



General Terms and Conditions

1. **General** – Unless specified to the contrary in writing, on the face of the order or by attachment hereto, the following terms and conditions shall apply to the purchase of the goods and/or services listed on a Purchase Order. Washington University reserves the right to cancel all or selected line items of Purchase Order without penalty.
2. **Prices** – Any prices that are the direct result of quotations solicited by the Buyer, whether verbal or written, are firm and are not subject to change. Other prices may be changed only with the express permission of the Washington University Purchasing Services office.
3. **Shipment** – Goods shipped that are not priced in accordance with the Purchase Order or for which permission has not been granted to ship, are subject to return to the Seller at the Seller's expense. Buyer shall not assume responsibility for goods shipped under these circumstances. Shipping terms shall be FOB Destination, Freight Prepaid and Allowed; unless stated differently on the Purchase Order.
4. **Interpretation of Contract and Assignment** – This contract shall be construed according to the laws of the State of Missouri. This contract or any rights, obligations, or duties hereunder may not be assigned by Seller without written consent of Washington University Purchasing Services office.
5. **Patent Infringement** – Seller will indemnify Buyer and all persons claiming under it against all claims and liabilities for actual or alleged infringements of any patent, trademark, or similar rights in connection herewith. Seller will be given adequate notice of any such claims and will be given full and exclusive control in the defense thereof.
6. **Taxes** – Unless otherwise noted Buyer is exempt from state, sales, use and Federal excise taxes.
7. **Insurance** – If any such work covered by this order is to be done on Buyer's premises, Seller agrees to carry liability and Workmen's Compensation insurance, satisfactory to Buyer. Upon request Seller will furnish written evidence of such insurance coverage: a) Worker's Compensation (statutory); b) comprehensive general liability (\$1 million minimum; c) professional liability if applicable (\$1 million minimum) and d) commercial automobile liability (\$1 million minimum).
8. **Indemnification**- Seller shall defend, indemnify and hold harmless Washington University against any and all suits, claims and expenses (including attorneys' fees) for all liabilities, damages, expenses or losses caused by, or in any way arising out of use, sale or other disposition of Seller's product or services, except those which result from the negligent act or omission of Washington University.
9. **Impossibility** – Whenever, due to fire, accident, labor dispute, or other circumstances beyond his control, delivery and acceptance on the prescribed date is impossible, Buyer may extend delivery until such circumstances or condition has been remedied. Conversely, whenever, due to fire, accident, labor dispute, or other circumstances beyond his control, delivery on the prescribed date is impossible, Seller shall promptly notify Buyer and Buyer may extend delivery until such circumstances have been remedied.

10. Warranty of Seller – Seller expressly warrants that all the goods and work covered by this order will conform to the specifications, drawings, samples or other description furnished or specified by Buyer, and will be merchantable of good material and workmanship and free from defect. Seller also warrants that all goods covered by this order which are of Seller's design or are Seller's standard product are in accordance with Seller's specifications, and will be fit and sufficient for the purpose intended.

11. Non-Discrimination – The following are incorporated herein:

a. the nondiscrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex or national origin, and any and all implementing rules and regulations prescribed by the Secretary of Labor with respect thereto; and (b) the provisions of the Americans with Disabilities Act of 1990 and of Section 504 of the Rehabilitation Act of 1973 prohibiting discrimination against qualified individuals with a disability or handicap.

b. Washington University encourages and gives full consideration to all applicants for admission, financial aid, and employment. The University does not discriminate in access to, or treatment or employment in, its programs and activities on the basis of race, color, age, religion, sex, sexual orientation, gender identity or expression, national origin, veteran status, disability or genetic information. Inquiries about compliance should be addressed to the University's Vice Chancellor for Human Resources, Washington University, Campus Box 1184, One Brookings Drive, St. Louis, MO 63130.

c. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

12. Compliance with Laws – Seller represents and warrants that all materials and/or services furnished hereunder have been or will be manufactured or furnished in accordance and in compliance with the provisions of all applicable federal and/or state laws (including the Fair Labor Standards Act), all lawful orders, rules, and regulations issued thereunder, executive orders (including 29 CFR part 470), and regulation of any Executive Department of the Government.

13. OSHA Compliance – Seller shall comply with all applicable rules, regulations and requirements imposed under the Williams–Steiger Occupational Safety and Health Act of 1970 (OSHA), as amended, 29 USCS @651 et seq.

