State of Oregon



PRICE AGREEMENT [PA NUMBER]

FOR

[PRICE AGREEMENT TITLE]

BETWEEN

[STATE OF OREGON/AGENCY NAME]

Price Agreement Contract Administrator: [Name, Title]

Address: [Street Address]

Phone: [Phone]

Email: [Email]

AND

[CONTRACTOR NAME]

Contract Administrator: [Name, Title]

Address: [Street Address]

Phone: [Phone]

Email: [Email]

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LIST OF EXHIBITS

EXHIBIT A DESCRIPTION OF THE GOODS AND PRICES

EXHIBIT B PURCHASE ORDER FORM

EXHIBIT C INSURANCE REQUIREMENTS

Remember to turn on tracked changes for edits.

Yellow highlighted areas indicate blanks to be filled in or areas to be revised with information specific to your Price Agreement.

[Notes to buyer that identify sections that are options may be modified or provide other instructions. Notes are to be deleted prior to publishing.]

This Price Agreement (“Agreement’) is between the State of Oregon, acting by and through [insert agency name], (“Agency”) and [insert Contractor’s name], a [insert state of incorporation] (“Contractor”).

1. Agreement
   1. PARTIES

The only parties to this Agreement are Agency and Contractor.

* 1. Definitions

[Add or remove definitions specific to the Price Agreement as needed.]

“Agreement” or "Price Agreement" means this agreement between Contractor and Agency under which Contractor agrees to hold prices, terms and conditions firm for a specified period of time for the benefit of Agency.

“Business Day” means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, excluding State of Oregon holidays and business closure days.

“Calendar Day” means contiguous days.

"Contract" means the entire agreement between Contractor and Agency, comprised of a signed Purchase Order and this Price Agreement, including any exhibits and amendments.

"Goods" means the individual items described in Exhibit A.

“Protected Class” means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age.

"Purchase Order" means the ordering instrument between Agency and Contractor substantially in the form attached as Exhibit B.

"Services" means the services, if any, described in Exhibit A to be performed by Contractor under a Contract that are incidental to the purchase of Goods.

"Specifications" means the specific attributes of the Goods to be purchased or Services to be provided, if any, as described in Exhibit A.

"State" means the State of Oregon.

* 1. Term of Agreement

The initial term of this Agreement begins on the date this Agreement has been signed by Agency and Contractor and all required approvals have been obtained (the “Effective Date”) and ends on MM/DD/YYYY unless sooner terminated or extended as provided in this Agreement. Agency has the option to extend this Agreement for X term(s). Agency must send Contractor a written notice exercising its option to extend no later than X Calendar Days before the expiration of the then-current term. The initial term and all extension terms are collectively referred to as the “Term” of this Agreement.

* 1. Termination of Agreement
     1. Parties’ Right to Terminate by Mutual Consent.  This Agreement may be terminated at any time by mutual written consent of Agency and Contractor.
     2. Agency Right to Terminate for Convenience.  Agency may, in its sole discretion, terminate this Agreement, in whole or in part, for any reason upon 30 Calendar Days written notice to Contractor.
     3. Effect of Termination.
        1. Once this Agreement is terminated, Contractor shall not accept new Contracts or Purchase Orders.
        2. Termination of this Agreement does not terminate the rights or obligations of any party to a Contract executed before termination of this Agreement.
        3. Termination of this Agreement terminates Contracts or “blanket” Purchase Orders in which Contractor is not legally required to deliver specific quantities of Goods at specific times.
  2. ORDERING instruments
     1. A Contract created by an ordering instrument consists only of the terms specified or required by this Agreement. Additional, different or conflicting terms and conditions in any Purchase Order(s) or any other ordering instrument of either an Agency or the Contractor shall not vary the terms of this Agreement. Unless otherwise expressly agreed, Contractor’s online ordering terms and conditions will not change the terms and conditions of this Agreement or any Contract.
     2. Subject to the provisions of this Agreement, Contractor shall accept ordering instruments from Agency that comply with the provisions of this Agreement until this Agreement terminates. Contractor may, but is not required to, accept an ordering instrument requesting a delivery schedule less than any minimum lead time, if any, specified in Exhibit A.
     3. An ordering instrument is deemed accepted by Contractor unless Contractor rejects an ordering instrument within \_\_\_ Business Days after it is received. Contractor may reject an ordering instrument: i) using the same means as were used to deliver the ordering instrument, or ii) by e-mail or facsimile if that information is evident on the ordering instrument. Contractor shall specify the reason(s) for rejection.

[Enter the number of days for delivery confirmation.]

* + 1. Accepted ordering instruments establish separate Contracts between Agency and Contractor and include the terms set forth in Sections 2 and 3. As used in the Contracts, “Price Agreement” means this Agreement.
    2. Nothing in this Agreement obligates any Agency to place any ordering instrument.
    3. Contractor shall reject an ordering instrument that does not meet the requirements of this Agreement.
  1. Prices
     1. Except as provided in this Section, during the Term of this Agreement, Contractor shall offer Goods and related Services to Agency at prices that do not exceed the prices listed in Exhibit A.
     2. Contractor and Agency may agree to lower prices for Goods and related Services. Those lower prices apply only to applicable Contract between Contractor and Agency.

