

**OREGON HEALTH & SCIENCE UNIVERSITY**  
**STANDARD PURCHASING TERMS AND CONDITIONS**

1. **DEFINITIONS:**
  - The term “contract” means the entire written agreement between the parties, including but not limited to the Invitation to Bid or Request for Proposal and its specifications, terms and conditions; solicitation instructions; solicitation addenda and contract amendments, if any; and the purchase order or price agreement document.
  - “Contractor” means a person or organization with whom the Oregon Health & Science University has contracted for the purchase of goods. The terms “Contractor” and “Seller” as used in the Uniform Commercial Code (ORS chapter 72) are synonymous; “ORS” means the Oregon Revised Statutes.
2. **WORKER’S COMPENSATION:** Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this contract are subject employers under the Oregon Worker’s Compensation Law and shall comply with ORS 656.017, which requires them to provide Oregon workers’ compensation coverage that satisfies Oregon law for all their subject workers.
3. **STANDARD AND SPECIAL TERMS AND CONDITIONS:** The terms and conditions printed on this page are standard to Oregon Health & Science University contracts for the purchase of goods. There may also be special terms and conditions in an Invitation to Bid or Request for Proposal which apply only to those contracts.
4. **DELIVERY AND PARKING:** All deliveries shall be F.O.B. destination with all transportation and handling charges paid by Contractor, unless specified otherwise in the solicitation documents. Responsibility and liability for loss or damage shall remain with Contractor until final inspection and acceptance by OHSU, at which time responsibility shall pass to OHSU except as to latent defects, fraud and Contractor’s warranty obligations. Contractor shall be responsible for parking permits and related fees for vehicles carrying Contractor’s goods. Contractor shall contact OHSU’s Parking and Transportation Services Department to arrange for proper parking permits, and shall be responsible for all fees incurred. In no event shall OHSU be responsible for any parking permit fees, fines or any other parking related costs.
5. **CONTRACTOR STAFF AND USE OF OHSU FACILITIES.** Contractor agrees that all Contractor staff performing any services at any OHSU facility shall comply with all applicable OHSU policies, including but not limited to, requirements regarding background and criminal history checks. Contractor and its employees or agents shall have the right to use only those facilities of OHSU that are necessary to perform the services under this Agreement and shall have no right of access to any other facility of OHSU without prior approval of OHSU management. OHSU shall have no responsibility for the loss, theft, disappearance of, or damage to, equipment, tools, materials, supplies, and other personal property of Contractor or its employees, subcontractors or agents that may be stored, or located on OHSU premises.
6. **CONFLICT OF INTEREST:** Contractor acknowledges that OHSU uses ethical business practices in its vendor selection and other contracting practices. Contractor certifies that neither it nor its employees or agents have, with and intent to establish or maintain a business relationship with OHSU, provided any gift or sponsorship having more than minimal value: (i) to any person working on behalf of OHSU involved in the negotiation of the contract; (ii) to any OHSU Department or unit procuring items or services under this contract; or (iii) to any person with authority on behalf of OHSU to enter into the contract.
7. **INSPECTIONS:** Goods furnished under this contract shall be subject to inspection and test by OHSU at times and places as determined by OHSU. If OHSU finds goods furnished to be incomplete or not in compliance with solicitation specifications, OHSU may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, whichever is equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by OHSU, OHSU may reject the goods and cancel the contract in whole or in part. Nothing in this paragraph shall in any way affect or limit OHSU’s rights as a buyer, including, without limitation, the rights and remedies related to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.
8. **WARRANTIES:** Unless otherwise stated, all goods shall be new and current model and shall carry full manufacturer warranties. Contractor warrants all goods delivered to be free from defects in labor, material and manufacture and to be in compliance with solicitation specifications. All implied and expressed warranty provisions of the Uniform Commercial Code (ORS chapter 72) are incorporated in this contract. All warranties shall run to OHSU.
9. **CASH DISCOUNT:** If OHSU is entitled to a cash discount, the period of computation shall commence on the date the entire order is delivered or the date the invoice is received, whichever is later.
10. **PAYMENT:** Payment is normally made within 30 days following the date the entire order is delivered and accepted or the date the invoice is received, whichever is later. Interest on any overdue payment may only be charged for non-payment after 45 days and is limited to two-thirds of one percent per month (8% APR) on the outstanding balance.
11. **TERMINATION:** This contract may be terminated by mutual consent of both parties or by OHSU at its discretion. OHSU may cancel an order for goods, in whole or in part, at any time with written notice to Contractor, stating the extent and effective date of termination. Upon receipt of this written notice, Contractor shall stop performance under this contract as directed by OHSU. If this contract is so terminated, Contractor shall be paid in accordance with the terms of the contract for goods delivered and accepted if Contractor’s damages arising out of return of the goods cannot be mitigated by the resale as provided in the Uniform Commercial Code (ORS 72.7060).
12. **FORCE MAJEURE:** Subject to paragraph 4 concerning risk of loss, neither party to this contract shall be held responsible for

delay or default caused by fire, riot, acts of God and/or war which is beyond the party's reasonable control. OHSU may terminate this contract upon written notice after determining such delay or default will reasonably prevent successful performance of this contract.