14. Hold Harmless – Seller hereby agrees to hold harmless and indemnify Washington University for all liabilities, damages, expenses or losses arising from its use, sale or other disposition of Seller's product or service.

15. Inspection and Acceptance – No material received by Washington University pursuant to a Purchase Order shall be deemed accepted until the University has had reasonable opportunity to inspect said material. All material which is discovered to be defective or which does not conform to any specification of the Seller herein upon initial inspection or at any later time if the defects contained in the material were not reasonably ascertainable upon the initial inspection, may be returned at the

Seller's expense for full credit or replacement. No goods returned as defective shall be replaced without Buyer's Authorization. Such return shall in no way affect Buyer's discount privileges.

16. Payment Terms – Net 30 days

17. Invoices: Fax invoices to 314–935–7070; Mail invoices to Accounts Payable, Campus Box 1056, 700 Rosedale Ave., St. Louis, MO 63112–1408. Questions relating to payment call 314–935–5750.

18. Purchase Order Number - Purchase Order number must be marked on the invoice and all packages. Supplier is responsible for any and all charges for failure to ship to correct address.

19. University Policies - Supplier agrees to adhere to the following University policies:

- **Conflicts of Interest Policy**
- **Code of Conduct**
- **Concealed Weapons**
- **Commercial Use of WUSTL Names & Symbols** – Supplier shall not utilize the Washington University name or logo without the express written permission of Washington University.
- **Tobacco Free Policy**

20. Health Insurance Portability and Accountability Act of 1996 (HIPAA) – Washington University has adopted a policy regarding the use or disclosure of Protected Health Information (PHI). The University may disclose PHI to a supplier or Business Associate ONLY if the University receives satisfactory assurances from the Business Associate that it will safeguard the PHI and indemnify the University for any failure to do so. These assurances and indemnification are set forth in the form of the Business Associate Addendum.

21. F.A.R. 52.209-6: All purchase orders and contracts issued by Washington University are subject to F.A.R. 52.209–6. Supplier warrants that neither supplier nor its principals is presently debarred, suspended or proposed for debarment by the Federal Government. If awarded a contract, Supplier agrees to immediately inform Washington University if supplier or its principals becomes debarred or is suspended by the Federal Government.

22. Supplier Responsibilities - Supplier will discharge its responsibilities hereunder in accordance with the highest standards of professional and ethical competence and, in any event, with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and aim.

23. Background Checks – Supplier warrants that personnel working on Washington University's premises have undergone a criminal background screening. Supplier shall bear the cost of such screenings. Supplier shall not assign any vendor employee with a record of criminal conviction or suspended sentence (including pleas of guilty or no contest) to work on Washington University's premises without prior University authorization. In considering whether to provide such authorization, the University will consider the nature of the conviction, the time elapsed, the nature of the assignment, and other relevant factors.

24. University Compliance Program and Reporting of Suspected Violations of Laws, Regulations, or University Policies – Washington University wants to ensure that none of its third-party vendors and service providers, or other contractors feel obligated to participate in activities

they consider to be illegal or unethical. All staff, faculty, and contractors are required to comply with federal, state, and local laws and regulations, as well as University policies, including the University's Code of Conduct, which can be found at codeofconduct.wustl.edu. The federal False Claims Act is intended to prevent and detect fraud, waste, and abuse of government funds. It is a violation of the federal False Claims Act for anyone to knowingly submit, or cause another person to submit, a false claim and receive government funds. Examples of actions that could violate the federal False Claims Act include overcharging the government for services rendered; filing a claim with the government for services that were not rendered; or filing a claim with the government with information known to be false. Anyone who knowingly or intentionally submits a false claim to the federal government is liable for civil penalties of \$5,500 to \$11,000 per claim, plus three times the amount of damage caused by the false claim. **A contractor of the University who suspects a violation of the False Claims Act or any other federal, state, or local law, a University policy, or the University's Code of Conduct is required to promptly report it by calling the University's hotline at (314) 362-4998.** Anyone who, in good faith, reports a suspected or actual violation of law, regulation, or University Code of Conduct or policy will be protected from retaliation and retribution as a result of such reporting, regardless of whether or not, after investigation, a violation is found to have occurred. If issues related to misuse of government funds are not addressed and resolved after reporting it to the University, the federal False Claims Act contains provisions that allow citizens with evidence of false claims against the government to sue, on behalf of the government, in order to recover the improperly charged funds. If the suit ultimately ends in a monetary judgment, the citizen may share in the damages recovered.