[Select appropriate price adjustment clause(s) or enter clause(s) specific to your Price Agreement:]

* + 1. Price Decrease

Agency shall be given the immediate benefit of any price decrease Contractor offers to any other customer. Contractor shall promptly notify Agency of the amount and effective date of each decrease. This decrease applies to orders placed on or after the effective date of the decrease. Invoices must reflect prices in effect on the date Agency’s Purchase Order document was written.

Should such decreased prices again increase during the term of the Price Agreement, including extensions, Agency shall honor the increase if acceptable documentation verifying the increase is submitted to Agency. Agency shall determine what constitutes acceptable documentation.

* + - 1. Contractor shall subtract from prices charged to Agency any unit price decrease that has been achieved or gained by Contractor, whether through the manufacturer or otherwise. Contractor shall give Agency the immediate benefit of the decrease. Contractor shall promptly notify Contract Administrator of the amount and effective date of the decrease.
    1. Price Adjustment

Subject to the following, either party to this Agreement may request a price adjustment, in whole or in part.

* + - 1. Contractor may request price increases from Agency no more often than \_\_\_\_\_\_\_\_, commencing \_\_\_\_\_\_\_\_\_\_. Contractor must submit a request to the Contract Administrator in writing at least 60 Calendar Days before the proposed effective date of the increase. The request must show all proposed increases by line item and include supporting documentation acceptable to Agency. Agency may require Contractor to provide U.S. Bureau of Labor Statistics Producer Price Index or Consumer Price Index data or any other relevant manufacturer or industry data substantiating the increase. However, a price increase may not produce a higher profit margin for Contractor than at the beginning of the initial term of this Agreement. [However the increase may not exceed \_\_\_\_\_\_\_\_% of the price immediately before the increase.]
  1. Insurance

[Refer to the Risk Assessment Toolkit to complete this section <https://www.oregon.gov/das/Risk/Pages/Toolkitra.aspx>]

Contractor shall obtain insurance coverage as specified in Exhibit C and shall maintain the insurance throughout the term of this Agreement and all Contracts.

* 1. Miscellaneous
     1. Choice of Law

The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

* + 1. Designation of Forum and Consent to Jurisdiction

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

* + 1. Amendments

No amendment to this Agreement is valid unless it is in writing and signed by the parties.

* + 1. Transfer

Contractor shall not assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without first obtaining the written consent of Agency.  Agency’s consent to any subcontract (or other delegation of duties) does not relieve Contractor of any of its duties or obligations under this Agreement. This Agreement is binding upon and inures to the benefit of each of the parties, and, except as otherwise provided, their permitted legal successors and assigns.

* + 1. Counterparts

This Agreement may be executed in two or more counterparts, each of which is an original, and all of which together are deemed one and the same instrument, notwithstanding that all parties are not signatories to the same counterpart.

* + 1. Force Majeure

Neither party is responsible for delay or default caused by an event beyond the control of the party whose performance is interfered with, and, which by the exercise of reasonable diligence, the party is unable to prevent. Agency may terminate this Agreement upon written notice after determining such delay or default will reasonably prevent successful performance of this Agreement.

In the event of any such delay, Contractor’s obligations are suspended to the extent of and for the duration of such causes. However, Contractor shall take all good faith efforts to eliminate the cause of any such delay, and upon the cessation of such cause, shall resume performance of Contractor’s obligations with all reasonable diligence. If necessary, the period for performance under this Agreement will be extended to enable Contractor, once such causes have been removed, to fulfill its obligations hereunder.

* + 1. Entire Agreement

This Agreement, together with the attached exhibits, constitutes the entire agreement between the parties and merges all prior and contemporaneous communications with respect to the subject matter.

* + 1. Notices

Except as otherwise expressly provided in this Agreement, any notices sent between the parties under this Agreement are effective only if in writing and addressed to the Contract Administrators at the addresses set forth on the Cover Page. A party may change its Contract Administrator upon written notice to the other party. The following methods of delivery between the parties may be used: Personal delivery, Email or United States Postal Service (“USPS”) with postage prepaid.

For confirmation of delivery to the recipient, sender guidelines are as follows:

When choosing Personal delivery, parties may consider their communication or notice received immediately. When choosing Email, parties may consider their communication received upon reply to email by the recipient. However, if using email, the use of “read receipt” is not a valid form of delivery confirmation. When choosing to use USPS, parties may consider their communication received five (5) Calendar Days after the date of the mailing.

* + 1. Intended Beneficiaries

Agency and Contractor are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or will be construed to give or provide, any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

* + 1. Waiver

The failure of Agency to enforce any provision of this Agreement or the waiver of any violation or nonperformance of this Agreement in one instance does not constitute a waiver by Agency of that or any other provision nor is it a waiver of any subsequent violation or nonperformance. Such failure to enforce or waiver, if made, is effective only in the specific instance and for the specific purpose given.

