

**COLUMBIA BASIN COLLEGE  
STANDARD TERMS AND CONDITIONS**

**I. DEFINITIONS**

<b>Business days</b>	Monday through Thursday, 7:00 a.m. to 4:30 p.m. and Fridays 7:00 a.m. to noon, Pacific Time, except for holidays observed by the State of Washington. When “days” are not specified, calendar days shall apply.
<b>Columbia Basin College (CBC)</b>	Columbia Basin College, any department, section, office, or unit of Columbia Basin College, or any of the officers or other officials lawfully representing Columbia Basin College. CBC is a Washington State Agency and Institution of Higher Education.
<b>Contract</b>	Purchase order and/or the entire written agreement between CBC and the Contractor, including any exhibits, documents, and materials incorporated by reference, with the elements of the agreement being offer, consideration and acceptance.
<b>Contractor</b>	The individual, provider, organization, company, corporation, firm, or combination thereof, or any other entity providing goods or performing services under this Contract. It shall also include any employees of the Contractor and any subcontractor (and their employees) retained by the Contractor as permitted under the terms of the Contract.
<b>Debarment</b>	An action taken by a Federal official to exclude a person or business entity from participating in transaction involving certain federal funds.
<b>Materials</b>	All products and information in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and sound reproductions.
<b>Ownership</b>	Includes the right to copyright, patent, and register, and the ability to transfer these rights.
<b>Personal Information</b>	Information identifiable to any person, including, but not limited to, information that relates to a person’s name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver license numbers, other identifying numbers, and any financial identifiers.
<b>RCW</b>	The Revised Code of Washington. All reference in this Contract to RCW chapters or sections shall include any successor, or replacement statute.
<b>Regulation</b>	Any federal, state, local or CBC regulation, law, rule, or ordinance.
<b>Subcontract</b>	Any separate agreement or Contract between the Contractor and an individual or entity (“Subcontractor”) to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.
<b>Subcontractor</b>	A person or business that is or will be providing or performing an essential aspect of the Contract under the direction and responsibility of the Contractor and with the agreement of CBC. The terms "Subcontractor" and "Subcontractors" means Subcontractor(s) in any tier.

## II. TERMS & CONDITIONS

1. **ADVANCE PAYMENTS:** No payments in advance of or in anticipation of goods or services to be provided under this Contract shall be made by CBC except as authorized by law.
2. **ADVERTISING:** Contractor shall not mention, imply or utilize CBC's name and/or logo or other marks in any publicity matters, regardless of media format without prior written consent from CBC.
3. **AMENDMENTS AND AUTOMATIC EXTENSIONS:**
  - a. This Contract may be amended by mutual agreement of the parties. No material alterations in any of the terms, conditions, delivery, price, quality, quantity or specifications shall be effective unless the alteration is expressly acknowledged and accepted in writing by CBC.
  - b. Automatic extensions and renewals are not authorized unless stated in writing and included in the Contract issued by CBC.
4. **ANTITRUST ASSIGNMENTS:** The Contractor hereby assigns to CBC any and all claims for price fixing or overcharges relating to goods, products, services and/or materials purchased under this Contract, except as to overcharges that result from antitrust violations commencing after the price is established under this Contract and that are not passed on to CBC under an escalation clause.
5. **ASSIGNMENT AND DELEGATION:** The work to be provided under this Contract, and any claim arising thereunder, is not assignable or delegable by the Contractor without CBC's prior written consent. Provision of monies due under this Contract shall only be assignable with prior written permission of CBC. CBC reserves the right to approve or decline substitutions of any individual specifically identified and agreed to by the parties to perform work on this Contract. In no event shall the existence of a Subcontract operate to release or reduce the liability of Contractor for any breach in the performance of the Contractor's duties. Assignment or transfer of this Contract shall not relieve Contractor from its responsibilities and obligations under the Contract.
6. **ATTORNEYS' FEES:** In the event of litigation, arbitration, mediation, any alternative dispute resolution, or other action brought to enforce Contract terms, each party shall bear its own attorney's fees and costs.
7. **BREACH, DEFAULT, TERMINATION:**
  - a. **Breach:** A breach of a term or condition of this Contract shall mean any one or more of the following events:
    - i. The Contractor fails to perform the services or deliver goods, materials, supplies, or equipment by the date required or by a later date as may be agreed to in a written amendment to this Contract signed by CBC;
    - ii. The Contractor breaches any warranty or fails to perform or comply with any term or agreement in this Contract;
    - iii. The Contractor makes any general assignment for the benefit of creditors;
    - iv. In CBC's sole opinion, the Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
    - v. The Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors;
    - vi. Any receiver, trustee, or similar official is appointed for the Contractor or any of the Contractor's property;
    - vii. The Contractor is determined to be in violation of any regulation and that such determination, in CBC's sole opinion, renders the Contractor unable to perform any aspect of this Contract.
  - b. **Default:** The Contractor may be declared in default for a material breach of any term or condition.
  - c. **Opportunity to Cure:** In the event Contractor fails to perform any term or condition of this Contract, CBC may issue a written notice of breach providing a period in which Contractor will have an opportunity to cure. CBC is not required to allow Contractor to cure defects if the opportunity to cure is not feasible as determined solely within the discretion of CBC. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, or otherwise affect any other remedies available to CBC against Contractor under the Contract or by law.
  - d. **Remedies:** If the breach remains after Contractor has been provided the opportunity to cure, CBC may do one or more

