

**PRICE SCHEDULE AGREEMENT  
NUMBER 410/OP/062  
HOUSING & DINING CHEMICAL PRODUCTS AND SERVICES**

THIS PRICE SCHEDULE AGREEMENT ("Agreement") is made and entered into this 18<sup>TH</sup> day of September 2008, by and between The Regents of the University of California ("UC"), and Ecolab Inc. ("Seller") with its principal place of business at 370 Wabasha Street North, Government Sales- EUC/13, St. Paul, MN 55102.

**1. DEFINITIONS**

As used in this Agreement and its attachments and exhibits which become a part of it, the following terms have the following meanings:

- 1.1 "Business Day" shall mean Monday through Friday, between 8:00am - 5:00pm, excluding UC and Seller observed holidays. Seller shall provide UC a Seller holiday schedule on or before September 1 for the following calendar year.
- 1.2 "Account Manager" means the Seller employee, satisfactory to UC, whom Seller designates to UC as the person with overall responsibility at Seller managing the UC/Seller relationship under this Agreement. This team includes Seller's representative is responsible for managing the entire relationship between UC and Seller and representatives responsible for managing a specific UC campus/location. Seller must provide UC a written notification thirty (30) days prior to any change(s) to its Account Management team.
- 1.3 "Products/Services" are defined as the sale and delivery of approved chemicals for use in the Housing & Dining facilities on the UC locations as specified in Section 2.1 below.
- 1.4 "Delivery" shall mean delivery by Seller through approved distribution channels to the designated UC delivery points as requested by UC Departments ordering Products. The delivery points will be determined by UC authorized personnel.

**2. SCOPE**

2.1 Seller agrees to extend the terms and conditions of this Agreement, including pricing, to the following UC Housing, Dining & Hospitality locations:

- UCSC
- UCM
- UCSB
- UCLA
- UCR
- UCSD

UC reserves the right to add additional future locations.

2.2 Existing Agreements – This Agreement shall supersede any existing location level agreements upon their termination dates, or if terminated sooner.

3. **DESCRIPTION OF PROGRAM**

During the term of this Agreement, and any extension(s) of such term, Seller agrees to sell UC the Products/Services as designated by UC, subject to the terms and conditions set forth in this Agreement.

4. **PROGRAM REQUIREMENTS**

4.1 **Substitutions** No substitutions of alternate items for products ordered will be permitted except with the express approval from authorized UC personnel. Seller shall not substitute and/or interchange a different brand or generic product or package size, other than the specific product ordered, without authorization from UC.

4.2 **Minimum Order** There shall be no minimum order requirement during the term of this Agreement and any extension(s) of such term.

4.3 **Environmentally Responsible Packaging & Sustainability** Seller agrees to use good faith efforts to utilize environmentally responsible packaging and recycling practices to minimize the adverse effects of packaging on the environment. Seller further commits to using best efforts in order to comply with the UC Presidential Policy on Sustainability:  
[http://www.ucop.edu/facil/sustain/documents/policy\\_sustain\\_prac.pdf](http://www.ucop.edu/facil/sustain/documents/policy_sustain_prac.pdf)

4.4 **Training** Seller shall provide reasonable sufficient training to UC's authorized personnel to enable UC to order Products from Seller via Seller's order entry systems.

4.5 **Program Management** Seller will provide the necessary staff and resources to support UC's program management function as outlined in the RFP and Seller's Response including, but not limited to:

- Marketing Program to increase sales activity;
- Coordinating Program implementation;
- Providing superior customer service;
- Promoting alternate Products to reduce cost;
- Demonstrating new Products;
- Managing the continuous improvement process;
- Providing on-going contract monitoring and maintenance;
- Offering Products cost reduction and process improvement opportunities to UC;
- Conducting monthly account review meetings.

5. **PRICING AND APPLICABLE TAXES**

5.1 The prices of the Products included in this Agreement shall be the prices recited on Attachment 1 - UC Standard Products.

- 5.2 Price increases must be supported by documented evidence of Seller's manufacturer price increases. UC shall benefit from any lower price offered to other Universities, hospitals, government agencies or entities where the economic and service requirements are substantially similar. If Seller's catalog or list price of Products is reduced, UC shall benefit from a corresponding price reduction.
- 5.3 Seller was advised that there is no mandatory use policy at UC, and Seller must compete with other suppliers for UC orders. Therefore, Seller shall guarantee that manufacturer and/or Seller price decreases be passed on to UC immediately.

