

**SOLE SOURCE CONTRACT
BETWEEN
STATE OF WASHINGTON
DEPARTMENT OF VETERANS AFFAIRS
AND
WESTERN STATE DESIGN**

This Contract is made and entered into by and between the state of Washington, Department of Veterans Affairs, hereinafter referred to as the "DEPARTMENT", and also as "WDVA", Washington Veterans Home (Facility) located at 1141 Beach Drive East Port Orchard, WA 98378 and the below named firm, hereinafter referred to as "CONTRACTOR."

Western State Design
2331 Tripaldi Way
Hayward, CA 94545
Email: mingham@westernstatedesign.com
Phone: (425) 281-3231
UBI No. 604 037 229

PURPOSE

The purpose of this contract is to provide WDVA with delivery and installation of two (2) M202 - Steam Milnor Dryers as identified in the Scope of Work.

SCOPE OF WORK

- A. The CONTRACTOR will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in Attachment A, *Special Terms and Conditions*, attached hereto and made part hereof.
- B. Attachment B, attached hereto and incorporated by reference, contains the *General Terms and Condition* governing work to be performed under this contract, the nature of the working relationship between the DEPARTMENT and CONTRACTOR, and specific obligations of both parties.
- C. Attachment C, Pricing details of Delivery and Installation

PERIOD OF PERFORMANCE

Subject to other contract provisions, the period of performance under this contract will be from May 20, 2026 through September 30, 2026, at which time options to renew for three (3) months may be exercised by the DEPARTMENT with a written amendment with acceptance by both parties.

PREVAILING WAGE NOTIFICATION

Per Washington State Labor & Industries (L&I) laws, contractor will be required to complete all L&I filings related to this project, with prevailing wages as listed by L&I for Kitsap County, Washington.

COMPENSATION/ PAYMENT

DEPARTMENT shall pay an amount not to exceed One Hundred and Fifty Thousand Two Hundred and Eighty-Seven Dollars and Twenty-Eight Cents (\$150,287.28) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based in accordance with the following terms:

BILLING PROCEDURES AND PAYMENT

DEPARTMENT will pay CONTRACTOR upon receipt of services provided and properly completed invoices. Invoices shall be submitted to the contract manager not more often than monthly.

The invoices shall describe and document, to the DEPARTMENT'S satisfaction, a description of the work performed and the contract reference number **305C-26-034**.

Payment shall be considered timely if made by the DEPARTMENT within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The DEPARTMENT may, in its sole discretion, terminate the contract rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the CONTRACTOR.

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this contract.

Contract Manager for CONTRACTOR is:	Contract Manager for DEPARTMENT is:
Matt Ingham Western State Design 2331 Tripaldi Way Hayward, CA 94545 Phone: (510) 786-9271 Fax: (510) 783-9748 E-mail address: mingham@westernstatedesign.com	Geoffrey Rillie Washington Veterans Home 1141 Beach Drive East Port Orchard, WA Phone: (360) 895-4350 E-mail address: geoffreyr@dva.wa.gov

INSURANCE

The CONTRACTOR shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages

or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor or agents of either, while performing under the terms of this contract.

The insurance required shall be issued by an insurance company(s) authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees, as additional insureds under the insurance policy(s). All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give DEPARTMENT thirty (30) days advance notice of any insurance cancellation.

The CONTRACTOR shall provide insurance coverage that shall be maintained in full force and effect during the term of this contract, as follows:

Commercial General Liability Insurance Policy

Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

Automobile Liability

In the event that services delivered pursuant to this contract involve the use of vehicles, owned or operated by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is: \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

Professional Liability, Errors and Omissions Insurance

The CONTRACTOR shall maintain Professional Liability or Errors and Omissions Insurance. The CONTRACTOR shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all program activities by the CONTRACTOR and licensed staff employed or under contract to the CONTRACTOR. The state of Washington, its agents and employees need *not* be named as additional insureds under this policy.

The required insurance shall be issued by an insurance company(s) authorized to do business within the state of Washington, and except for Professional Liability or Errors and Omissions Insurance, shall name the state of Washington, its agents and employees as additional insureds under the insurance policy(s).

All policies shall be primary to any other valid and collectable insurance. The CONTRACTOR shall instruct the insurers to give the DEPARTMENT thirty (30) calendar days advance notice of any insurance cancellation.