of the following:

- i. Exercise any remedy provided by law.
- ii. Terminate this Contract and any related Contracts or portions thereof.
- iii. Impose actual or liquidated damages.
- iv. Suspend or bar Contractor from receiving other opportunities to contract with CBC.
- v. Require Contractor to reimburse CBC for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the Contract.

e. **Termination of Contract:**

- i. **Termination for Convenience:** CBC may terminate this Contract, in whole or in part, at any time and for any reason by giving thirty (30) calendar days written termination notice to the Contractor. Termination charges shall not apply unless they are mutually agreed by both parties. Where termination charges are applicable, both parties agree to negotiate in good faith and to limit the extent of negotiations to valid documented expenses incurred by the Contractor prior to date of termination. Should the parties not agree to a satisfactory settlement, the matter will be handled in accordance with the Dispute Resolution section of this Contract.
- ii. **Termination for Breach and/or Default:** Except in the case of delay or failure resulting from circumstances beyond the control and without the fault or negligence of the Contractor or the Contractor's suppliers or Subcontractors, CBC shall be entitled, by written or oral notice, to suspend, cancel and/or terminate this Contract in its entirety or in part for breach and/or for default of any of the terms herein and to have all other rights and remedies against the Contractor by reason of the Contractor's breach as provided by law.
- iii. **Termination for Cause by Contractor:** This Contract may be terminated by Contractor if after reasonable notice and opportunity to cure, CBC fails to substantially perform in accordance with a material term of this Contract through no fault of Contractor. Contractor shall provide written notice to CBC of such termination for cause at least thirty (30) days before the date of termination. Contractor shall not be entitled to payment for goods, products, materials or services delivered after the effective date of termination. Contractor shall not be entitled to consequential or indirect costs associated with termination, or payment for anticipated profit, unperformed services, or unabsorbed overhead.
- iv. **Termination Due to Change in Funding:** If the funds CBC relied upon to establish this Contract are withdrawn, reduced or limited, or if additional or modified conditions are placed on funding by the entity funding CBC, CBC may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice.
- v. **Termination by Mutual Agreement:** CBC or the Contractor may terminate this Contract in whole or in part, at any time, by mutual agreement.

f. **Termination Procedure:** After receipt of a notice of termination, and except as otherwise directed by CBC, Contractor shall:

- i. Stop work under this Contract on the date, and to the extent specified in the notice;
- ii. Place no further orders or Subcontracts for goods or services except as may be necessary for completion of such portion of the Work under this Contract that is not terminated;
- iii. Assign to CBC, in the manner, at the times, and to the extent directed by CBC, all the rights, title, and interest of the Contractor under the orders and Subcontracts so terminated, in which case CBC has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and Subcontracts;
- iv. Settle all outstanding liabilities and all claims arising out of such termination of orders and Subcontracts, with the written consent of CBC to the extent CBC may require, which consent shall be final for the purposes of this clause;
- v. Transfer title to CBC and deliver in the manner, at the times, and to the extent directed by CBC any property which, if this Contract had been completed, would have been required to be furnished to CBC;
- vi. Complete performance of such part of the Contract as shall not have been terminated by CBC; and
- vii. Take such action as may be necessary, or as CBC may direct, for the protection and preservation of any property related to this Contract which is in the possession of the Contractor and in which CBC has or may acquire an interest.