6. **REPORTING**

- 6.1 Seller agrees to provide reports as reasonably requested by UC during the term of the Agreement and any extension(s) to such term at no additional cost to UC.

7. **SURVEYS**

- 7.1 Seller shall, at UC's request, conduct customer surveys of UC orders through questionnaires inserted into delivery packages. The content of these surveys shall be approved by UC. UC shall be responsible for the tabulation of these surveys.

8. **GENERAL TERMS AND CONDITIONS**

- 8.1 **Product Certification** Seller hereby certifies and warrants that all products sold to UC under this Agreement:
- Shall be new and genuine;
  - Shall be provided to UC in the manufacturer's original packaging unless otherwise requested by UC;
  - Shall be manufactured and sold or distributed to the supplier for retail sales in the United States;
  - Shall be sold to the supplier from legal and reputable channels, which are understood to be the manufacturer or authorized representatives of the manufacturer;
  - Shall not be altered or misbranded within the meaning of the Federal and State laws applicable to such products.
  - Shall not be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.
- 8.2 **Auditing Requirements** This Agreement and any orders resulting therefrom shall be subject to examination and audit by UC for a period of three (3) years after final payment. The examination and audit shall be confined to those matters connected with the performance of the Agreement, including, but not limited to, the costs of administering the Agreement.
- 8.3 **Warranties** Seller agrees that the Products furnished under this Agreement shall be covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar Products, and that the rights and remedies so provided are in addition to

and do not limit any rights afforded to UC by any other article in this Agreement and any subsequent Agreement. Such warranties will be effective notwithstanding prior inspection and/or acceptance of the Products by UC, and in all cases shall commence upon acceptance of the Products by UC.

8.4 Term of Agreement Unless terminated as provided below, this Agreement shall be effective for a period of eighteen (18) months, commencing September 18<sup>th</sup>, 2008, and ending March 18<sup>th</sup>, 2010.

8.5 Termination of Agreement UC may terminate this Agreement for convenience at any time, in whole or campus-by-campus, in accordance with the terms of Article 4 of University of California Terms and Conditions, Appendix "A", as attached. In the event of such termination, UC agrees to provide Seller at least thirty (30) days prior written notice of the effective date of termination and the extent thereof without penalty.

If any termination of this Agreement takes place, Seller shall extend to UC, upon UC's request, an additional ninety (90) day period to properly implement a smooth transition. Fees for the services performed during the additional ninety (90) days will be negotiated in good faith between UC and Seller.

If within five (5) working days of receipt of written notice from UC of Seller's breach of any term or condition of the Agreement, Seller shall fail to remedy such breach, then UC may at any time, by written notice, terminate the Agreement in whole or in part.

8.6 Marketing References Seller shall not make reference to UC, in any literature, promotional material, brochures, or sales presentations without the express written consent of a duly authorized officer of UC.

8.7 Amendments Any changes to the Agreement requested by either party shall be effective only if mutually agreed in writing by duly authorized representatives of UC and Seller. This Agreement shall not be modified or amended or any right of a party waived except by such written amendment.

8.8 Failure to Enforce Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement shall not be construed as effecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto.

8.9 Partial Invalidity Any provisions of this Agreement that shall prove to be invalid, void, or illegal shall in no way impair, or invalidate any other provisions hereof, and such other provisions shall remain in full force and effect.

8.10 Governing Law The rights and obligations of the parties, and all interpretations and performance of this Agreement shall be governed in all respects by the laws of the State of California.

8.11 Relationship Seller shall have no power to bind UC and shall not, under any circumstances, be considered to be an agent, representative or fiduciary of any or all of the proceeding. Instead, Seller is an independent contractor and neither it nor its employees, agents, contractors or subcontractor is or will be an employee, agent or representative of UC during the period it and/or they are performing services under this Agreement. Seller acknowledges its responsibility for the full payment of the wages or other compensation of, as well as any benefits for employees, agents, contractors or subcontractors engaged by it in the performance of this Agreement

This Agreement, together with the above named instruments, constitute the entire agreement between the UC and Seller with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written, such parties acting by their officers being thereunto duly authorized.