CONTRACTOR shall submit to DEPARTMENT within fifteen (15) calendar days of the contract effective date, a certificate of insurance, which outlines the coverage and limits defined in the Insurance section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

RIGHT TO CURE SERVICE-RELATED PROBLEMS

Notwithstanding anything to the contrary stated in the Termination provisions of Attachment A,

CONTRACTOR shall have thirty (30) calendar days to correct any service-related problems before termination action is initiated. DEPARTMENT shall deliver written notice containing a list of service-related problems to CONTRACTOR. Within seven (7) calendar days, CONTRACTOR shall respond with a Plan of Correction that provides for correction within twenty-one (21) calendar days.

ASSURANCES

DEPARTMENT and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal and state of Washington statutes and regulations.
2. Attachment A – Special Terms and Conditions
3. Attachment B – General Terms and Conditions.
4. Attachment C – Pricing Details of Delivery and Installation
5. Any other provision, term or material incorporated herein by reference or otherwise incorporated.

ENTIRE AGREEMENT

This contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other understandings or representations oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

APPROVAL

This contract shall be subject to the written approval of the DEPARTMENT'S authorized representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

THIS CONTRACT, consisting of five (5) pages and three (3) attachments, is executed by the persons signing below who warrant that they have the authority to execute the contract.

WESTERN STATE DESIGN

**WASHINGTON STATE DEPARTMENT
OF VETERANS AFFAIRS**

Signature

Signature

Name

Name

Title

Date

Title

Date

ATTACHMENT A

SPECIAL TERMS AND CONDITIONS

SCOPE OF WORK

The Contractor will provide products, services, and staff, and otherwise do all things necessary for or incidental to the performance of work, as requested by WDVA as set forth below.

Installation Instructions - Scope of Services:

1. Off load and move equipment into the laundry room or designated location
2. Install on ground level/on grade only
3. Level, anchor and grout equipment or bases and assemble to manufacturer specifications as required
4. As applicable, final connection hook up of equipment to existing utilities, water, compressed air, electrical service, natural gas, exhaust ducting, wastewater sewer line, steam. All required utilities including ducting and wastewater shall be routed to within 2' of equipment Points of Connection (POC)
5. Disconnecting and removal of existing laundry equipment, if applicable
6. Debris Removal and containers
7. Startup and training after hookup
8. Includes all materials, labor, and rental equipment
9. All work requiring building tenant improvements shall match existing conditions

Installation Exclusions:

- Hazardous waste abatement or removal
- Any building modifications including not limited to carpentry, bulkheads, drop ceiling, flooring, painting, building refinishing, millwork, signage
- Modifications or rerouting utilities which exceed 5' from the Points of Connection (POC) on the equipment furnished
- Modifications to the building fire sprinkler system or alarm system
- Building permits, air quality permits, impact fees, fire inspection fees, professional engineering and architectural services including drawings
- General roof repairs or replacement other than patching roof penetrations required for exhaust ducting/makeup air venting
- Any changes to the building HVAC system/swamp cooling system including modifications to the combustion air discharge locations or makeup air locations to meet compliance of local building code and ordinances
- Building repairs, utility upgrades/repairs for unknown site conditions
- Installation of security systems, locks, cameras
- If applicable, prevailing wages and/or certified payroll reporting

Additional Western State Design Scope

The following terms apply only to the two (2) new Milnor M202 dryers. All architectural, mechanical, plumbing, and electrical work related to the two (2) existing MLG122 dryers is excluded.

Demolition and Site Work

- Pour a new concrete driveway at the north entrance. Concrete shall not exceed dryer installation requirements.

- Demolish the front wall of the dryer enclosure.
- Demolish electrical, plumbing, exhaust, steel framing, drywall, and any other associated materials. The scope of utility demolition shall not extend more than 5 feet from the point of connection (POC).
- Remove and dispose of two (2) MLG122 dryers.
- Extend the housekeeping pad to accommodate two (2) M202 dryers.

Architectural, Utilities, and Installation

- Deliver and set in place two (2) new M202 dryers.
- Rebuild the dryer enclosure to accommodate two (2) M202 dryers.
- Connect dryer exhausts to existing exhaust ducts. Modifications shall not extend more than 5 feet from the POC.
- Install steam loop system and air connections. Modifications shall not extend more than 5 feet from the POC.
- Provide electrical connections, including breaker and wiring modifications, to accommodate increased power demand.
- Provide all fittings/brackets to properly support new utility modifications.
- Start-up and owner training

Exclusions

- All work not explicitly stated in this addendum.