25. Equality Opportunity Clause – If applicable, seller shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit the discrimination of qualified protected veterans and any individuals with disabilities; it requires affirmative action by seller to employ and advance in employment, qualified protected veterans and disabled individuals.

26. Export Control Regulations – Before fulfilling this order, vendor must notify the university via email (ovcrexportcompliance@wusm.wustl.edu and purchasingservices@wustl.edu to obtain authorization from university's Export Control Manager if any products, technical information, service, software, or source code (collectively referred to herein as "Articles") to be provided by vendor are controlled by the Department of State, Directorate of Defense Trade Controls, International Traffic in Arms Regulations (ITAR). This vendor notification shall include the name of the Washington University point of contact for the transaction, identify each ITAR controlled commodity, provide the associated U.S. Munitions List (USML) category number(s), and indicate whether or not the determination was reached as a result of a commodity jurisdiction or self-classification process. The vendor agrees that the university shall have the unilateral and unfettered right to terminate this purchase order, without penalty, based on such notification. The vendor agrees that if it fails to notify the university's Export Control Manager that it is providing ITAR-controlled Articles, it shall reimburse the University for any fines, legal costs or other fees imposed by the above-named regulatory agency for any violation of export controls regarding the provided Articles.

27. Compliance with Laws; Anti-Bribery/Anti-Corruption - Each Party shall perform its obligations under this Agreement in compliance with all applicable laws, regulations, and rules. Without limiting the foregoing, each Party agrees that, in connection with this Agreement, it (including, if and as applicable, its members, directors, officers and employees) will adhere to and comply with all applicable U.S. and non-U.S. law anti-bribery measures, such as the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act. Neither Party will directly or indirectly offer, give, promise to give or authorize the giving of any money, loan, gift, donation, or other thing of value to induce a government official to do or to omit from doing any act in violation of their lawful duty, in order to obtain any improper advantage, or to

induce a government official to use his or her influence improperly to affect or influence any act or decision.

A-110 Appendix A

Contract Provisions

All contracts, awarded by a recipient, including small purchases, shall contain the following provisions as applicable:

1. Equal Employment Opportunity - All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) - All contracts and sub-grants in excess of \$2000 for construction or repair awarded by recipients and sub-recipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub-recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.
3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - When required by Federal program legislation, all construction contracts awarded by the recipients and sub-recipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.
4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to

the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended - Contracts and sub-grants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. Debarment and Suspension (E.O.s 12549 and 12689) - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.



Washington University in St. Louis

INFORMATION TECHNOLOGY

DATA PROTECTION ADDENDUM

Purpose

The University is committed to protecting its information and data from unauthorized use and disclosure. Protecting information assets is driven by a variety of considerations including legal, financial, compliance, and other business requirements. To this end, Supplier shall comply with the terms and conditions of this Data Protection Addendum (DPA) in its management and disclosure of University Data, as defined herein.

Scope: Applicability to Other Agreements

The University and Supplier acknowledge that there may be prior agreements executed between the parties (and their affiliates) and that there may be future agreements executed between the parties (and their affiliates) (referred to as "*Other Agreements*") that may contain confidentiality and security provisions of a similar nature as set forth in the DPA. The parties agree that, to the extent of any conflict between the DPA and the Other Agreements, the terms of the DPA shall control. The DPA terms and conditions shall be in addition to, and not in lieu of, any more stringent terms and conditions that may exist in the Other Agreements. The terms of this DPA shall only apply to Supplier's obligation to keep and safeguard University Data, and any requirements of University to keep confidential Supplier's information are or shall be addressed in the Other Agreements. The terms and conditions of this DPA shall apply to Supplier and all of its affiliates.

GENERAL TERMS AND CONDITIONS

The term "*University Data*" is any information or data that meet any of the following criteria:

Institutional Data refers to any information or data that satisfies one or more of the following criteria:

- (a) Relevant to planning, managing, operating, controlling, or auditing administrative functions of an administrative or academic unit of the University;
- (b) Created, received, maintained or transmitted as a result of educational, clinical, research or patient care activities;
- (c) Generally referenced or required for use by more than one organizational unit;
- (d) Included in an official University administrative report;
- (e) Used to derive information or a data element that meets the criteria above; and/or
- (f) Generated by a University workforce member or agent using any of the above information or data.

Data Protected by Law refers to any information or data that is protected by federal, state or local law, including, without limitation, financial information under the Gramm-Leach-Bliley Act ("*GLBA*"), student information under the Family Education Rights and Privacy Act ("*FERPA*"), individually identifiable health information under the Health Insurance Portability and Accountability Act ("*HIPAA*"), and personally identifiable information under state security breach notification laws, as each are amended from time-to-time and as may be implemented by regulations, policies, edicts, opinions and practices.