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA

  
\_\_\_\_\_  
Signature

Haggai Hisgilov  
Name, printed or typed

Executive Director, Strategic Sourcing  
Title

9-23-08  
Date

ECOLAB INC.:

  
\_\_\_\_\_  
Signature

Bruce Kotton  
Name, printed or typed

Manager, Bid Contracts  
Title

9/29/08  
Date

**STRATEGIC SOURCING AGREEMENT  
NUMBER 410/OP/062**

**ATTACHMENTS**

Pricing Schedule – UC Standard & Green Products

Attachment 1

**STRATEGIC SOURCING AGREEMENT NO. 639/OP/005  
FOR  
JANITORIAL PRODUCTS PAPER, CHEMICALS, SUPPLIES AND EQUIPMENT  
&  
CUSTODIAL DISPOSABLES (for UC Housing & Dining)**

THIS STRATEGIC SOURCING AGREEMENT ("Agreement") is made and entered into this 1<sup>st</sup> day of November, 2006, by and between The Regents of the University of California ("UC"), and Waxie Sanitary Supply ("Seller") with its principal place of business at 3220 S. Fairview Street, Santa Ana, CA 92704.

**1. DEFINITIONS**

As used in this Agreement and its attachments and exhibits which become a part of it, the following terms have the following meanings:

- 1.1 "Business Day" shall mean Monday through Friday, between 8:00am -5:00pm, excluding UC and Seller observed holidays. Seller shall notify UC thirty (30) days in advance of the date of the annual physical inventory and shall provide UC a Seller holiday schedule on or before October 1 for the following calendar year.
- 1.2 "Account Manager" means the Seller employee, satisfactory to UC, whom Seller designates to UC as the person with overall responsibility at Seller managing the UC/Seller relationship under this Agreement. Seller's Account Management team is included as an attachment to this Agreement. This team includes Seller's representatives responsible for managing the entire relationship between UC and Seller and representatives responsible for managing a specific UC campus/location. Seller must provide UC a written notification thirty (30) days prior to any change(s) to its Account Management team.
- 1.3 "Products/Services" Seller to provide janitorial products in the following categories: 1) paper products, 2) chemicals and supplies, and 3) equipment, as awarded for RFP #110/OP/003 Blocks **1,3 and 4**, and Custodial Disposables for UC Housing and Dining.
- 1.4 "Delivery" shall mean delivery by Seller directly to the designated UC delivery points as requested by UC Departments ordering Products. The delivery points will be determined by UC authorized personnel.

**2. SCOPE**

- 2.1 Seller agrees to extend the terms and conditions of this Agreement, including pricing, to all current and future UC locations.
- 2.2 California State University System An Agreement of Understanding exists between The Regents of the University of California and The Trustees of the California State University (CSU), establishing the California Higher Education Consortium (CHEC). Through a collaborative relationship, the Consortium seeks to combine procurement and contracting activities and efforts to obtain best value goods and services while reducing total acquisition costs. Accordingly, the Agreement resulting from this solicitation shall recognize the participation of the 23 campuses of the Trustees of the California State University with the following understandings:

- Seller agrees to extend the product pricing and services to the CSU Institutions under the terms of this Agreement, under a separate CSU agreement.
- All contractual administration issues regarding this Agreement (e.g. terms and conditions, extensions, renewals, etc.) shall remain the responsibility of the University of California. Operational issues, fiduciary responsibility, payment issues, performance issues and liabilities, and disputes involving individual CSU campuses shall be addressed, administered, and resolved by each CSU campus. The University of California and the California State University

are separate and distinct governmental entities. As such, each administrative unit and campus therein is financially separate and shall be responsible for individual financial commitments. No fiduciary responsibility for performance liability, unless otherwise expressed, exists between the University of California and California State University and their respective campuses.

3. **DESCRIPTION OF PROGRAM**

3.1 **Purchase and Sale of Products/Services** During the term of this Agreement, and any extension(s) of such term, Seller agrees to sell UC the Products/Services as designated by UC, subject to the terms and conditions set forth in this Agreement; major components outlined below:

- Paper, Chemicals, and Equipment as defined in blocks 1, 3 and 4,
- Custodial Disposables for UC Housing and Dining,
- Combination of storehouse and desktop delivery models,
- Acceptance of p-cards and ghost cards for payment,
- Acceptance of any ordering method (internet, email, phone, fax, etc.),
- Development of green products catalog, and commitment to working with locations to develop green products program and appropriate training and reporting required of the green program,
- Standard, rush, other delivery (see 5.7 and 5.8), and returns (5.9),
- Meeting certain special palletizing or packaging requirements,
- Use of designated team to service all locations,
- Providing necessary dispensers at no cost as required.

