

EXHIBIT B

SPECIAL TERMS AND CONDITIONS

1. The State agrees to provide the Contractor a sum not to exceed the amount specified in this Agreement for the purchase of vessels and equipment and/or program funding for use in boating safety instructional programs in accordance with all Attachments incorporated herein by reference.
2. The Contractor is not authorized to make expenditures until all signatures are secured and final approval is received from the Department or the Office of Legal Services, Department of General Services.
3. The Contractor shall complete purchases of equipment specified on the Budget Page(s) under this Agreement. All invoices pertaining to said purchases of vessels and equipment must be received by the Department on or before September 30, 2008. The Department is not obligated to make payment on any invoice received after these specified deadline dates.
4. The Contractor shall conduct all classes specified on the Budget Page(s) under this Agreement. All invoices for classes specified on the budget page(s) must be received by the Department on or before March 31, 2009. The Department is not obligated to make payment on any invoice received after these specified deadline dates.
5. The Contractor is authorized to make only expenditures specified on the Budget Page(s) contained in this Agreement. Any modifications to the expenditure specifications must be approved by the Department. The Contractor must submit a letter of request to make modifications and the reasons therefor accompanied by the modified expenditure specifications to the Department. The Department must give approval of the modifications in writing and forward this approval to the Contractor before any expenditure reflected in the modification is made. Nothing herein shall require the Department to give their approval or to reimburse the Contractor for unapproved expenditures.
6. All invoices submitted by the Contractor must be submitted with the Department's **Reimbursement Claim Form** and include the information listed below. The entire invoice (including all items listed in A and B below) must be submitted to the Department in triplicate.

A. Reimbursement Claim Form

The contractor shall use the Reimbursement Claim Form provided by the Department to describe equipment purchases or expenses incurred from classes taught. Each request for reimbursement must be listed on the claim form and match its corresponding line item number on the

EXHIBIT B

Contractor's Budget Page(s). Proof of payment to the vendor must accompany requests for reimbursement for items B.1.and B.3. below.

B. Additional Documentation

1. Equipment – Reimbursement Payment Request
Reimbursement requests for Equipment purchased must be accompanied by the manufacturer/dealer invoices.
2. Scholarship – Reimbursement Payment Request
Scholarship invoices shall include the names and addresses of participants when available. If the names and addresses of the students cannot be released, the contractor shall request alternate submittal instructions from the Department. This may include but is not limited to submitting the course name and group along with a contact person's (i.e., teacher name, troupe leader, youth director, etc.) name, address, and phone number to verify attendance and completion of class to verify scholarship request.
3. Instructor Training – Reimbursement Payment Request
Reimbursement requests for instructor training shall include receipts from the organization teaching the course showing the type of course, the individual(s) name trained, date conducted, and cost.
4. Contractor is required to maintain records of the Agreement's accounting of expenditures, requests for reimbursements, and payments received.
7. The Contractor agrees to provide a minimum of 30 boating safety education courses each year.
8. Teaching boating safety for a fee, or offsetting that cost by using scholarship funds, is considered to be carrying passengers for hire or for consideration. By signing this contract, the contractor ensures familiarity with both federal requirements (Title 46 United States Code and specified in Titles 33 and 46 Code of Federal Regulations) and state requirements (Harbor and Navigation Code, Chapter 5, Article 3; California Code of Regulations, Title 14, Article 7) for for-hire vessel operation and will comply with those licensing requirements when applicable before utilizing any equipment or scholarship funding associated with this contract.
9. The Contractor is required to send a representative to one Aquatic Center Directors' Conference annually during the term of the contract. Should the

EXHIBIT B

Contractor or representative be unable to attend the conference, the Contractor must forward a letter to the Department stating the reason why they cannot attend. The Department must grant approval in writing in order for the Contractor not to be in breach of this contract. Nothing herein shall require the Department to give their approval.

10. The Contractor must submit annual reports to the Department due no later than January 15 each year which shall include the number and type of people served by the Contractor's program, photographs or pictures on a computer disc from the year's activities, equipment inventory of items on the Department's Inventory Form purchased with grant money if applicable, and suggested changes and recommendations for improvements to the Aquatic Grants Program.

Paragraphs 11-17 apply to any equipment purchased under this agreement:

11. All property purchased with funds from the contract shall be the property of the State Department of Boating and Waterways for the entire term of the contract. Legal ownership of any craft purchased under this contract shall be vested in the name of the State, and any craft or trailer purchased shall be registered with the Department of Motor Vehicles in accordance with State law.
12. The Contractor agrees to repair or replace any equipment purchased under this contract if lost, stolen, or damaged. Grantee shall maintain all equipment purchased with grant funding in good repair and condition. Grantee is responsible for the costs of operating and maintaining grant-funded vessels; the Department is not liable for such costs.
13. The Contractor shall take a physical inventory of any equipment purchased under this contract and reconcile the inventory with the property records at least annually to verify the existence, current utilization, and continued need for the equipment. Grantee shall keep complete and accurate records of all expenditure pertaining to the purchase of additional equipment and the operation and maintenance of grant-funded vessels; such records shall be available and open to the Department at all reasonable times for inspection and audit by any authorized representative of the Department.
14. Property records shall be maintained by the Contractor and provided on the Department's Inventory Form that accurately provides: a description of the property, manufactures, serial number or other identification number, property location and condition.