13. BREACH OF CONTRACT: Should Contractor breach any of the provisions of this contract, OHSU reserves the right, in addition to other remedies, to cancel this contract upon written notice to Contractor. Contractor shall be liable for any and all damages suffered by OHSU as the result of Contractor's breach of contract, including but not limited to incidental and consequential damages, as provided in ORS 72.7110 to 72.7170.
14. HOLD HARMLESS: Contractor shall indemnify, defend and hold harmless OHSU and its officers, employees, and agents, from all claims, suits or actions of any nature arising out of or related to the activities of Contractor, its officers, subcontractors, agents or employees under or in connection with this contract.
15. ACCESS TO RECORDS: Contractor shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles and shall maintain any other records relating to this contract in such a manner as to clearly document Contractor's performance hereunder. OHSU and its representatives, and if applicable, the federal government and their duly authorized representatives shall have access to such fiscal records and to all other books, documents, papers, plans and writings of Contractor which relate to this contract, to perform examination, and audits and make excerpts and transcripts.
16. CONFIDENTIALITY: Contractor acknowledges that OHSU is a public corporation and is subject to the Oregon Public Records Law. OHSU agrees that it will keep confidential all 'confidential information' of Contractor, subject to disclosure required under the Oregon Public Records Law. Pricing or the terms of this Agreement given to an officer, employee, agent, consultant, or contractor of OHSU or its affiliate entities within the scope of employment, duties, or contract shall not be subject to the restrictions in this provision.
17. AMENDMENTS: The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of OHSU.
18. SEVERABILITY: If any provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.
19. WAIVER: Failure of OHSU to enforce any provision of this contract shall not be a waiver or relinquishment by OHSU of its right to such performance in the future nor of the right to enforce any other provisions of this contract.
20. GOVERNING LAW; JURISDICTION; VENUE: This contract shall be governed and construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflict of laws rules or doctrines. Any claim, action, suit, or proceeding (collectively, "the claim") between OHSU and the contractor that arises from or relates to this contract shall be brought and conducted solely and exclusively within the Circuit Court of Multnomah County. Provided, however, if the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Contractor hereby consents to the in personam jurisdiction of said courts.
21. ASSIGNMENT/SUBCONTRACTOR/SUCCESSORS: Contractor shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of OHSU. No such written approval shall relieve Contractor of any obligations of this contract, and any transferee or subcontractor shall be considered the agent of Contractor. Contractor shall remain liable to OHSU under the contract as if no such assignment, transfer, or subcontract has occurred. The provisions of this contract shall be binding upon and shall inure to the benefit of the parties to the contract and their respective successors and assigns.
22. COMPLIANCE WITH APPLICABLE LAWS: Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances (including but not limited to those pertaining to electrical, wiring, circuitry, etc.) applicable to the provision of goods under this contract, including, without limitation, the provisions of:
  - Title VI of the Civil Rights Act of 1964;
  - Section V of the Rehabilitation Act of 1973;
  - the Americans with Disabilities Act of 1990 (Pub L No. 101-336), ORS 659.425, and all amendments of, and regulations and administrative rules established pursuant to those laws; and
  - all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
23. PAYMENTS REQUIRED: For all goods provided under this contract, Contractor shall:
  - pay promptly, as due, all persons supplying labor or material;
  - not permit any lien or claim to be filed or prosecuted against OHSU; and
  - pay to the Department of Revenue all sums required to be withheld from employees pursuant to ORS 316.167.
24. OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP): The requirements of Executive Orders 13201 and 11246 and 41 CFR part 60 are hereby incorporated by reference.
  - EO 13201 <http://www.dol.gov/esa/regs/compliance/ofccp/13201ofp.htm>
  - EO 11246 <http://www.dol.gov/compliance/guide/discrim.htm>