8. **CONFIDENTIALITY:** Contractor may use personal or confidential information gained by reason of this Contract only for

the purposes of this Contract. The Contractor shall not disclose, transfer, or sell any such information to any party, except as provided by law or, in the case of personal information, without the prior written consent of the person to whom the information pertains.

- a. Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of personal or confidential information that is exempt from disclosure to the public or other unauthorized persons under either Chapter 42.56 RCW or other state or federal statutes (“confidential information”). Confidential information includes, but is not limited to, personal information such as, addresses, student identification numbers, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver’s license numbers, medical data, law enforcement records, or information identifiable to an individual that relates to any of these types of information, and agency source code or object code, agency security data, etc. Contractor agrees to hold such information in strictest confidence and not to make use of such information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without CBC’s express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have signed a non-disclosure agreement consistent with the terms of this Contract. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to confidential information. Contractor shall return or certify the destruction of such information if requested in writing by CBC.
- b. Contractor will report to CBC any breach of security resulting in the unauthorized disclosure, misappropriation or unauthorized access to CBC confidential information. Contractor will promptly investigate any breach affecting CBC confidential information and take reasonable measures to identify the breach’s root cause(s), mitigate its effects, and prevent a recurrence. Unless prohibited by law, within twenty-four (24) hours of a breach, Contractor will provide CBC with a detailed description of the breach, the type of information that was the subject of the incident, the identity of each affected person, and other information CBC may reasonably request concerning the affected persons. The parties agree to coordinate in good faith on developing the content of any related public statements or any required notices for the affected persons. If breach and/or identity theft occurs and is found to be the result of Contractor’s non-compliance with the obligations to secure CBC confidential information, Contractor will assume complete responsibility for notifying the affected persons, and be liable for all associated costs incurred by CBC in responding to or recovering from that breach or identity theft.
- c. To the extent consistent with the Public Records Act, [Chapter 42.56 RCW](#), CBC shall maintain the confidentiality of Contractor’s information marked confidential or proprietary. Contractor must clearly identify any material claimed to be exempt from public records request under [RCW 42.56.270](#), along with a statement of the basis for such claim of exemption. Pricing and entire bid packages are not considered proprietary and are subject to public record requests. CBC will notify Contractor of any request for disclosure of such information. If a request is made to view Contractor’s information marked confidential or proprietary, CBC will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. Failure to so label such materials or to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are, in fact, exempt.

- 9. **CONTRACTOR INSURANCE**: If the Contractor’s performance of this Contract will involve work falling into any of the categories enumerated within this section, Contractor shall maintain, during the performance of this Contract, all relevant types of insurance in amounts equal to or exceeding those listed below. Upon request, Contractor shall, within 15 days of the Contract effective date, provide the Columbia Basin College Purchasing Department, at 2600 North 20<sup>th</sup> Ave, Pasco, WA 99301, a certificate of insurance evidencing proof of insurance coverage that outlines the coverage and limits described in this section, which shall name Columbia Basin College as an additional insured. Contractor shall submit renewal certificates as appropriate during the term of the Contract. All insurance policies shall contain an appropriate severability of interests clause.

Contractor shall make no claims against CBC for any claim for which Contractor is covered by the insurance described herein. All insurance provided in compliance with the Contract shall be primary as to any other insurance or self-insurance

programs afforded to or maintained by CBC. Contractor waives all rights against CBC and the State of Washington for the recovery of damages to the extent they are covered by Contractor's general liability or umbrella insurance.

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

CBC reserves the right to require additional types of insurance, and/or higher insurance limits, as circumstances require.

- a. **Commercial General Liability Insurance:** Contractor shall at all times during the term of this Contract, carry and maintain Commercial General Liability Insurance, and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of work performed under the terms of this Contract. The insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor's premises or operations, independent Contractors, products, completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business Contract) and contain separation of insured's (cross liability) conditions.