EXHIBIT B

15. The Contractor shall request disposition instructions from the Department for equipment no longer needed in the safety program.
16. When purchasing equipment, the Contractor shall ensure that adequate competition has been sought by taking the following steps:
 - a. The Contractor shall openly seek estimates for equipment.
 - b. All estimates should be submitted in writing. If a written estimate is not possible, the contractor shall document any verbal estimate.
 - c. The Contractor shall make every effort to ensure that 3 estimates are received prior to the purchase of said equipment. If 3 estimates are not received, the Contractor shall fully document why 3 estimates could not be received. All estimates or documentation shall be retained by the Contractor. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after the final payment.
 - d. Should a certified small business submit an estimate, the business can claim a preference of five (5) percent when submitting by the lowest responsible proposer who is not a certified small business. (Certified small business is defined as a business certified by the Office of Small Business and DVBE Services)
17. Contractor understands that equipment purchased with funds granted under this Agreement is to be used by students officially enrolled in the courses of instruction taught or provided by Contractor.

Contractor shall ensure that if making equipment purchased in accordance with this contract available for rent or for any other special use, that all renters and or users for special use of equipment have either 1) successfully completed the boating safety course for that type of equipment through the Contractor's organization, or 2) demonstrated knowledge of applicable boating navigational rules and laws and demonstrate practical handling of specific craft being rented before taking it on the water. The Contractor shall require the renter to sign a waiver stating that they have complied with these requirements.

All proceeds from the renting of equipment purchased in this contract shall stay vested within this program to enhance boating safety education.

EXHIBIT B

18. The Contractor agrees that the 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. The

Contractor agrees to maintain such records for possible audit for a minimum of 15 years from the commencement of this contract.

The contractor is required to keep a record of all paperwork connected with this agreement including, but not limited to, request for changes to the budget page, invoices from manufacturers or dealers for equipment purchased, requests for reimbursement and payments received from the Department regarding those requests.

19. The State reserves the right to terminate this contract subject to thirty (30) days written notice to the Contractor pursuant to Paragraph 7 of Attachment C., *General Terms and Conditions*. The Contractor may submit a written request to terminate this contract only if the State should substantially fail to perform its responsibilities as provided herein. In the event the contract is terminated prior to the expiration of the full term of the contract, ownership of all property purchased with funds from the contract shall remain vested in the State.

20. Subject to available funding and satisfactory performance, the Department shall have the option of extending the term of this contract. At the Department's request, the Contractor shall submit a new proposal, which shall be evaluated by the Department. If the proposal is satisfactory, the Department may award the Contractor additional funds and shall extend the deadline in Paragraphs 3 and 4 of this Agreement for one additional year, revising the term of the contract, if needed, to correspond to this change. The new proposal provided by the contractor shall be incorporated as an amendment and Attachment and all reimbursements shall be in accordance with it. All other terms and conditions listed herein shall remain unchanged.

EXHIBIT B

INSURANCE REQUIREMENTS

21. General Requirements Applying to All Policies

- a. Coverage Term – Coverage needs to be in force for the complete term of the contract. If insurance expires during the term of the contract, a new certificate must be received by the State at least ten (10) days prior to the expiration of this insurance. Any new insurance must still comply with the original terms of the contract.
- b. Policy Cancellation or Termination & Notice of Non-Renewal – Insurance policies shall contain a provision stating coverage will not be cancelled without 30 days prior written notice to the State. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.
- c. Deductible – Contractor is responsible for any deductible or self-insured retention contained within their insurance program.
- d. Primary Clause – Any required insurance contained in this contract shall be primary, and not excess or contributory, to any other insurance carried by the State.
- e. Insurance Carrier Required Rating – All insurance companies must carry a rating acceptable to the Office of Risk and Insurance Management. If the Contractor is self insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
- f. Endorsements – Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- g. Inadequate Insurance – Inadequate or lack of insurance does not negate the contractor's obligations under the contract.

EXHIBIT B

22. Insurance Requirements

a. Commercial General Liability

The Contractor shall maintain general liability with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with a \$2,000,000 annual policy aggregate. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractors limit of liability.

i. Endorsement

All policies or letters of self insurance must include the following clause:

The California Department of Boating and Waterways and the State of California, its officers, agents, employees, and servants are named as additional insured.

This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management. In the case of Contractor's utilization of subcontractors to complete the contracted scope of work, Contractor shall include all subcontractors as insured's under Contractor's insurance or supply evidence of insurance to The State equal to policies, coverages and limits required of Contractor.

Any proposed change in this status shall be reported to the Department prior to the change and may result in restrictions being imposed on the usage of the monies or equipment.

b. Vessel Insurance

The Contractor shall produce evidence of necessary insurance for all vessels bought with the grant money and all vessels used in boating programs funded by grant money.

c. Automobile Liability

If automobiles are used in the transportation of vessels or people involved in aquatic programs then the following coverage is needed:

Contractor shall maintain motor vehicle liability with limits required by State and Federal statute but shall not be less than \$1,000,000 combined

EXHIBIT B

single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles.

d. Watercraft Liability

Contractor shall maintain watercraft liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of the maintenance and use of any watercraft.

e. Workers Compensation and Employers Liability

Contractor shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Contract. Employer's liability limits of \$1,000,000 are required.

23. Self Insurance

Contractor shall provide evidence of self insurance. The State reserves the right to request financial information.