4. **REQUEST FOR PROPOSAL RESPONSE**

4.1 Incorporated herein by reference is UC Request for Proposal ("RFP"), Attachment 1 dated March 9, 2005 and Seller's response to UC Request for Proposal, Attachment 2 dated April 25, 2006 (hereinafter "Proposal") including any subsequent written addenda, clarification, supplements, and/or revisions to the RFP and/or Proposal. Any additional and/or revised terms and conditions included in this Agreement and its attachments and exhibits will supersede the original terms and conditions as provided in the RFP and/or Proposal.

5. **PROGRAM REQUIREMENTS**

5.1 **Fill Rate** During the term of this agreement and any extension(s) of such term, Seller agrees to maintain a minimum of ninety eight percent (98%) fill rate.

5.2 **Substitutions** No substitutions of alternate items for products ordered will be permitted except with the express approval from authorized UC personnel. Seller shall not substitute and/or interchange a different brand or generic product or package size, other than the specific product ordered, without authorization from UC.

5.3 **Minimum Order** There shall be no minimum order requirement during the term of this Agreement and any extension(s) of such term.

5.4 **Order Packaging and Labeling** Seller agrees that each UC order will be individually wrapped and labeled with the following information:

- Purchase order number;
- Product description, quantity and catalog number of the Product ordered and an open 30-character field for internal identification e.g., UC Storehouse catalog numbers and/or internal customer order numbers;
- Other information, as may be requested by ordering UC Department.

Packaging slips shall be attached to the outside of the package such that it can be inspected by UC at the requesting department and/or receiving dock.



- 5.5 Environmentally Responsible Packaging Seller agrees to use good faith efforts to utilize environmentally responsible packaging and recycling practices to minimize the adverse effects of packaging on the environment.
- 5.6 Receiving Locations Seller agrees to provide desktop and dock delivery to all of UC current and future authorized personnel delivery points, as requested by UC.
- 5.7 Standard Delivery Requirements Seller agrees to deliver all UC orders received by 4:00 p.m. as follows:

All locations

- Storehouse (drop ship delivery) - NEXT DAY
- Desktop - NEXT DAY

All deliveries shall be FOB Destination. Delivery charges and risk of loss will be borne by the Seller.

- 5.8 Rush Delivery Requirements Seller agrees to deliver UC rush orders within four (4) hours after receipt of order at no additional charge to UC. Rush delivery orders for same day delivery must be requested by UC prior to 1:00 p.m. Seller cannot guarantee, but agrees to use good faith efforts to provide same day delivery for rush orders placed after 1:00 p.m. by UC.
- 5.9 Returns Seller agrees to accept Products returned by UC if in resalable condition and if made within thirty (30) days of original shipment. Requests for credit can be transmitted by the ordering UC personnel via the established order management system (telephone, fax, paper return form and web-based). Chargebacks and credit memos will be issued to UC ordering departments in the current month's billing period. Seller must pick up returns from the ordering department location within two (2) business days. Return items shall be credited at cost. If Products were purchased via UC purchasing card, credit must be issued to the same purchasing card.
- 5.10 Invoicing All invoices must clearly indicate the following information:
- California sales tax as a separate line item;
  - Order or release number and the Agreement number;
  - Description, quantity, catalog number and manufacturer number of the item ordered;
  - Net cost of each item;
  - Any applicable discount;
  - Reference to original order number for all credit invoices issued.
  - Purchasing card information

Invoices will be submitted directly to UC Accounts Payable Departments on each campus, unless the Seller is notified otherwise by amendment to the Agreement.

Invoices will normally be paid within thirty (30) days of satisfactory product delivery or receipt of correct invoice.

- 5.11 Catalog Seller shall provide, at no cost to UC, paper catalogs, to be distributed to the designated UC facilities on each participating campus. The customization of Seller catalog, if requested by UC, will be mutually agreed upon between both parties and provided at no cost to UC.
- 5.12 Time is of the essence with respect to the performance of each and every condition, covenant and agreement contained herein. UC has the option to accept or reject all Products delivered after promised delivery time, and, in addition, may hold Seller liable for all direct damages caused by late delivery as determined and documented by UC; provided, however, in no event shall the amount of such direct damages exceed UC's documented replacement/substitution

cost for Products ordered. Seller will report any delivery delay whatsoever to the ordering location, as well as its cause, within two (2) hours after Seller is able to reasonably determine there will be such a delay; such report will be provided to UC by telephone, e-mail, or facsimile. Seller shall keep UC fully informed and shall take all reasonable action in eliminating the cause of delay. Despite any previous language to the contrary, if late delivery is due to causes beyond the reasonable control and without the fault or negligence of Seller, including but not limited to: acts of God, war, civil commotion, governmental action, fire, floods, unusually severe weather, explosions, earthquakes, strikes, walkouts, quarantine restrictions, or any other causes beyond reasonable control of Seller, Seller shall not have any late-delivery liability to UC.