The limits of liability insurance shall not be less than the following amounts:

- i. \$1,000,000 per occurrence
- ii. \$2,000,000 aggregate
- iii. \$100,000 fire damage
- iv. \$5,000 medical expense limit

- b. **Employers Liability Insurance:** The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability Insurance with a limit of no less than \$1,000,000. CBC will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

- c. **Automobile Liability Insurance:** For Contracts including services delivered pursuant to this Contract involving the use of vehicles, either owned, unowned or hired by the Contractor, Contractor shall maintain Automobile Liability Insurance, and provide proof of such, in the following amount:
  - i. \$1,000,000 per occurrence, and owned, unowned and hired vehicles shall be covered;
  - ii. Contractor may provide Combined Single Limit for bodily injury and property damage.

The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this Contract by the Contractor, Subcontractor, or anyone employed by either.

- d. **Professional Liability/Errors and Omissions Insurance:** For services delivered pursuant to this Contract, either directly or indirectly that involve or require professional services, skill, and/or judgement, or upon request, Contractor shall maintain Professional Liability/Errors and Omissions Insurance, and provide proof of such upon request, in the following amounts:
  - i. \$2,000,000 per occurrence
  - ii. \$3,000,000 aggregate

For Contract under this subsection, the provision of Professional Liability/Errors and Omissions Insurance shall replace the Contractor's obligation to maintain and provide proof of Commercial General Liability Insurance.

- e. **Industrial Insurance:** The Contractor shall comply with the provisions of [Title 51 RCW](#) Industrial Insurance.

- f. **International Liability Insurance:** For services provided under this Contract which will be performed outside of the United States, or upon request, Contractor shall maintain the following types and levels of insurance, and provide proof of such upon request:
- i. International Commercial General Liability coverage with a limit of at least \$5,000,000 per occurrence, including products/completed operations coverage;
  - ii. International voluntary workers' compensation coverage per statutory requirements;
  - iii. International automobile liability insurance with limits of at least \$1,000,000 per occurrence.
10. **DELIVERY REQUIREMENTS:** Delivery shall be accomplished by the date and time in the applicable purchase order or Contract document. Noncompliance may be construed as grounds for termination for cause for failure to deliver on time.
- a. **Rejection:** All goods and services purchased under this Contract are subject to approval by CBC. Any rejection of goods or services resulting from nonconformity to the terms, conditions, or specifications of this Contract, whether held by CBC or returned, will be at the Contractor's risk and expense.
  - b. **Packing Lists:** All invoices, packing lists, packages, shipping notices, shipping cartons, and other written documentation associated with any goods delivered under this Contract shall contain the applicable purchase order number. Packing lists shall be enclosed in each box or package shipped and clearly identify all contents and any backorders.
  - c. **Shipping and risk of loss:**  
Unless otherwise instructed, all goods are to be shipped prepaid, FOB Destination, as defined in [RCW Title 62A](#). Where specific authorization is granted to ship goods FOB Shipping Point, the Contractor agrees to prepay all shipping charges, to route cheapest common carrier unless otherwise agreed, and to bill CBC as a separate item on the invoice for the charges. CBC reserves the right to refuse COD shipments. Regardless of FOB point, the Contractor agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein that occur prior to delivery, and such loss, injury, or destruction shall not release the Contractor from any obligation hereunder.
11. **DISPUTE RESOLUTION:** In the event that a dispute arises out of or related to this Contract, or the breach of this Contract, and the dispute cannot be settled through negotiation, the parties agree to first try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, other alternative dispute resolution procedure, or litigation. Both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator.
12. **FEDERAL DEBARMENT AND SUSPENSION (IF APPLICABLE):** The Contractor certifies that neither it nor its "principals" (as defined in 49 CFR. 29.105 (p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any transaction by any federal department or agency. The Contractor shall include this requirement in any and all subcontracts into which it enters. In the event that the Contractor becomes debarred, suspended or ineligible to participate in transactions, the Contractor shall notify CBC in writing within three (3) working days of the event.
13. **FEDERAL FUNDING:** In the event that a federally funded acquisition results from this procurement, the Contractor may be required to provide additional information (free of charge) at the request of CBC. Further, the Contractor may be subject to those federal requirements specific to the commodity.
14. **FORCE MAJEURE:** Neither the Contractor nor CBC shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either the Contractor or CBC. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body, other than CBC, acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, riots, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, CBC, or their respective Subcontractors.

