

University of Missouri – PURCHASE ORDER TERMS AND CONDITIONS
(Updated as of October 2023)

Unless otherwise specifically provided by separate written agreement signed by The Curators of the University of Missouri (“University”), these terms and conditions shall govern with respect to the goods (the “Goods”) or services (the “Services”) identified on the face of the applicable purchase order, and exhibits attached or incorporated by reference in this offer to purchase (“Purchase Order”). By acceptance of this Purchase Order the supplier identified on the Purchase Order (“Supplier”) agrees to comply with the terms and conditions contained herein and, subject to the pricing provisions below, to sell (or lease if so noted) Goods as described herein for the prices or other consideration indicated. Acceptance of this Purchase Order is expressly limited to the terms and conditions contained herein. No other terms and conditions shall apply, including any terms or conditions contained in any Supplier quotation, acknowledgment, response hereto, or other form which is in addition to or different than the terms and conditions contained herein. Any such additional or different terms and conditions are hereby objected to by University. Acceptance by University of any Goods or Services provided hereunder shall not constitute University’s acceptance of any additional terms and conditions. This Purchase Order shall be accepted by Supplier in any manner permitted by law or upon the first of the following to occur: Supplier’s making or signing any other form or letter of acknowledgment (except that no additional or different terms and conditions thereon shall apply); any performance by Supplier hereunder; ten (10) days after Supplier’s receipt of this Purchase Order. Both University and Supplier are also referred to herein as “Party” or, collectively “Parties.”

The terms and conditions of any contract or agreement issued by the University’s authorized representative(s) shall apply to the extent that they supplement the provisions of this Purchase Order. In the event there is a conflict between the documents constituting the agreements between the parties, the documents and provisions shall prevail in the following order: (a) any contract or agreement issued and signed by the University’s authorized representative(s), (b) exhibits of this Purchase Order, and (c) the terms and conditions of this Purchase Order.

University assumes that items quoted or bid as equal are equal and reserve the right to return at Supplier’s expense all items that are furnished which are not acceptable as equals as required by the Purchase Order or Bid Request and Specifications, and Supplier agrees to replace such item with satisfactory items at the original quoted or bid price.

1. The Purchase Order shall not bind the University for an amount in excess of that noted on the face hereof. In case property of the value in excess thereof is forwarded to the University hereunder, University may, at its election, retain the property at the invoice price, or return it to the Supplier at Supplier’s expense.
2. Goods that are to be shipped shall be shipped F.O.B. destination unless otherwise specified by the University. C.O.D. shipments will not be accepted.
3. All shipping charges must be PREPAID. No packing or drayage charges will be allowed.
4. University will pay invoices within thirty days of receipt. University may withhold payment for goods or services University finds defective, untimely, or otherwise non-conforming.
5. Unless more specific insurance provisions are attached or otherwise included in the Purchase Order, the following shall apply. At all times during its performance under this Purchase Order, Supplier shall obtain and keep in force: i) Commercial General Liability insurance, including coverage for bodily injury and property damage and products and completed operations, with limits of not less than \$1,000,000 each occurrence. Such insurance will be primary, non-contributory, and include a waiver of subrogation; ii) Business Automobile Liability with limits not less than \$1,000,000 each occurrence CSL; iii) Workers Compensation & Employers Liability to the extent required in accordance with Missouri State Statutes or provide evidence of monopolistic state coverage; including Employers Liability with limits not less than \$500,000 each accident, disease each employee and disease policy limit; and iv) if capturing, transmitting or access to University confidential information then coverage must also include Data Breach coverage of \$1,000,000 per occurrence. Prior to the commencement of work under this Purchase Order, Supplier shall provide a certificate of insurance evidencing such insurance, shall name the officers, employees, and agents of The Curators of the University of Missouri as Additional Insured with respect to the order to which these insurance requirements pertain. Neither the requirement for Additional Insured status nor any of the Supplier’s action in compliance with such requirement, either direct or indirect, is intended to be and neither shall be construed as a waiver of any sovereign immunity, governmental immunity or any other type of immunity enjoyed by The Curators of the University of Missouri, the Board of Curators of the University of Missouri, or any of its officers, employees or agents. Supplier shall provide for notification to University within at least thirty (30) days prior to expiration or cancellation of such insurance.
6. Supplier agrees to indemnify and hold harmless the University, its Curators, employees, and agents from any claim, damage, liability, injury, expense or loss (including attorney’s fees) arising out of Supplier’s performance, direct or indirect, under this Purchase Order. Indemnification shall survive termination of this Purchase Order.
7. Supplier warrants the items purchased hereunder do not infringe any letters patent granted by the United States and Supplier shall defend, indemnify and hold harmless the University, its curators, employees and agents from and against all claims arising from