UC's failure to take, or delay in taking delivery of Products ordered, when due to causes beyond the reasonable control and without the fault or negligence of UC, including but not limited to: acts of God, war, civil commotion, governmental action, fire, floods, unusually severe weather, explosions, earthquakes, strikes, walkouts, quarantine restrictions, or any other causes beyond reasonable control of UC, shall not result in any liability of UC to Seller.

- 5.13 Automated Systems Seller shall provide for UC, if requested by UC, real-time secured access to Seller's automated systems including web-based order management, customized electronic Products Catalog with UC pricing and contract terms, as defined in the RFP and Seller's Response. Seller will provide the necessary network, data lines, and/or any computer software required to UC at no additional cost to UC.
- 5.14 Training Seller shall provide reasonable sufficient training to UC's authorized personnel to enable UC to order Products from Seller via Seller's order entry systems.
- 5.15 Program Management Seller will provide the necessary staff and resources to support UC's program management function as outlined in the RFP and Seller's Response including, but not limited to:
- Marketing Program to increase sales activity;
  - Coordinating Program implementation;
  - Providing superior customer service;
  - Promoting alternate Products to reduce cost;
  - Demonstrating new Products;
  - Managing the continuous improvement process;
  - Providing on-going contract monitoring and maintenance;
  - Offering Products cost reduction and process improvement opportunities to UC;
  - Conducting monthly account review meetings.
- 5.16 Order Procedures Orders placed shall be binding when they have been accepted by an authorized representative of Seller and an acknowledged copy of such acceptance has been communicated to UC. Each such order for any Products covered by this Agreement and all documents issued as a result thereof, shall be governed by this Agreement. Each order shall specify the quantity, description and price and delivery point.

All invoices, packing lists, packages, shipping notices, and other written documents shall contain the applicable UC purchase order number.

If there is an out of stock situation of any ordered inventoried item(s), the out of stock item will be added to the back order file and will be delivered to UC when the item is in stock without a further order being submitted.

Seller shall provide the ability to receive UC orders through manual and/or automated methods including, but not limited to, telephone, fax, mail, EDI, and Internet.

- 5.17 Project Manager Seller shall assign a project management team to coordinate implementation of the Agreement.

6. **SERVICE STANDARDS**

6.1 During the term of this Agreement, and any extension(s) of such term, Seller shall provide the following minimum service standards:

- Normal delivery - next business day (see Paragraph 5.7)
- Rush delivery - within 4 hours (see Paragraph 5.8)
- Pick up returns - within 2 business days
- Request for reports - within 5 business days
- Order fill rate - 98%
- Delivery accuracy - 98%
- Delivery, on-time - 98%
- Invoice/billing accuracy - 98%
- Customer service satisfaction - 98%

6.2 The minimum service standards set forth above recognize that occasional errors are likely however, Seller further agrees to use best efforts to achieve 100% of service level. Should, however, the service levels fall below the minimum standards and Seller does not take corrective actions within 14 days following UC written notification, UC reserves the right to terminate the Agreement.

7. **PRICING AND APPLICABLE TAXES**

7.1 The prices of the Products included in this Agreement shall be the prices recited on Attachments 3 (Waxie Sanitary Supply Best and Final for Blocks 1,3 and 4) and 4 (Custodial Disposables for UC Housing and Dining, and the prices of Products included in Seller's catalog(s), but not recited on Attachments 3 and 4 and shall not increase for the first twelve (12) month period of this Agreement. UC discounts for the Products included in Seller's catalog(s) but not recited on Attachments 3 and 4 are as follows:

|                         |           |                  |     |                                      |                |
|-------------------------|-----------|------------------|-----|--------------------------------------|----------------|
| <i>Product Category</i> | Equipment | UC Discounts (*) | 5%  | <i>Discount Range For Exceptions</i> | Any Exceptions |
|                         | All Other |                  | 10% |                                      | 10%            |

(\*) Specified as percent discount from Seller's published list price for Products available in Seller's standard catalog(s) with the exception of Products for which these levels of discounts are not available. UC's net pricing for these products is provided in Attachment \_\_\_\_.