If either party is delayed by force majeure, said party shall provide written notification within 48 hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the rights reserved below, the time of

completion may be extended by Contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract.

CBC reserves the right to authorize an amendment to this Contract, terminate the Contract, and/or purchase goods, materials, supplies, equipment and/or services from the best available source during the time of force majeure, without recourse to Contractor.

15. **GIFT AND GRATUITIES:** Contractor and CBC shall comply with all state laws regarding gifts and gratuities, including, but not limited to, the Ethics in Public Service Act, [Chapter 42.52 RCW](#), under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or Contract activities. Notwithstanding any determination by the Executive Ethics Board or other authority, CBC may, in its sole discretion, by written notice to Contractor, terminate this Contract if it is found after due notice and examination by CBC that there is a violation of the Ethics in Public Service Act, or any similar statute involving the Contractor in the procurement of this Contract, or the provision of goods, products, materials or services under this Contract. If this Contract is so terminated, CBC shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of a breach of this Contract by Contractor, and such rights and remedies shall be in addition to any other rights and remedies provided by law.
16. **GOVERNING LAW:** This Contract shall be interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court of Franklin County, Washington.
17. **INDEMNIFICATION:** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless CBC, its Board of Trustees, officers, employees, students, agents, volunteers, and assigns from and against all claims for damages, costs (including attorney's fees), or liability, relating to the death or injury or the damage of any property resulting from or arising out of the acts or omissions of the Contractor or its employees, agents, or Subcontractors in connection with this Contract.

The Contractor expressly agrees to indemnify, defend, and hold harmless CBC for any claim arising out of or incident to the Contractor's or any Subcontractor's performance or failure to perform this Contract. The Contractor shall be required to indemnify, defend and hold harmless CBC only to the extent the claim is caused in whole or in part by negligent, reckless, or willful acts or omissions of the Contractor, its agents, employees, representatives, or any Subcontractor or its employees.

The Contractor waives its immunity under [Title 51 RCW](#) to the extent it is required to indemnify CBC, its Board of Trustees of Columbia Basin College, officers, employees, students, agents, volunteers, and assigns as provided herein.

In no event shall any official, officer, employee, or agent of the State of Washington, when executing their official duties in good faith, be in any way personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this Contract.

18. **INDEPENDENT CONTRACTOR:** In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent Contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee of CBC or the State of Washington.
19. **INFRINGEMENTS:** The Contractor agrees to defend, indemnify and hold harmless CBC, its Board of Trustees, officers, employees, students and agents against all claims for patent, copyright, or franchising infringements arising from the purchase, installation, or use of material ordered on this Contract, and to assume all expense and damage arising from such claims.
20. **INVOICING AND PAYMENT:**
  - a. **Invoicing:** Contractor must provide a properly completed invoice to CBC. All invoices are to be delivered to:  
Accounts Payable

Columbia Basin College  
2600 North 20<sup>th</sup> Ave Pasco, WA 99301  
Phone: 509-542-5518  
Email: [ap@columbiabasin.edu](mailto:ap@columbiabasin.edu)

Each invoice must be identified by the associated Contract number; the Contractor's statewide vendor registration number assigned by the Washington State Office of Financial Management (OFM), the applicable CBC Contract or purchase order number, and must be in U.S. dollars. Invoices must be prominently annotated by the Contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the solicitation.

