

## STANDARD TERMS AND CONDITIONS

- 1. CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Commission/Institution's Chief Procurement Officer and approved as to form by the Attorney General's Office constitutes acceptance by the Commission/Institution of this Contract made by and between the Commission/Institution and the Vendor. Vendor's signature signifies vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
- 2. CONTRACT TERM; RENEWAL; EXTENSION:** The Initial Contract Term will be for a period of \_\_\_\_\_ 1 year \_\_\_\_\_. This contract may be renewed upon mutual consent for \_\_\_\_\_ successive years. Any request for renewals should be delivered to the Commission/Institution thirty (30) days prior to the expiration date of the contract.
- 3. AUTHORITY TO PROCEED:** Vendor is authorized to begin performance of this contract upon receipt of a signed Purchase Order.
- 4. QUANTITIES:** The quantities required under this Contract shall be identified in the Purchase Order.
- 5. ACCEPTANCE:** Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the Commission/Institution that cannot be unilaterally withdrawn, and signifies acceptance of the terms and conditions unless otherwise indicated.
- 6. PRICING:** The pricing set forth herein is firm for the life of the Contract. A vendor may request the inclusion of price adjustment provisions in its bid, but final approval of any price adjustments will be made by the Commission/Institution. Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.
- 7. ADDITIONAL FEES:** Vendor is not permitted to charge additional fees or assess additional charges that were not expressly identified prior to award.
- 8. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the Commission/Institution may notify the vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
- 9. CANCELLATION:** The Commission/Institution reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract.
- 10. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution or West Virginia Code, is void and of no effect.
- 11. MODIFICATIONS:** Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Commission /Institution and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

**12. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Commission/Institution; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

**13. VENDOR RELATIONSHIP:** The relationship of the vendor to the Commission/ Institution shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract.

**14. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Commission/Institution, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

**15. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code §5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Commission/Institution affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

**16. CONFLICT OF INTEREST:** Vendor, its officers, members, or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members, and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Commission/Institution.

**17. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE:** W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the vendor must submit to the Commission/Institution a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre- award interested party disclosure, within 30 days following the completion or termination of the contract.

**18. PROHIBITION AGAINST USED OR REFURBISHED:** Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

**19. VOID CONTRACT CLAUSES** – The Commission/Institution is requiring the vendor to follow the provisions of West Virginia Code §5A-3-62, which automatically voids certain contract clauses that violate State law.