

STATE OF OREGON DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING – TERMS AND CONDITIONS

1. DELIVERY: Deliveries will be F.O.B destination, unless otherwise agreed. Contractor shall pay all transportation and handling charges. Contractor is responsible and liable for loss or damage until final inspection and acceptance of the Goods. Contractor remains liable for latent defects, fraud, and warranties.

2. ACCEPTANCE: Agency may inspect and test the Goods and related Services (collectively, Goods). Agency may reject non-conforming Goods and require Contractor to correct them without charge or deliver them at a reduced price, as negotiated. If Contractor does not cure defects within a reasonable time, Agency may reject the Goods and cancel the PO in whole or in part. Title to the Goods passes to Agency in accordance with the Uniform Commercial Code, ORS chapters 71-79 (UCC), and this section does not affect or limit Agency's rights under the UCC.

3. PAYMENT: Agency shall pay Contractor within 30 days from (i) the date the Goods are delivered and accepted or (ii) the date the invoice is received, whichever is later. If Agency fails to pay within 45 days of such date, Contractor may assess overdue account charges up to a rate of 2/3% per month (8% APR) or the maximum rate allowed by law on the outstanding balance.

4. REPRESENTATIONS AND WARRANTIES: Contractor represents and warrants that:

- Unless otherwise agreed, the Goods are new and unused, (and if applicable, the current model), free and clear of any liens or encumbrances, and carry full manufacturer warranties;
- Contractor shall transfer all manufacturer warranties to the State;
- Delivered Goods will comply with specifications and be free from defects in labor, material and manufacture;
- Contractor owns or has the right to transfer or sell the Goods to Agency;
- Contractor has the authority to enter into this PO and this PO is a binding obligation upon Contractor;
- Contractor is an independent contractor and its provision of the Goods creates no potential or actual conflict of interest as defined in ORS 244;
- Contractor shall comply with the tax laws of this state and all political subdivisions;
- Contractor has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State, and
- All implied and express warranties under the UCC are incorporated in this PO.

These representations and warranties are cumulative and are in addition to and not in lieu of any other representations or warranties found in this PO or the law.

5. TERMINATION:

- The parties may terminate this PO by mutual agreement.
- Agency may terminate this PO at any time upon written notice to Contractor. Upon receipt of the written notice, Contractor shall stop performance, and Agency shall pay Contractor for Goods delivered and accepted.
- Agency may terminate this PO at any time upon written notice to Contractor if Agency fails to receive funding, appropriations, or other expenditure authority.
- Agency may terminate this PO for cause upon written notice to Contractor, if Contractor breaches any PO provision, including the representations and warranties related to liquidated and delinquent debt, or is declared insolvent. Contractor shall be liable for all incidental and consequential damages resulting from its breach, including all damages as provided in the UCC.
- Agency may terminate this PO if Contractor fails to comply with the tax laws of this state or any political subdivision or Contractor violates any warranties or certification related to compliance with the tax laws of this State and any political subdivision of this State.

6. REMEDIES: Any violation or breach of this PO entitles Agency to terminate this PO, to pursue and recover any and all damages that arise from the breach and the termination of this PO, and to pursue any or all of the remedies available under this PO, at law, or in equity, including but not limited to: termination of this PO in whole or in part; collection by administrative offset or garnishment, if applicable, or withholding amounts otherwise due and owing to Contractor without penalty. The remedies set forth in this Section 6 are cumulative.

7. HOLD HARMLESS: Contractor shall indemnify, defend and hold harmless the State and its agencies, their divisions, 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 this PO.

8. GOVERNING LAW, JURISDICTION, VENUE: This PO is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflict of laws. Any unresolved Dispute between Agency or and Contractor that arises from or relates to the PO shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of

Oregon; provided, however, if a Dispute must be brought in a federal forum, then unless otherwise prohibited by law 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. Nothing herein shall be construed as a waiver of the State of Oregon's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise or of any defenses to Claims, or as consent to jurisdiction the jurisdiction of any court.

9. ASSIGNMENT/SUBCONTRACT/SUCCESSORS: Contractor shall not assign, transfer, or subcontract rights (Subcontract) or delegate responsibilities under this PO in whole or in part, without the prior written approval of Agency. This PO's provisions are binding upon and inure to the benefit of the parties to the PO and their respective successors and assigns.

10. ACCESS TO RECORDS: Contractor shall maintain all accounting records relating to this PO according to Oregon Accounting Manual (OAM) and any other records relating to Contractor's performance ("Records") for 6 years from termination or as otherwise required. Contractor shall grant the State and its agencies, the Secretary of State, the federal government, and their duly authorized representative's access to the Records, including reviewing, auditing, copying, and making transcripts.

11. COMPLIANCE WITH APPLICABLE LAWS: Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as amended. Agency's performance is conditioned upon Contractor's compliance with, 279B.220, 279B.225, 279B.230, and 279B.235, as applicable. All applicable Rules are incorporated by reference in this PO.

12. INSURANCE: Contractor shall obtain and maintain the following insurance coverage:

- **Workers' Compensation:** Contractor shall comply with ORS 656.017 and provide workers' compensation coverage for subject workers, unless exempt under ORS 656.126(2). Contractor shall ensure that its Subcontractors, if any, comply with these requirements.
- **Commercial General Liability:** Contractor shall provide and maintain insurance covering bodily injury and property damage, written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. The policy(ies) must name the State of Oregon as additional insured.

13. FORCE MAJEURE: Neither Contractor nor Agency may be held responsible for delay or default caused by events beyond its reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and diligently pursue its performance under this PO.

14. SAFETY DATA SHEETS: As applicable, Contractor shall provide Agency with a Safety Data Sheet (SDS) for any Goods which may release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use 29 CFR 1910.1200(g)(6)(iii). Contractor shall label, tag or mark such Goods.

15. RECYCLABLE PRODUCTS: Unless otherwise required, Contractor shall use recycled and recyclable products to the maximum extent economically feasible in the performance of the PO. These products shall include recycled paper, recycled PETE products, other recycled products (ORS 279A.010(1)(gg),(hh),(ii)), and other recycled plastic resin products.

16. AMENDMENTS: All amendments to this PO must be in writing, approved by Agency.

17. SEVERABILITY: If a court of competent jurisdiction declares any provision of this PO to be invalid, the other provisions and the rights and obligations of the parties remain in effect.

18. WAIVER: Agency's failure to enforce any provision of this PO is not a waiver or relinquishment by Agency of its rights to such performance in the future or to enforce any other provisions.

19. AWARD TO FOREIGN CONTRACTOR: If Contractor is not registered to do business or has no office in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this PO. Agency may withhold final payment under this PO until Contractor has met this requirement.

20. TAX CERTIFICATION: Contractor hereby certifies under penalty of perjury: (a) the number shown on this form is the correct Federal Employer Identification Number; (b) it is not subject to backup withholding because (i) it is exempt from backup withholding, (ii) it has not been notified by the IRS that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that it is no longer subject to backup withholding; and (c) it is not in violation of any Oregon tax laws.

21. EXECUTIVE ORDER 21-29: In accordance with Oregon Executive Order 21-29 any Employee or Worker is prohibited from engaging in work for the Executive Branch after 10/18/2021 if they are not Fully Vaccinated against COVID-19.