Sec. 4 Tab 2b of org. bid

7.2 Price increases shall be subject to adjustments no more than once in each successive twelve (12) month period on **November 1** of each year, if any, as negotiated by both parties. Any price increase requires a thirty (30) day prior written notification and no price increase shall exceed at any one time 3% or Producer Price Index (PPI) whichever is less.

7.3 In the event that a certain Product line has a significant price increase in excess of 5%, those prices shall be negotiated individually between both parties.

7.4 Price increases must be supported by documented evidence of Seller's manufacturer price increases. UC shall benefit from any lower price offered to other Universities, hospitals, government agencies or entities where the economic and service requirements are substantially similar. If Seller's catalog or list price of Products is reduced, UC shall benefit from a corresponding price reduction.

7.5 Seller was advised that there is no mandatory use policy at UC, and Seller must compete with other suppliers for UC orders. Therefore, Seller shall guarantee that manufacturer and/or Seller price decreases be passed on to UC immediately.

7.6 During the term of this Agreement, and any extension(s) to such term, Supplier agrees to provide UC a quarterly Patronage Incentive in the amount equal to two (2) percent of the total sales of Products. The amount of quarterly Patronage Incentive provided to each UC campus will be calculated based on the total quarterly sales to each campus. Each participating campus shall have the right to modify proposal pricing for the individual campus up to 2% in the event UC campus(s) decide not to implement a rebate program. The Patronage Incentive will be

issued to The Regents of the University of California and mailed to each UC campus participating in the rebate program.

7.7 During the term of this Agreement, and any extension(s) to such term, Seller agrees to provide Earned Incentives to UC. UC's eligibility to benefit from these incentives on a system-wide and/or campus-by-campus basis will be reviewed annually, prior to August 1<sup>st</sup> of each contract year and will be included in the following contract year pricing as mutually agreed upon between Seller and UC. These Earned Incentives will be provided in the form of an additional discount as follows:

- No earned incentives offered at contract signing (9/06).

8. **REPORTING**

8.1 Seller will provide UC monthly summary reports as specified in the RFP.

8.2 Seller agrees to provide other reports as reasonably requested by UC during the term of the Agreement and any extension(s) to such term at no additional cost to UC.

9. **SURVEYS**

9.1 Seller shall, at UC's request, conduct customer surveys of UC orders through questionnaires inserted into delivery packages. The content of these surveys shall be approved by UC. UC shall be responsible for the tabulation of these surveys.

10. **GENERAL TERMS AND CONDITIONS**

10.1 University of California Terms and Conditions University of California Terms and Conditions, Appendix "A"; Special Terms and Conditions for Federal Government Contracts, Supplement 5 as attached, are hereby incorporated and shall govern this Agreement.

10.2 Insurance Requirements Seller shall furnish a certificate of insurance as specified in Appendix "A". All certificates shall name the Regents of the University of California as an additional insured. The certificate must be submitted to the University of California Office of the President (UCOP) Strategic Sourcing Department prior to the commencement of services. Certificates of insurance should be delivered to:

UCOP Strategic Sourcing Department  
1111 Franklin St., Suite 10403  
Oakland, CA 94607-5200

10.3 Product Certification Seller hereby certifies and warrants that all products sold to UC under this Agreement:

- Shall be new and genuine;
- Shall be provided to UC in the manufacturer's original packaging unless otherwise requested by UC;
- Shall be manufactured and sold or distributed to the supplier for retail sales in the United States;
- Shall be sold to the supplier from legal and reputable channels, which are understood to be the manufacturer or authorized representatives of the manufacturer;
- Shall not be altered or misbranded within the meaning of the Federal and State laws applicable to such products.
- Shall not be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.

10.4 Auditing Requirements This Agreement and any orders resulting therefrom shall be subject to examination and audit by UC for a period of three (3) years after final payment. The examination and audit shall be confined to those matters connected with the performance of the Agreement, including, but not limited to, the costs of administering the Agreement.