25. **PAYMENT OF CONTRACTOR CLAIMS:** If Contractor fails, neglects or refuses to pay promptly, as due, any claim for labor or services furnished to the Contractor or any subcontractor by any person in connection with the goods provided under this contract, OHSU may pay such claim and charge the amount of the payment against funds due or to become due the Contractor under this contract. The payment of a claim by OHSU pursuant to this paragraph 21 shall not relieve the Contractor or its surety, if any, from its obligation with respect to any unpaid claims.
26. **INSURANCE:**
- If Contractor (including agents, employees, or subcontractors of Contractor) is required to perform work on OHSU premises, Contractor shall maintain in force at its own expense each of the insurances listed below:
    - Commercial General Liability insurance with a minimum limit of not less than \$1,000,000 per occurrence and \$3,000,000 annual aggregate for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this contract.
    - Automobile Liability insurance with a minimum limit of not less than \$1,000,000 combined single limit, including coverage for owned, hired or non-owned vehicles, as applicable.
    - These insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon, and must also have an A.M. Best rating of A or better. If written on a claims made basis, the commercial general insurance shall be maintained for a period of not less than two years following termination of this contract. OHSU and its officers and employees shall be included as an additional insured in these insurance policies.
  - Contractor shall furnish acceptable insurance certificates to OHSU prior to performing the services under this contract. The certificate will specify all of the parties who are additional insureds. If requested, complete policy copies shall be provided to OHSU. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.
  - There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days written notice from the Contractor or its insurer(s) to OHSU.
27. **SAFETY AND HEALTH REQUIREMENTS:** Goods and services provided under this contract shall comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State Worker's Compensation Division.
28. **RECYCLABLE PRODUCTS:** Contractor shall use recyclable products to the maximum extent economically feasible in the performance of this contract. Contractor shall specify the minimum percentage of recycled product in the goods provided.
29. **MATERIAL SAFETY DATA SHEET:** In accordance with the OR-OSHA Hazard Communication Rules in OAR chapter 437, division 2, subdivision Z, 1910.1200, Contractor shall provide OHSU with a Material Safety Data Sheet for any goods provided under this contract which may release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use. In addition, Contractor must label, tag or mark such goods.
30. **FEDERAL HEALTH CARE PROGRAM ELIGIBILITY:** Contractor represents and warrants that it is not excluded from participation, and is not otherwise ineligible to participate, in a "Federal health care program" as defined in 42 U.S.C. Section 1320a-7b(f) or in any other government payment program. In the event Contractor is excluded from participation, or becomes otherwise ineligible to participate in any such program during the Term, Contractor will notify OHSU in writing within three (3) days after such event, and upon the occurrence of such event whether or not such notice is given to OHSU, OHSU may immediately terminate this contract upon written notice to Contractor. OHSU will not make any payments under this contract during any period of debarment, ineligibility or exclusion from participation.
31. **DIVERSITY:** Contractor acknowledges that OHSU represents that (i) OHSU is committed to diversity within OHSU and within our community, (ii) OHSU is committed to developing business relationships that encourage affirmative action and the participation of emerging small businesses and businesses owned by women and minorities, and (iii) OHSU encourages and supports the development of minority business enterprises, women business enterprises, and emerging small businesses that meet high quality standards by offering business opportunities available through OHSU contracts. Upon request, Contractor shall provide information to OHSU about Contractor's diversity related efforts and programs and shall maintain similar or improved diversity related efforts and programs for the term of this contract.
32. **DISPUTE RESOLUTION:** OHSU and Contractor agree to first enter into negotiations to resolve any controversy, claim or dispute ("dispute") arising under or related to this Agreement. The parties agree to negotiate in good faith to reach a mutually agreeable resolution of such dispute within a reasonable period of time. If good faith negotiations are unsuccessful, then such dispute will be mediated by a mutually-acceptable mediator to be chosen by the parties within fifteen (15) business days after written notice by one of the parties demanding mediation. Neither party may unreasonably withhold consent to the selection of the mediator and the parties agree to share the cost of the mediation equally. Such mediation will take place in Portland, Oregon. If the dispute cannot be resolved by the parties through negotiation or mediation within forty-five (45) days of the date of the initial demand for mediation by one of the parties, then either party may seek resolution of the dispute as otherwise provided in this Agreement and by law.
33. **HIPAA / BUSINESS ASSOCIATE REQUIREMENTS:** If Contractor's performance under this Agreement involves or requires

the disclosure to or use by Contractor of OHSU's "Individually Identifiable Health Information" (as that term is defined by the Health Insurance Portability and Accountability Act and regulations promulgated pursuant thereto ("HIPAA")), then the following provisions apply:

- (i) Contractor will use and disclose Individually Identifiable Health Information received from, or created or received by Contractor on behalf of, OHSU in the course of its performance under this Agreement ("PHI") only as required for such performance, as permitted herein or as required by law, and Contractor will use all appropriate safeguards to prevent any use or disclosure of PHI other than as allowed in this Agreement. All PHI (in whatever form) is the exclusive property of OHSU.
- (ii) Contractor shall not, and shall ensure that its directors, officers, employees, contractors and agents (collectively, "Contractor Representatives") do not, use or disclose PHI in any manner constituting a violation of 45 CFR §160 and 164 ("Privacy Standards") if done by OHSU.
- (iii) Contractor agrees that any request to OHSU for disclosure of PHI shall be limited to the minimum necessary to accomplish Contractor's purpose under this Agreement.
- (iv) Contractor shall immediately notify OHSU in writing of any use or disclosure of PHI other than as allowed by this Agreement, and, to the extent practicable, shall mitigate any harmful effect of such use/or disclosure.
- (v) Contractor shall ensure that each of the Contractor Representatives having access to PHI, agree to comply with these restrictions and conditions.
- (vi) If Contractor maintains Records for OHSU that are a part of OHSU's Designated Record Set ("DRS"), Contractor will:
  - (i) within 10 days of a request from OHSU for access to an individual's PHI contained in the DRS, provide copies of such PHI to OHSU;
  - (ii) within 10 days of a request from OHSU for an amendment of an identified individual's PHI in a DRS, make available the PHI for amendment and incorporate such amendment into PHI maintained by Contractor as required by the Privacy Standards; and
  - (iii) within 5 days of Contractor's receipt from an individual of a request for access to PHI or for an amendment of PHI, forward that request to OHSU in writing.
- (vii) Within 10 days of notice from OHSU that OHSU has received a request for an accounting of disclosures of an individual's PHI, Contractor shall make available to OHSU such information in Contractor's possession and as necessary for OHSU to make the accounting required by 45 CFR §164.528, including: (i) the date of the disclosure occurring after April 16, 2003, but no more than 6 years prior to the date of the request, (ii) the name and if known the address of the entity or person who received the PHI, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose and basis of the disclosure, (collectively, "Disclosure Information"). If the request for an accounting of disclosures of PHI is delivered to Business Associate, then Business Associate shall within 5 business days of receipt, forward such request to OHSU. Business Associate hereby agrees to implement an appropriate record keeping process to enable it to comply with these requirements and shall maintain a record of Disclosure Information for a period of 6 years from the date of each disclosure. Contractor may elect to satisfy its obligations by entering the information required by this subparagraph directly into an OHSU web-based accounting-of-disclosures tool ("Accounting of Disclosures System"). To so elect, Contractor must contact the OHSU Privacy Officer at (503-494-8849), obtain access to the Accounting of Disclosures System and thereafter input into that system, all information required under this subparagraph in conformance with instructions provided by OHSU.
- (viii) Contractor shall make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary for purposes of determining OHSU's compliance with the Privacy Standards.
- (ix) Compliance with Security Regulations. Beginning no later than April 21, 2005 and continuing thereafter, with respect to any electronic PHI that Business Associate creates, receives, maintains, or transmits, Business Associate shall:
  - i. Implement Administrative Safeguards, Physical Safeguards and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic PHI, as required by the Security Standards;
  - ii. Ensure that any agent, including a subcontractor, to whom it provides such electronic PHI agrees to implement reasonable and appropriate safeguards to protect it;
  - iii. Report to OHSU any attempted or successful unauthorized access, use, disclosure, modification, or destruction of electronic PHI, or interference with system operations in an Information System, of which it becomes aware; and
  - iv. Authorize termination of the Existing Agreements, if OHSU determines that the Business Associate has violated a material term of this Agreement.
  - v. Capitalized terms used in this Paragraph shall have the meaning given them in the Security Standards.
- (x) OHSU may terminate this Agreement upon ten (10) days written notice to Contractor if OHSU determines, in its sole discretion, that Contractor has violated a material term of these requirements and such breach is not cured within such ten (10) day period. Upon termination of this Agreement for any reason, Contractor shall either return or destroy all PHI maintained by Contractor in any form retaining no copies. If the return or destruction is not feasible, Contractor shall extend the aforementioned protections to such PHI and such PHI shall be used or disclosed solely for such purpose(s) that make the return or destruction of such PHI infeasible.

- (xi) Notwithstanding any limitation on damages contained herein, Contractor shall indemnify and hold OHSU harmless from and against any and all liability and costs, including attorneys fees, arising out of or related to a breach of these requirements by Contractor, its agents or subcontractors.
- (xii) Contractor agrees to amend this Agreement as necessary to allow each party to comply with (i) the Privacy Standards, (ii) the Standards for Electronic Transactions (45 CFR parts 160 and 162) and (iii) the Security Standards, (collectively, the “Standards”), as they are amended from time to time by the Secretary.
- (xiii) Capitalized terms used in this paragraph without definition, have the meanings assigned to them in the Privacy Standards. The terms and conditions of this paragraph shall supersede any conflicting or inconsistent terms in the Agreement.