- infringement or alleged infringement of any patent, copyright, trademark or other intellectual property rights of a third party arising out of, in connection with or resulting from this Purchase Order or the goods or services provided under this Purchase Order.
8. Risk of loss or damage to the goods prior to the time of their receipt and acceptance by the University is upon the Supplier.
 9. All goods ordered and received are subject to test and inspection, and shall remain the property of the Supplier until acceptance or rejection by the University.
 10. The University reserves the right to cancel all or any part of orders upon written notice to Supplier if shipments are not made as promised or ordered. Supplier acknowledges that pursuant to RSMo Section 172.250, University is prohibited from creating any indebtedness in any one year above what it can pay out of the annual income for said year. Accordingly, if the University determines that there are inadequate appropriations, budget allocations or income in any year to fund its obligations under the Purchase Order, the University shall have the right to cancel the Purchase Order by providing Supplier not less than thirty (30) days' notice thereof.
 11. In addition, the University may terminate this Purchase Order in whole or in part at any time for its convenience, upon thirty (30) Days prior written notice to Supplier. Supplier shall notify the Procurement Department if shipment cannot be made as promised or ordered.
 12. Supplier agrees to unconditionally guarantee all items bid upon against defects in material and workmanship for a period of one year from date of acceptance by the University unless otherwise specified.
 13. When required, samples must be furnished.
 14. All items or services to be furnished hereunder shall meet all applicable state and federal requirements of the Occupational Safety and Health Standard. All alleged violations and deviations from said state and federal regulations or standards of the items or services to be furnished hereunder, must be reported in writing to the University's Director of Procurement, prior to providing the items or services set forth on this Purchase Order.
 15. Equal Opportunity: In connection with the furnishing of equipment, supplies, and/or services as a result of this Purchase Order, the Supplier and all subcontractors shall not discriminate against any recipients of services, or employees or applicants for employment on the basis of race, color, national origin, ancestry, religion, sex, pregnancy, sexual orientation, gender identity, gender expression, age, disability, protected veteran status, or any other status protected by applicable state or federal law. The Supplier shall comply with federal laws, rules, and regulations applicable to subcontractors of government contracts, including those relating to equal employment of minorities, women, persons with disabilities, certain veterans and based on sexual orientation and gender identify, and shall comply with such laws, rules, and regulations as each may be amended from time to time. Contract clauses required by the United States Government in such circumstances are incorporated herein by reference.
 16. The University serves from time to time as a contractor for the United States government and/or State of Missouri. Accordingly, the provider of goods and/or services shall comply with federal and state laws, rules, and regulations applicable to subcontractors of government contracts, including those relating to equal employment opportunity and affirmative action in the employment of minorities (Executive Order 11246), women (Executive Order 11375), persons with disabilities (29 USC 706 and Executive Order 11758), certain veterans (38 USC 4212 formerly [2012]) contracting with business concerns with small disadvantages business concerns (Publications L. 95-507), and work authorization programs including E-Verify (Immigration Reform and Control Act of 1986). Supplier shall comply with contract clauses required by the Government in such circumstances, and such clauses are incorporated herein by reference.
 17. As required by Section 508 of the Rehabilitation Act (36 C.F.R., Pt. 1194) and other state and federal laws, the University requires that all products provide equivalent ease of use for individuals with disabilities as for non-disabled individuals. To fulfill this obligation, Supplier shall: (1) ensure that all products comply with the Web Content Accessibility Guidelines (WCAG); (2) provide the University with an Accessibility Conformance Report; (3) respond promptly to accessibility complaints or reported deficiencies at no cost to the University, and (4) indemnify and hold the University harmless in the event of any claims arising from inaccessibility.
 18. Packages shall be marked and invoices rendered as directed on the face hereof. Show purchase order number on all invoices and correspondence. Invoices must be furnished with full description of items or services furnished.
 19. Materials and services furnished to the University are not subject to either Federal Excise Tax or the Missouri State Sales Tax. Do not include taxes when submitting invoices. Exemption certificates will be furnished on request. The Supplier is responsible for complying with all tax exemption requirements. The Supplier is responsible for payment of all tax obligations that arise from the Supplier's failure to comply with exemption requirements.
 20. If the Purchase Order contemplates or requires the use of third-party software, Supplier represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Purchase Order or that it has authority to modify such third-party software's terms and conditions to be subordinate to this Purchase Order. Supplier shall indemnify and defend University against all claims resulting from an assertion that any such third-party terms and conditions are not in accord with, or subordinate to, this Purchase Order.
 21. If this Purchase Order requires Supplier's presence on University's premises or in University's facilities, Supplier will cause its employees, representatives, agents, and subcontractors to become aware of, fully informed about, and in full compliance with all applicable University rules and policies, including but not limited to those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.
 22. Neither Party shall use the name or indicia of the other Party, nor of any of a Party's employees, in any manner of publicity, advertising, or news releases without prior written approval of the other Party.