- b. **Payment:** Invoices for payment will accurately reflect all discounts due to CBC. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice and until all invoiced items are received and satisfactory performance by Contractor has been accepted by CBC. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized. If CBC fails to make a timely payment, Contractor may invoice for a minimum of \$1 or maximum of 1% per month on the amount overdue ([Chapter 39.76 RCW](#)). Payment shall not be considered late if a check, warrant or electronic transmittal notice has been mailed or issued within the time specified, or, if no terms are specified, within 30 days from date of receipt of a properly completed invoice or goods, whichever is later.
  - c. **Miscellaneous Fees and Charges:** CBC reserves the right to short pay invoices that include unidentified or miscellaneous fees and charges not included in supplier's quote, proposal or Contract with CBC. In the event that CBC accepts the charge, a line item will be added to the purchase order. Miscellaneous fees/charges may include, but are not limited to, Special Handling, or Packaging, Fuel Surcharge, Compliance Charge, Paper Invoice Fee, Merchant Bank Fee, Energy Surcharge, Additional Time Fee.
21. **LICENSING/PERMITS/FEES:** Contractor shall comply with all applicable local, state and federal licensing, accreditation and registration requirements and standards necessary for the performance of this Contract. After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with any changes or regulations during the entire term of this Contract or purchase order. This includes, but is not limited to, registration with the Washington State Department of Revenue, and Contractor's responsibility for payment of all fees and taxes due on payments made to Contractor under this Contract.
22. **LIENS, CLAIMS AND ENCUMBRANCES:** The Contractor warrants and represents that all materials, equipment or services delivered under this Contract are free and clear of all liens, claims, or encumbrances of any kind.
23. **LIMITATION OF LIABILITY:** Neither CBC nor Contractor shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement. This section does not modify any specific agreement regarding liquidated damages or any other conditions as are otherwise agreed to in this Contract.
24. **NONDISCRIMINATION REQUIREMENT:** During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.
- a. **Obligation to Cooperate:** Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
  - b. **Default:** Notwithstanding any provision to the contrary, CBC may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited

by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until CBC receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), CBC may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

- c. **Remedies for Breach:** Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. CBC shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe CBC for default under this provision.

**25. ORDER OF PRECEDENCE:** In the event of any inconsistencies or conflicting terms and conditions in this Contract, such inconsistency or conflict shall be resolved by giving precedence in the following order: federal, state, or local laws or regulations, CBC general terms and conditions, Statement of Work as agreed to in writing by CBC and Contractor. The Contractor's terms proposed are rejected, unless otherwise provided in writing by CBC's Purchasing Department.

**26. OWNERSHIP/RIGHTS IN DATA:** All data and work products (collectively called "work product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 et seq., and shall be owned by CBC. Contractor is hereby commissioned to create the work product. Work product includes, but is not limited to, discoveries, formulas, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such work product. If for any reason the work product would not be considered a work made for hire under applicable law, Contractor irrevocably assigns and transfers to CBC the entire right, title and interest in and to all rights in the work product and any related registrations and copyright applications and any renewals and extensions thereof effective from the moment of creation of such work product.

Contractor shall execute all documents and perform such other proper acts as CBC may deem necessary to secure for CBC the rights pursuant to this section. Contractor shall not use or in any manner disseminate any work product to any third party, or represent in any way Contractor ownership in any work product, without the prior written permission of CBC. Contractor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any work product or any portion thereof, in any form, to any third party.

For material that is delivered under this Contract, but either does not originate therefrom ("preexisting material"), or incorporates preexisting materials, the Contractor grants to CBC a nonexclusive, royalty-free, irrevocable license in such materials to publish, translate, reproduce, prepare derivative works, publicly perform, publicly display, and dispose of such preexisting material, and to authorize others to do so except that such license shall be limited to the extent to which Contractor has a right to grant such a license. Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights, and rights of publicity, necessary to grant such license to CBC. CBC shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Contractor with respect to any preexisting material delivered under this Contract. CBC shall have the right to modify or remove any restrictive markings placed upon the preexisting material by Contractor.

**27. PERFORMANCE:** Acceptance by CBC of unsatisfactory performance with or without objection or reservation shall not waive the right to claim damage for breach nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by Contractor.