**ATTACHMENT B
GENERAL TERMS AND CONDITIONS**

DEFINITIONS

As used throughout this contract, the following terms shall have the meanings set forth below:

- A. "CLIENT" shall mean an individual receiving services under this contract.
- B. "COGNIZANT STATE AGENCY" shall mean the state agency from which the sub-recipient receives federal financial assistance. If funds are received from more than one state agency, the cognizant state agency shall be the agency that contributes the largest portion of federal financial assistance to the sub-recipient.
- C. "CONTRACTOR" shall mean that agency, firm, provider organization, individual or other entity performing services under this contract. It shall include any subcontractor retained by the prime contractor as permitted under the terms of this agreement.
- D. "CONTRACTING OFFICER" shall mean that individual authorized to execute this agreement on behalf of the Department.
- E. "DEPARTMENT" shall mean the Department of Veterans Affairs of the state of Washington, any division, section, office, unit or other entity of the DEPARTMENT or any of the officers or other officials lawfully representing that DEPARTMENT.
- F. "PERSONAL INFORMATION" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- G. "SUBCONTRACTOR" shall mean one not an employee of the contractor, who is performing all or part of those services under this contract under a separate contract with the contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- H. "SUBRECIPIENT" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.
- I. A "VENDOR" is an entity that agrees to provide the amount and kind of services requested by the Department; provides services under the contract only to those beneficiaries individually determined to be eligible by the Department and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE "ADA" 28 CFR PART 35

The contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

ASSIGNMENT

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the contractor without prior written consent of the Department.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY

The contractor, by signature to this contract, certifies that the contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participating in transactions (debarred). The contractor also agrees to include the above requirements in any and all subcontracts into which it enters. The contractor shall immediately notify the Department if, during the term of this contract, contractor becomes debarred. The Department may immediately terminate this contract by providing contractor written notice if contractor becomes debarred during the term of this contract.

CHANGE IN STATUS

In the event of substantive change in the legal status organizational structure or fiscal reporting responsibility of the contractor, contractor agrees to notify the Department of the change. Contractor shall provide notice as soon as practicable, but no later than thirty-days after such a change takes effect.

CHANGES AND MODIFICATIONS

The Department may, at any time, by written notification to the contractor, and without notice to any known guarantor or surety, make changes within the general scope of the services to be performed under the contract. If the contractor agrees to such changes, a written contract amendment reflecting such change shall be executed by the parties.

An equitable adjustment in cost or period of performance or both may be made if required by the change. Any claim for adjustment in price or period of performance must be received within thirty (30) days of the contractor's receipt of the change notice.

The Department may, however, receive and act upon any such claim at any time prior to final payment under the contract at his/her discretion.

Failure to agree to any adjustment made under this section shall be an issue and may be reviewed as provided in the "Disputes" section of this agreement. Nothing in this section shall excuse the contractor from proceeding with the contract as changed.

COMPLIANCE WITH APPLICABLE LAW.

At all times during the term of this Contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to, nondiscrimination laws and regulations.

CONFLICT OF INTEREST

The Department may, in its sole discretion, by written notice to the contractor, terminate this contract if it finds, after due notice and examination by the Department, that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the contractor in the procurement of or performance under, this contract.

In the event this contract is terminated as provided above, the Department shall be entitled to pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor.

The rights and remedies of the Department provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Department makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

COVENANT AGAINST CONTINGENT FEES

The contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agent maintained by the contractor for the purpose of securing business. The Department shall have the right, in the event of breach of this clause by the contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fees.

DISPUTES

Dispute Resolution Board

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, any party may request a dispute resolution board (DRB). A request for a DRB must be in writing, state the disputed issue(s), state the relative positions of the parties and be sent to all parties. Parties must provide a response within ten (10) days.

Once a party requests a DRB, each party shall designate a representative. The representatives shall mutually select a third member (or an additional member for disputes involving more than two parties).

The DRB shall evaluate the facts, contract terms and applicable statutes and rules and make a determination by majority vote. The decision is binding on all parties and shall be admissible in any succeeding judicial or quasi-judicial proceeding concerning the contract.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable DRB method in addition to the dispute resolution procedure outlined above.

DISALLOWED COSTS

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

GOVERNING LAW

This contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County.

INDEMNIFICATION

To the fullest extent permitted by law, contractor shall indemnify, defend and hold harmless the state, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. Contractors' obligations to indemnify, defend, and hold harmless includes any claim by contractors' agents, employees, representatives or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the state for any claim arising out of or incident to contractor's or any subcontractor's performance or failure to perform the contract. Contractor shall be required to indemnify, defend, and hold harmless the state, only to the extent claim is caused in whole or in part by negligent acts or omissions of contractor.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless state and its agencies, officials, agents or employees.