Marked or Labeled Data refers to any information or data that is marked or labeled by the University as "confidential", "proprietary" or any similar designation.

Analytical Data refers to any information or data that is collected, processed, or aggregated based upon the behavior of University users or University-owned IT or contracted for IT services, systems, or devices.

This data is University-owned institutional data and is classified as sensitive.

Sensitive Data refers to any information or data whose unauthorized disclosure will or may have an adverse effect on the University's reputation, resources, services or individuals.

University Data not protected under this DPA includes information or data that is publicly available or later becomes available other than through a breach of this DPA or Other Agreement, known to Supplier or its employees, subcontractors or agents prior to such disclosure other than from the University, is independently developed by Supplier or its employees, subcontractors or agents without access to or knowledge of the University Data, or subsequently obtained by Supplier or its employees, agents or representatives from a Third Party without obligations of confidentiality.

ARTICLE 1 **CONFIDENTIALITY AND DATA SECURITY**

1.1 Duty to Protect University Data. Supplier shall only use University Data as permitted by the Other Agreements, and shall not, directly or indirectly, disclose, copy, distribute, republish or allow any Third Party to have access to any University Data, unless otherwise approved by University in writing. Supplier shall protect University Data in accordance with the terms of this DPA. In addition, Supplier represents, warrants and covenants to University that it *agrees* that it complies with all applicable federal, state and local laws and regulations relating or pertaining to the use, disclosure, storage, handling and transmission of University Data. If Supplier has a need to disclose University Data to a Third Party, Supplier may disclose University Data to those Third Party vendors and consultants who have a need to know provided that such Third Party signs a confidentiality and non-disclosure agreement with substantially the same protections and restrictions as stated herein with such agreement naming the University as an intended third party beneficiary, and containing such other terms and conditions as reasonably requested by the University. Supplier may disclose University Data if so required by law (including court order or subpoena) in accordance with the procedures below.

1.2 Data Security.

1.2.1 Duty to Protect University Data. Supplier shall provide evidence that it has implemented and maintains a documented information security program to protect and safeguard University Data. The program shall include administrative, technical, and physical safeguards that utilize commercially available industry best practices, and meet or exceed the University's security policies, procedures and requirements, and applicable state and federal laws and standards. Upon request, the provider shall pro-

vide additional documentation of the information security program.

1.2.2 Compliance with Personal Information Statutes. Supplier acknowledges that University Data may include personal information covered by various state personal information statutes. Supplier shall ensure that the storage, handling and transmission of University Data complies with the existing and future federal and state laws (collectively, "**Personal Information Statutes**"), of all personally-identifiable University Data.

1.2.3 Notification of Suspected or Actual Breach. If Supplier believes that Data Protected by Law has been subject to unauthorized access, Supplier shall provide written notice to the University immediately and in any event within twenty-four (24) hours by sending e-mail to infosec@wusm.wustl.edu. If the University determines that actions must be taken to comply with Personal Information Statutes, Supplier shall fully cooperate with the University to achieve such compliance, and if compliance is required due to a breach by Supplier of this DPA, Supplier shall reimburse University for all costs and damages associated with such breach and compliance.

1.4 No Aggregation or De-Identification of Data. University Data shall not be accessed or used by Supplier to create aggregated or de-identified data unless directed by University.

1.5 Notice and Approval of Offshoring. Supplier represents and warrants to University that Supplier shall not: (a) perform any of its obligations under any Other Agreement from locations, or using employees, contractors and/or agents, situated outside the United States; or (b) directly or indirectly (including through the use of subcontractors) transmit any University Data outside the United States, nor will Supplier allow any University Data to be accessed by Supplier employees, contractors and/or agents from locations outside the United States without notifying and gaining the written approval of the University.

1.6 Return or Destruction of University Data. At any time and upon University's written request, Supplier shall promptly return, within ten (10) business days, all originals and copies of University Data, whether in printed or electronic form, including any and all backups and archived data. In lieu of a return of University Data, with the University's written consent, Supplier shall promptly destroy all originals and copies of University Data, whether in printed or electronic form, including any and all backups and archived data in accordance with industry standards and the federal government's best practices.

1.7 On-going Security Program Evaluation. Upon the University's written request, Supplier shall provide documentation on the current state of its security program.