23. The University will comply with applicable federal and state laws including the Foreign Account Tax Compliance Act which may require the University to withhold and remit to the US Treasury a percentage of payments to certain foreign Suppliers.
24. Debarment and Suspension Certification - Suppliers certifies, to the best of its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental department or agency in accordance with Executive Order 12549 (2/18/86). If Supplier cannot certify this statement, Supplier will submit to University a written explanation for review by University. Supplier must notify University's Director of Procurement within 30 days if debarred by any governmental entity during Purchase Order period.
25. The Purchase Order and all of the rights and obligations of the Parties hereto and all of the terms and conditions of the Purchase Order will be governed by the laws of the State of Missouri without giving effect to the conflict of laws principles. Any action to enforce the provisions of the Purchase Order shall be brought in a court of competent jurisdiction and proper venue in the State of Missouri.
26. Sovereign Immunity: The Curators of the University of Missouri, due to its status as a state entity and its entitlement to sovereign immunity, is unable to accept contract provisions, which require The Curators to indemnify another party (537.600, RSMo). Neither the issuance of this Purchase Order nor any other conduct, action or inaction of any University representative relating to the Purchase Order and any resulting contract is a waiver of sovereign immunity by University. Any indemnity language in proposed terms and conditions will be modified to conform to language acceptable to the University.
27. Neither the execution of the Purchase Order by University nor any other conduct, action or inaction of any University representative relating to the Purchase Order is a waiver of sovereign immunity by University.
28. Supplier will keep confidential and safeguard the security of any information relating to personal, financial, or other non-public data of University it receives during the course of its performance pursuant to this Purchase Order. Supplier will comply with all state and federal laws relating to data privacy and security, including, without limitation, the Gramm-Leach-Bliley Act; the Health Insurance Portability and Accountability Act; the Family Educational Rights and Privacy Act; and the Payment Card Industry Security Standards Council requirements. Supplier will assist and cooperate in University's efforts to confirm Supplier's compliance with the terms of this section, including the execution of separate agreements which may be required by applicable law. Supplier will promptly notify University, in writing, of each instance of unauthorized access, attempted unauthorized access, or use of confidential information that could result in harm or inconvenience to the owner of the information or University; or of any unauthorized disclosure, misuse, alteration, destruction or other compromise of the confidential information. Within thirty days of the termination or expiration of this Purchase Order, Supplier will destroy all records in its possession that contain confidential information, and will deliver to University a written certification of the destruction. Supplier will indemnify, defend and hold University harmless from any and all claims, demands, suits, actions, liabilities and expenses (including reasonable attorneys' and investigative fees) arising out of an act or omission by Supplier that results in a person having access to or use of customer information in violation of law or this Purchase Order or the misuse, alteration, destruction or alteration of confidential information in violation of law or this Purchase Order.
29. If this Purchase Order involves health care services or products, then the following provisions apply:
 - a. Supplier represents that it is not excluded from participating in federal health care programs, including Medicare and Medicaid, and is not debarred or suspended or listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs. Supplier will notify University if it becomes excluded, debarred, or suspended during the term of this Purchase Order. Supplier will correct any breach of warranty at Supplier's sole expense. University does not waive any warranty by acceptance of goods, services or payment, and reserves all rights and remedies; and
 - b. If either Party should be deemed a subcontractor of the other Party subject to the disclosure requirements of 42 U.S.C. § 1395x(v)(1), that Party shall, until the expiration of four years after the furnishing of services pursuant to this Purchase Order, make available upon request to the Secretary, U.S. Department of Health and Human Services, and the U. S. Comptroller General, or any of their duly authorized representatives, a copy of the Purchase Order and the books, documents and records of services that are necessary to certify the nature and extent of the costs incurred under this Purchase Order by that Party. If services or any duties of this Purchase Order are through a subcontractor with a value or cost of \$10,000 or more over a 12-month period with a third Party, such subcontract shall contain a clause to the effect that should the third Party be deemed a related organization, until the expiration of four years after the furnishing of services pursuant to such subcontract, the third Party shall make available upon request to the Secretary, U.S. Department of Health and Human Services, and the U. S. Comptroller General, or any of their duly authorized representatives, a copy of the subcontract and the books, documents and records of such third Party that are necessary to verify the nature and extent of the costs incurred under this Purchase Order by that Party. No attorney-client, accountant-client or other legal privilege will be deemed to have been waived by either Party as a result of this Purchase Order.
30. If this Purchase Order involves the acquisition or disposal of services, supplies, information technology, or construction and has a total potential value of \$100,000 or more, and if Supplier is a company with ten (10) or more employees, then Supplier certifies that it, and any company affiliated with it, does not boycott Israel and will not boycott Israel during the term of this Purchase Order. In this paragraph, the terms "company" and "boycott Israel" shall have the meanings described in Section 34.600 of the Missouri Revised Statutes.