- 10.5 Warranties Seller agrees that the Products furnished under this Agreement shall be covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar Products, and that the rights and remedies so provided are in addition to and do not limit any rights afforded to UC by any other article in this Agreement and any subsequent Agreement. Such warranties will be effective notwithstanding prior inspection and/or acceptance of the Products by UC, and in all cases shall commence upon acceptance of the Products by UC.
- 10.6 Term of Agreement Unless terminated as provided below, this Agreement shall be effective for a period of five (5) years, commencing October 1, 2006 and ending August 31, 2011. UC reserves the right to renew or extend the Agreement for up to three (3) additional one-year periods at the same terms and conditions at UC's sole discretion.
- 10.7 Termination of Agreement UC may terminate this Agreement for convenience at any time, in whole or campus-by-campus, in accordance with the terms of Article 4 of University of California Terms and Conditions, Appendix "A", as attached. In the event of such termination, UC agrees to provide Seller at least ninety (90) days prior written notice of the effective date of termination and the extent thereof without penalty.

If any termination of this Agreement takes place, Seller shall extend to UC, upon UC's request, an additional ninety (90) day period to properly implement a smooth transition. Fees for the services performed during the additional ninety (90) days will be negotiated in good faith between UC and Seller.

If within five (5) working days of receipt of written notice from UC of Seller's breach of any term or condition of the Agreement, Seller shall fail to remedy such breach, then UC may at any time, by written notice, terminate the Agreement in whole or in part.

- 10.8 Marketing References Seller shall not make reference to UC, in any literature, promotional material, brochures, or sales presentations without the express written consent of a duly authorized officer of UC.
- 10.9 Amendments Any changes to the Agreement requested by either party shall be effective only if mutually agreed in writing by duly authorized representatives of UC and Seller. This Agreement shall not be modified or amended or any right of a party waived except by such written amendment.
- 10.10 Failure to Enforce Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement shall not be construed as effecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto.
- 10.11 Partial Invalidity Any provisions of this Agreement that shall prove to be invalid, void, or illegal shall in no way impair, or invalidate any other provisions hereof, and such other provisions shall remain in full force and effect.
- 10.12 Governing Law The rights and obligations of the parties, and all interpretations and performance of this Agreement shall be governed in all respects by the laws of the State of California.
- 10.13 Relationship Seller shall have no power to bind UC and shall not, under any circumstances, be considered to be an agent, representative or fiduciary of any or all of the proceeding. Instead, Seller is an independent contractor and neither it nor its employees, agents, contractors or subcontractor is or will be an employee, agent or representative of UC during the period it and/or they are performing services under this Agreement. Seller acknowledges its responsibility for the full payment of the wages or other compensation of, as well as any benefits for employees, agents, contractors or subcontractors engaged by it in the performance of this Agreement

This Agreement, together with the above named instruments, constitute the entire agreement between the UC and Seller with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written, such parties acting by their officers being thereunto duly authorized.

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA

  
\_\_\_\_\_  
Signature

Haggai Hisgilov

Executive Director, Strategic Sourcing

11-27-06  
\_\_\_\_\_  
Date

WAXIE SANITARY SUPPLY:

  
\_\_\_\_\_  
Signature

Jeffrey B. Roberts  
\_\_\_\_\_  
Name, printed or typed

Executive Vice President  
\_\_\_\_\_  
Title

11-22-06  
\_\_\_\_\_  
Date

**STRATEGIC SOURCING AGREEMENT NO. 110/OP/00x  
FOR  
JANITORIAL PRODUCTS PAPER, CHEMICALS, SUPPLIES AND EQUIPMENT  
&  
CUSTODIAL DISPOSABLES (for UC Housing & Dining)**

**ATTACHMENTS**

|  |              |
|--|--------------|
| University of California - Terms and Conditions of Purchase  | Appendix "A" |
| Special Terms and Conditions for Federal Government Contracts  | Supplement 5 |
| Certification Regarding Debarment, Suspension, Proposed Debarment, and other Responsibility Matters (First Tier Subcontractor) | Exhibits A-C |
| RFP for Office Products and Services (by reference)  | Attachment 1 |
| Waxie Sanitary Supply Proposal (Original) (by reference)   | Attachment 2 |
| Pricing Schedule – UC (system-wide) Standard Products for Blocks 1,3 and 4   | Attachment 3 |
| Pricing Schedule – Custodial Disposables UC Housing and Dining   | Attachment 4 |
| Patronage Incentive Contact List   | Attachment 5 |