INDEPENDENT CAPACITY

The parties intend that an independent contractor relationship will be created by this contract. The contractor and his or her employees or agents performing under this contract are not employees or agents of the Department. The contractor will not hold himself/herself out as nor claim to be an officer or employee of the Department or of the state of Washington by reason hereof, nor will the contractor make any claim of right, privilege, or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the contractor.

INDUSTRIAL INSURANCE COVERAGE

The contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the Department may collect from the contractor the full amount payable to the Industrial Insurance accident fund. The Department may:

- Deduct the amount owed by the contractor to the accident fund from the amount payable to the contractor by department under this contract. and
- Transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services.

This provision does not waive any of L&I's rights to collect from the contractor.

LICENSING AND ACCREDITATION STANDARDS

The contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary in the performance of this contract.

LIMITATION OF AUTHORITY

Only the Department or his/her delegate by writing (delegation to be made prior to action) shall have the express, implied or apparent authority to alter, amend, modify or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the Department.

NONDISCRIMINATION

- a. **Nondiscrimination Requirement.** During the term of this Contract, Contractor,

including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.

- b. **Obligation to Cooperate.** Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
- c. **Default.** Notwithstanding any provision to the contrary, Department may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Department receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Department may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court- ordered injunctive relief or settlement agreement.
- d. **Remedies for Breach.** Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Department shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Department for default under this provision.

OVERPAYMENTS AND ASSERTION OF LIEN

In the event that the Department establishes overpayments or erroneous payments made to the contractor under this contract, the Department may secure repayment, plus interest, if any, through the filing of a lien against the contractor's real property or by requiring the posting of a bond, assignment of deposit or some other form of security acceptable to the Department or by doing both.

PRIVACY

Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Department or as provided by law.

Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The Department reserves the rights to monitor, audit or investigate the use of personal information collected, used, or acquired by the contractor through this contract. The monitoring, auditing, or investigating may include but is not limited to “salting” by the Department.

Contractor shall certify the return or destruction of all personal information upon expiration of this contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The contractor agrees to indemnify and hold harmless the Department for any damages related to the contractor’s unauthorized use of personal information.

For the purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person’s health, finances, education, business, use or receipt of governmental services or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

RECORDS, DOCUMENTS, AND REPORTS

The contractor shall maintain all books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review, or audit by the Department, personnel duly authorized by the Department, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE

The contractor shall complete registration with the Department of Revenue, General Administration Building, Olympia WA 98504, and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION

The contractor shall provide right of access to its facilities to the Department or any of its officers at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract on behalf of the Department.

All inspections and evaluations shall be performed in such a manner that will not unduly interfere with the contractor’s business or work hereunder.

RIGHTS IN DATA

Unless otherwise provided, data that originates from this contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the Department. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

Data that is delivered under the contract, but that does not originate there from, shall be transferred to the Department with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided that such license shall be limited to the extent that the contractor has a right to grant such a license.

The contractor shall exert all reasonable effort to advise the Department, at the time of delivery of data furnished under this agreement, of all known or potential invasions of privacy contained therein and of any portion of such document, which was not produced in the performance of this agreement.

The Department shall receive prompt written notice of each notice or claim of copyright infringement received by the contractor with respect to any data delivered under this agreement. The Department shall have the right to modify or remove any restrictive markings placed upon the data by the contractor.

SAFEGUARDING OF INFORMATION

The contractor shall not use or disclose any:

- Personal Information gained by reason of this contract, or
- Information that may be classified as confidential for any purpose not directly connected with the administration of this contract except (1) with prior written consent of the Department or (2) as may be required by law. The contractor shall safeguard such information and shall return or certify destruction of the information upon contract expiration or termination.

SAVINGS

In the event funding from state, federal or other sources is withdrawn, reduced or limited in any way after the effective date of this contract and prior to normal completion, the Department may terminate the contract under the "Termination for Convenience" clause, without advance notice, subject to renegotiation at the Department's discretion under those new funding limitations and conditions.

SEVERABILITY

If any provision of this contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this contract that can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this contract, and to this end the provisions of this contract are declared to be severable.

SINGLE AUDIT ACT REQUIREMENTS

If the contractor is a subrecipient of federal awards as defined by Office of Management and Budget (OMB) Circular A-133, the contractor shall maintain records that identify all federal funds received and expended. Such funds shall be identified by the appropriate OMB Catalog of Federal Domestic Assistance Numbers.