28. **PREVAILING WAGE COMPLIANCE:** Unless exempt, Contractor shall pay all workers, laborers, or mechanics employed in the performance all public works or public building service maintenance contracts in accordance with Washington’s Prevailing Wage on Public Works Act (Chapter 39.12 RCW) and any applicable rules of the Washington State Department of Labor and Industries. Contractor is solely responsible for ascertaining the applicable prevailing rate of wage for each worker’s classification. Contractor will file with the Washington State Department of Labor and Industries, for approval, a statement, under oath, certifying its Intent to Pay Prevailing Wages, and will provide a copy of the Intent to Pay Prevailing Wages to CBC.
29. **RECORDS MAINTENANCE AND RETENTION:** Contractor shall maintain books, records, documents and other evidence relating to this Contract and the provision of goods, materials, supplies, services and/or equipment described herein, including, but not limited to accounting procedures which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the Contract. These records shall be subject to inspection, review or audit by personnel duly authorized by CBC, and any representatives of the State of Washington, including the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Contract will be retained for six (6) years after expiration or termination of this Contract, in accordance with [Chapter 40.14 RCW](#). If any litigation, claim, or audit is initiated before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
30. **RIGHTS AND REMEDIES:** Failure of CBC to insist upon the strict performance of any term or condition of this Contract or to exercise or delay the exercise of any right or remedy provided in this Contract or by law, or the acceptance of (or payment for) goods, materials, equipment or services, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of CBC to insist upon the strict performance of this Contract.
31. **STATEMENT OF WORK:** The Statement of Work, shown as Attachment A, is hereby incorporated into this Contract.
32. **SEVERABILITY:** If any term or condition of this Contract or of any document incorporated by reference is held invalid by any court or by a change in applicable law, such invalidity shall not affect the validity of the other terms or conditions of this Contract that can be given effect without the invalid provision, and to this end, the provisions of the Contract are declared to be severable.
33. **SITE SECURITY:** While on CBC’s premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with applicable CBC policies, rules and regulations, including physical, fire, or other safety and security regulations as stated in [Title 132S WAC](#).
34. **TAXES:** All payments accrued on account of property taxes, payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor or its employees shall be the sole responsibility of the Contractor. Where required by state statute or regulation, the Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. Unless otherwise indicated, CBC agrees to pay State of Washington sales or use taxes on all applicable consumer services and materials purchased. No charge by the Contractor shall be made for federal excise taxes and CBC agrees to furnish the Contractor with an exemption certificate where appropriate. The Contractor shall calculate and enter the appropriate Washington State and local sales tax on the invoice. Tax is to be computed on new items after deduction of any trade-in in accordance with [WAC 458-20-247](#).
35. **TRAVEL REIMBURSEMENTS:** Travel expenses under this Contract, must be authorized in writing, in advance by CBC, and shall be in accordance with the then current rules and regulations set forth in the Washington State Administrative and Accounting Manual (<http://www.ofm.wa.gov/policy/default.asp>). Contractor shall provide a detailed itemization of expenses, including description, amounts and dates, and receipts for amounts of \$50 or more when requesting reimbursement. The amount reimbursed to Contractor is included in calculating the total amount spent under this Contract.

36. **TREATMENT OF ASSETS:**

- a. Title to all property furnished by CBC shall remain in CBC. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in CBC upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in CBC upon (1) issuance for use of such property in the performance of this Contract, or (2) commencement of use of such property in the performance of this Contract, or (3) reimbursement of the cost thereof by CBC in whole or in part, whichever first occurs.
- b. Any property of CBC furnished to the Contractor shall, unless otherwise provided herein or approved by CBC be used only for the performance of this Contract.
- c. The Contractor shall be responsible for any loss or damage to property of CBC that results from the negligence of the Contractor or from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- d. If any CBC property is lost, destroyed or damaged, the Contractor shall immediately notify CBC and shall take all reasonable steps to protect the property from further damage.
- e. The Contractor shall surrender to CBC all property of CBC before settlement upon completion, termination or cancellation of this Contract.

37. **WAIVER:** A failure by either party to exercise its rights under this Contract shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Contract unless stated to be such in writing signed by an authorized representative of the party and attached to this Contract.

38. **WARRANTY:**

- a. **Product:** The Contractor warrants all goods and services delivered under this Contract conform to specifications herein, shall be free from defects in material and workmanship, and shall be fit for the intended purpose and as described in Contractor's or manufacturer's publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its bid or used to affect the sale to CBC. All goods and services found defective shall be replaced upon notification by CBC. All costs of removal and/or replacement, including shipping charges, shall be borne by the Contractor. Acceptance of any goods or services, and inspection incidental thereto by CBC shall not alter or affect the obligation of Contractor or the rights of CBC.
- b. **Price:** The Contractor warrants that prices of materials, supplies, equipment, and services set forth herein do not exceed those charged by the Contractor to any other customer purchasing the same goods or services under similar conditions and in like or similar quantities.
- c. **Financial Status:** The Contractor warrants that at the time of the commencement of its performance under this Contract, it has not commenced bankruptcy proceedings and that there are no judgments, liens or encumbrances of any kind affecting title to any goods that are the subject of this Contract.