31. In no event shall a party be liable for indirect, consequential, incidental, lost profits or like expectancy damages arising out of this Purchase Order, even if advised of the possibility of such. University's total obligation under this Purchase Order is set forth in the "Total PO Amount" field on the face of this Purchase Order.
32. The relationship between the Parties is solely that of independent contractors, not partners, joint venturers, employees, agents, or otherwise. Neither will have any authority to bind the other in any manner and will not represent or imply that it has such authority.
33. Supplier warrants that all goods and services provided under this Purchase Order (a) are new, unused, and free from defects in material and workmanship; (b) are the quality and dimensions ordered; (c) comply with representations in Supplier's advertisement, correspondence, or RFB or RFP response; (d) comply with applicable laws, regulations, or codes; and (e) are not restricted by rights of third parties.
34. Neither party may assign any part of this Purchase Order without prior express written consent of the other.
35. Supplier will make records of Supplier's costs, reimbursable expenses and payments pertaining to this Purchase Order available to University or its authorized representative during business hours and retain those records for four (4) years after final payment or abandonment of the project, unless University otherwise instructs Supplier in writing.
36. Supplier shall comply with applicable export control laws and regulations, including but not limited to the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR) 15 CFR Parts 730 through 799, in the performance of this Purchase Order. In the absence of available license exemptions/exceptions, Supplier shall be responsible for obtaining the appropriate licenses or other authorizations, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance. Supplier shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions. Prior to disclosing or transferring to University any hardware, technical data, software, or product utilizing any such data which is subject to export controls under federal law, Supplier shall notify University in writing of the nature and extent of the export control. University shall have the right to decline any such technical data or product utilizing such data. In the event the Supplier sends such technical data or product that is subject to export control, without notice of the applicability of such export control, University has the right to immediately terminate this Purchase Order.
37. Supplier agrees that all writings or other materials produced by Supplier, its employees or agents relating to the work under this Purchase Order shall be deemed "works made for hire" as that term is defined in the U.S. Copyright Act, that all rights thereto shall be owned by University, and that Supplier shall not assert any claim thereto. In the event that works are not considered "works made for hire" as that term is defined in the U.S. Copyright Act, the Supplier assigns any and all intellectual property rights, including but not limited to copyrights to any such works, and Supplier agrees to execute any necessary documentation to effect this assignment.
38. Suppliers shall refrain from offering employees of the University of Missouri gift cards, cash, travel, expensive meals, or gifts in accordance with University of Missouri policy, #26301, Suppliers.