The contractor shall make the contractor's records available for review or audit by officials of the federal awarding agency, the General Accounting Office, the Department, and the Washington State Auditor's Office. The contractor shall incorporate OMB Circular A-133 audit requirements into all contracts between the contractor and its subcontractors who are subrecipients. The contractor shall comply with any future amendments to OMB Circular A-133 and any successor or replacement Circular or regulation.

If the contractor expends \$500,000 or more in federal awards from any and/or all sources in any fiscal year ending after December 31, 2003, the contractor shall procure and pay for a single or program-specific audit for that year.

Upon completion of each audit, the contractor shall submit to the Department named in this contract the data collection form and reporting package specified in OMB Circular A-133, reports required by the program-specific audit guide (if applicable).

SUBCONTRACTING

Neither the contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the Department.

In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Department for any breach in the performance of the contractor's duties.

This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

TERMINATION FOR CONVENIENCE

Except as otherwise provided in this contract, the Department may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this contract in whole or in part. If this contract is so terminated, the Department shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

TERMINATION FOR DEFAULT

The Department may terminate this contract for default, in whole or in part, by written notice to the contractor if the Department has a reasonable basis to believe that the contractor has:

- Failed to meet or maintain any requirement for contracting with the Department.
- Failed to ensure the health or safety of any client for whom services are being provided under this contract.
- Failed to perform under or otherwise breached, any term or condition of this contract. and/or
- Violated any applicable law or regulation.

If it is later determined that the contractor was not in default, the termination shall be considered a termination for convenience.

TERMINATION PROCEDURE

Upon termination of this contract the Department, in addition to any other rights provided in this contract, may require the contractor to deliver to the Department any property specifically produced or acquired for the performance of such part of this agreement as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The Department shall pay to the contractor the agreed upon price, if separately stated, for completed work and services accepted by the Department and the amount agreed upon by the contractor and the Department for:

- Completed work and services for which no separate price is stated.
- Partially completed work and services.
- Other property or services that are accepted by the Department.
- The protection and preservation of the property, unless the termination is for default, in which case the Department shall determine the extent of the liability of the Department. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this agreement.

The Department may withhold from any amounts due the contractor for such completed work or services such sum as the Department determines to be necessary to protect the Department against potential loss or liability.

The rights and remedies of the Department provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

After receipt of a notice of termination, and except as otherwise directed by the Department, the contractor shall:

1. Stop work under the agreement on the date and to the extent specified in the notice.
2. Place no further orders or subcontracts for materials, services or facilities except as necessary to complete such portion of the work not terminated.
3. Assign to the Department, in the manner, at the times, and to the extent directed by the Department, all of the rights, titles, and interest of the contractor under the orders and subcontracts in which case the Department has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Department to the extent he/she may require, which approval or ratification shall be final for all the purposes of this clause.
5. Transfer title to the Department and deliver, in the manner, at the times and to the extent as directed by the Department, any property which, if the contract had been completed, would have been required to be furnished to the Department.
6. Complete performance of such part of the work not terminated by the Department.
7. Take such action as may be necessary or as the Department may direct, for the protection and preservation of the property related to this agreement that is in the possession of the contractor and in which the Department has or may acquire an interest.

TREATMENT OF ASSETS

1. Title to all property financed or furnished by the Department shall remain in the Department. Title to all property purchased by the contractor, for which the contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Department upon delivery of such property to the contractor.

Title to other property, the cost of which is reimbursable to the contractor under the contract, shall pass to and vest in the Department upon:

- Issuance for use of such property in the performance of this contract or
 - Commencement of use of such property in the performance of this contract, or
 - Reimbursement of the cost thereof by the Department in whole or in part, whichever first occurs.
2. Any property of the Department furnished to the contractor shall, unless otherwise provided herein or approved by the Department, be used only for the performance of this contract.
 3. The contractor shall be responsible for any loss or damage to property of the Department that results from the negligence of the contractor or that results from the failure on the part of the contractor to maintain and administer that property in accordance with sound management practices.
 4. If any department property is lost, destroyed or damaged, the contractor shall notify the Department and shall take all reasonable steps to protect the property from further damage.
 5. The contractor shall surrender to the Department all property of the Department prior to settlement upon completion, termination, or cancellation of this agreement.
 6. All reference to the contractor under this clause shall include contractor's employees, agents, or subcontractors.

WAIVER OF DEFAULT

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Waiver shall not be construed to be a modification of the terms of the contract unless stated to be such in writing, signed by the Department of the Department.

