATION:**

- DBC will provide targets (serviceable steel only), staple guns and staples.
- Inmate assistance for range set up and target maintenance is available on a limited basis and is not guaranteed.
- Nighttime use of the range facilities is available on a limited basis and must be approved by the Sheriff's Range Master or Range Safety Officer.

## **ATTACHMENT III**

### **COST SCHEDULE**

#### **Charges for Range Use**

| <b>Activity</b>             | <b>HALF DAY (Up to 4 hours per day)</b> | <b>FULL DAY (More than 4 hours per day)</b> |
|-----------------------------|---|---|
| Range                       | \$160                                   | \$320                                       |
| Mat Room                    | \$160                                   | \$320                                       |
| RAC House/Simmunition House | \$160                                   | \$320                                       |
| Gas House                   | \$160                                   | \$320                                       |
| Live Fire House             | \$483                                   | \$483                                       |

# ATTACHMENT IV

# NOTICE

## RANGE SAFETY ADVISORY

### **THE FOLLOWING SAFETY PROCEDURES WILL BE STRICTLY ENFORCED:**

1. Upon arrival, all weapons are to remain holstered until instructed to report to the firing line and given commands for the course of fire.
2. All shooters must wear proper ear and eye protection as approved by the Range Safety Officer.
3. Weapons are to be loaded or down loaded at the firing line or as otherwise instructed by the Range Safety Officer.
4. Only magazines and speed loaders may be down loaded and replaced with live ammunition in the staging area.
5. After completing your course of fire, weapons are to be re-holstered upon leaving the firing line.
6. Weapons may be un-holstered in the cleaning room and rendered safe for cleaning by using the bullet containment system located in the cleaning room.
7. A duty round may only be re-chambered at the firing line or by using the bullet containment system located in the cleaning room.
8. Violation of any safety rule will result in removal of the violator from the Range. Flagrant safety violations could lead to suspension of future range privileges to the violator and/or the agency or organization the violator represents.

**IF THERE ARE ANY QUESTIONS, PLEASE CONSULT THE RANGE SAFETY OFFICER OR RANGE MASTER**

**Attachment V - San Bernardino Sheriff's Department  
Live Fire House (LFH) Regulations and Safety Rules**

1. Approval for use of the LFH must be made by the Range Safety Officer or the Range Master; authorized firearms instructors must be present during use; the primary (lead) instructor is responsible for the safe operation and maintenance of the LFH; all training, presentation, or demonstrations, whether live fire or not, will be under the direct supervision of an instructor; the primary instructor will ensure that all participants involved in live fire training are qualified to do so; all instructors must have satisfactorily completed a "Live Fire House Operations-Instructor Development Course", as offered by either San Bernardino County Sheriff's Department (or equivalent subject to the approval of the Sheriff's Range Master); the primary instructor will ensure that all participants involved in LFH training receive a safety briefing that includes basic firearms safety, and the safe operating procedures for the LFH; all loading and unloading of weapons will be under the direct supervision of a firearms instructor; the primary instructor will ensure that the following safety equipment is on-hand prior to "Live Firearms Training", these include, first aid trauma kit, radio or other form of communication, that fire extinguishers are present and charged, and the approach gate to the LFH remains clear of obstruction at all times.
2. Under most circumstances, the student to authorized instructor ratio will not exceed 3 to 1; body armor, eye and hearing protection must be worn by everyone who enters the LFH; prior to live fire exercises, all rooms will be checked to ensure that no personnel are present; firearm instructors will ensure that targets are placed so that, when engaged, rounds will hit the proper backstop and rounds will not exit the building; authorized/approved frangible ammunition shall only be used, if your ammunition is not on the approved list a test must be conducted by the Range Safety Officer to verify that the ammunition is appropriate for the facility; no metal targets will be allowed; instructors shall review all targets and angles of deflections before beginning live fire; if during any training a safety whistle is blown or a command that is designated as a "Cease Fire" command is made, shooter shall freeze their movement, place trigger fingers outside of trigger guards, depress the weapons muzzles, repeat "Cease Fire" and wait for further commands from the instructor; students are required to follow the direction of the instructors and the safe operating procedures at all times, failure to do so is just cause for removal from training, all observers are required to follow the safety rules established for the LFH at all times, failure to comply with these safety rules is just cause for removal from the LFH facility; instructors shall ensure that no shots impact any containment wall closer than 18" from its upper edge; instructors shall monitor students to ensure that firing positions are not taken that may endanger other students or may allow fired round(s) from escaping the containment area.
3. The red range flag must be posted prior to use; at the conclusion of the training session the building shall be checked for damage, fire and then secured; all damage not consistent with normal wear must be repaired, replaced and reported.
4. The entrance gates to the LFH will be closed during all live fire exercises, with entry being approved only by the primary safety officer; no unauthorized persons shall be present in or around the LFH without checking in with the safety officer and having his or her consent to be present; any injuries must be immediately reported to the Range Safety Officer or Range Master; a post operation inspection of the LFH facility will be made by the primary instructor to insure the following: all weapons, ammunition, diversionary devices, body armor, and other equipment used during the training period are accounted for, that brass has been collected and that all other debris within the LFH has been removed, that no student(s) has sustained any injuries during training, that no damage has been caused by the training; account for all personnel who used the LFH.
5. All agencies seeking to use the LFH must have a current contract with the County of San Bernardino for such use, and insurance document, on file; curriculum of exercises that are to be conducted in the LFH must be submitted in advance to the Range Safety Officer for his/her approval; specific safety policies and procedures of the San Bernardino County Sheriff's Department must be followed at all times; firearms shall not be handled by persons with a blood alcohol content in excess of .00% by weight or under the influence of drugs or medication that would impair their motor skills, judgment, or balance; and no chemical agents may be used in the LFH.

**EXHIBIT B**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

1. **INVOICING AND PAYMENT**: For services satisfactorily rendered and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein.

Itemized invoices shall include the Agreement Number and be submitted, in triplicate, not more frequently than quarterly in arrears to:

Department of Consumer Affairs  
Dental Board of California  
Agreement Number: REQ0012850  
P.O. Box 980518  
West Sacramento, CA 95798-0518

2. **BUDGET CONTINGENCY CLAUSE**: It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either: cancel this Agreement with no liability occurring to the State, or offer an Agreement Amendment to Contractor to reflect the reduced amount.

3. **PROMPT PAYMENT CLAUSE**: Payment will be made in accordance with and within the time specified in Government Code, Chapter 4.5 (commencing with Section 927).

4. **COST BREAKDOWN**:

|   |                    |                   |
|---|--------------------|-------------------|
| FY 2014/2015 (July 1, 2014-June 30, 2015) |                    |                   |
| Range (4-Full Days x \$320.00 per day)    | = \$1,280.00       |                   |
| Range (4-Half Days x \$160.00 per day)    | = <u>\$ 640.00</u> |                   |
| Subtotal                                  |                    | \$1,920.00        |
| FY 2015/2016 (July 1, 2015-June 30, 2016) |                    |                   |
| Range (4-Full Days x \$320.00 per day)    | = \$1,280.00       |                   |
| Range (4-Half Days x \$160.00 per day)    | = <u>\$ 640.00</u> |                   |
| Subtotal                                  |                    | \$1,920.00        |
| FY 2016/2017 (July 1, 2016-June 30, 2017) |                    |                   |
| Range (4-Full Days x \$320.00 per day)    | = \$1,280.00       |                   |
| Range (4-Half Days x \$160.00 per day)    | = <u>\$ 640.00</u> |                   |
| Subtotal                                  |                    | <u>\$1,920.00</u> |
| <b>TOTAL CONTRACT AMOUNT</b>              |                    | <b>\$5,760.00</b> |

GTC 610

*EXHIBIT C (GTC 610 as Modified)*

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. ~~INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement. (See Attachment I, Page 3, V. Indemnification.~~
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor 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.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be

specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

## EXHIBIT D

### SPECIAL TERMS AND CONDITIONS

1. LIABILITY FOR NONCONFORMING WORK: The Contractor will be fully responsible for ensuring that the completed work conforms to the agreed upon terms. If nonconformity is discovered prior to the Contractor's deadline, the Contractor will be given a reasonable opportunity to cure the nonconformity. If the nonconformity is discovered after the deadline for the completion of project, the State, in its sole discretion, may use any reasonable means to cure the nonconformity. The Contractor shall be responsible for reimbursing the State for any additional expenses incurred to cure such defects.
2. SETTLEMENT OF DISPUTES: In the event of a dispute, Contractor shall file a "Notice of Dispute" with Department of Consumer Affairs, Director or his/her designee within ten (10) days of discovery of the problem. Within ten (10) days, the Director or his/her designee shall meet with the Contractor and Project Manager for purposes of resolving the dispute. The decision of the Director or his/her designee shall be final.

In the event of a dispute, the language contained within this agreement shall prevail over any other language including that of the bid proposal.

3. AGENCY LIABILITY: The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.
4. IMPRACTICABILITY OF PERFORMANCE: This Contract may be suspended or cancelled, without notice at the option of the Contractor, if the Contractor's or State's premises or equipment is destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service, or in the event the Contractor is unable to render service as a result of any action by any governmental authority.
5. LICENSES AND PERMITS: The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Agreement.

In the event the Contractor fails to keep in effect at all times all required license(s) and permit (s), the State may, in addition to other remedies it may have, terminate this Contract upon occurrence of such event.

## EXHIBIT E

### ADDITIONAL TERMS AND CONDITIONS

1. RIGHT TO TERMINATE: The State reserves the right to terminate this agreement subject to 30 days written notice to the Contractor.

However, the agreement can be immediately terminated for cause. The term “for cause” shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the agreement. In this instance, the agreement termination shall be effective as of the date indicated on the State’s notification to the Contractor.

2. LIABILITY FOR LOSS AND DAMAGES: Any damages by the Contractor to the State’s facility including equipment, furniture, materials or other State property will be repaired or replaced by the Contractor to the satisfaction of the State at no cost to the State. The State may, at its option, repair any such damage and deduct the cost thereof from any sum due Contractor under this Agreement.
3. CONFIDENTIALITY OF DATA: No reports, information, inventions, improvements, discoveries, or data obtained, repaired, assembled, or developed by the Contractor pursuant to this Agreement shall be released, published, or made available to any person (except to the State) without prior written approval from the State.

The contractor by acceptance of this Agreement is subject to all of the requirements of California Civil Code Sections 1798, et seq., regarding the collections, maintenance, and disclosure of personal and confidential information about individuals.

4. POTENTIAL SUBCONTRACTORS: Nothing contained in this Agreement or otherwise shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State’s obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
5. DISABLED VETERAN BUSINESS ENTERPRISE (DVBE): The State has determined that the DVBE participation goals for this Agreement are exempt. However, the Contractor may use DVBE’s and report the participation to the State.
6. WORKERS COMPENSATION AND EMPLOYERS LIABILITY : The Contractor shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of this contract. Employer's liability limits of \$1,000,000 are required.

7. INSURANCE REQUIREMENTS: The Contractor shall have in effect at all times during the term of this Contract general liability insurance of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined.

The Contractor agrees that the liability insurance herein provided for shall be in effect at all times during the term of this Contract. In the event said insurance coverage expires at any time during the term of this Contract, Contractor agrees to provide at least 30 days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than one year. New certificates of insurance are subject to the approval of the Department of General Services, and Contractor agrees that no work shall be performed prior to approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies, terminate this Contract.