* + 1. Certification of Compliance with Tax Laws

By signature on this Agreement, Contractor certifies that it has complied with the tax laws of this State and the applicable tax laws of any political subdivision of this State.  Contractor shall, throughout the duration of this Agreement and any Contract and any extensions thereof, comply with all tax laws of this State and all applicable tax laws of any political subdivision of this State.  For the purposes of this Section, “tax laws” includes:  (i) All tax laws of this State, including but not limited to ORS 305.620 and ORS chapters 316, 317, 318 and 319;  (ii) Any tax provisions imposed by a political subdivision of this State that apply to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor;  (iii) Any tax provisions imposed by a political subdivision of this State that apply to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this subsection 1.8.11 constitutes a material breach of this Agreement and any Contract.  Any failure to comply entitles Agency to terminate this Agreement or Contract, as applicable and to pursue and recover any and all damages that arise from the breach and the termination of this Agreement or Contract, and to pursue any or all of the remedies available under this Agreement or Contract, at law, or in equity, including but not limited to:

* Termination of this Agreement or Contract, as applicable, in whole or in part;
* Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State’s or Agency’s setoff right, without penalty; and
* Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief.  Agency or Agency may recover any and all damages suffered as the result of Contractor's breach of this Agreement or Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Goods or Services.
  + 1. Contractor shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled products where possible. This includes paper, “PETE” and other materials as defined in ORS 279A.010 [1][gg], [hh] and [ii].
    2. Contractor shall retain, maintain, and keep accessible all records relevant to this Agreement (the “Records”) for a minimum of six (6) years, or such longer period as may be required by applicable law following expiration or termination of the Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later. Financial Records will be kept in accordance with Generally Accepted Accounting Principles (GAAP). During the record-retention period established in this Section, Contractor shall permit Agency and its duly authorized representatives, and the federal government access to the Records at a reasonable time and place for purposes of examination and copying.
    3. Performance Evaluations

Agency may conduct evaluations of Contractor’s performance during the term of this Agreement. Agency will compile and maintain completed evaluations, which will become a written record of Contractor’s performance. Agency may also maintain as part of that written record information obtained from Contractor during an exit interview following Agreement termination. Agency may provide copies of any documents in the written record to the Contractor and third parties upon request. Agency may use performance evaluations in any way it deems necessary, in its sole discretion, including but not limited to making responsibility determinations and decisions to award contracts.

* + 1. Reporting

This Agreement and Contract(s) of Agency will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing Contractor’s compensation under this Agreement or Contract or (ii) exercising a right of setoff against Contractor’s compensation under this Agreement or Contract for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

1. Standard Terms for Contracts Under This Agreement
   1. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

The Contract consists of the ordering instrument and the provisions in Sections 2 and 3 of this Agreement. In the event of a conflict between the ordering instrument and provisions in Sections 2 and 3, the provisions in Sections 2 and 3 take precedence.

* 1. PAYMENT

Contractor shall look solely to Agency for payment of all amounts that may be due under this Contract. AGENCY IS SOLELY RESPONSIBLE FOR PAYMENT UNDER THIS CONTRACT. Subject to Agency’s acceptance of Goods and related Services, payment is due from Agency within 45 Calendar Days after the date of the invoice.

* 1. OVERDUE CHARGES

At Contractor’s option, it may assess overdue account charges to Agency up to a maximum rate of two-thirds of one percent per month (8% per annum) or the maximum allowed by law.

* 1. PAYMENT ADDRESS

Agency must send payments to the address specified in the Contractor’s invoice.

* 1. INVOICES

Contractor shall invoice Agency only after delivery of all Goods and related Services ordered. Contractor shall send all invoices to the address provided by Agency for that purpose. Contractor shall include all of the following in its invoice:

[Agency specific requirements may be added to this section, as needed.]

* Price Agreement number.
* Ordering instrument number.
* Goods and related Services ordered.
* Date delivered.
* Volume or quantity of Goods delivered and related Services performed.
* The price per item of Goods and related Services.
* The total amount invoiced.
* The address to which payment is to be sent.
  1. PRICES

Contractor represents all prices for Goods and related Services under the Contract are equal to or better than the prices listed in Exhibit A of the Agreement.

* 1. CANCELLATION, INSPECTIONS AND ACCEPTANCE

[The number of days may be adjusted to suit Agency’s needs.]

Agency may cancel an order in whole or in part before Goods and related Services are delivered or performed. Agency has ten (10) Calendar Days from date of delivery of the entire order within which to inspect and accept or reject the Goods and related Services. If the Goods and related Services are rejected, Agency shall provide Contractor with written notice of rejection. Notice of rejection must include itemization of apparent defects, including but not limited to (i) discrepancies between the Goods and related Services and the applicable specifications or warranties (including variance from demonstrations or sample characteristics where demonstrations or samples have been provided), or (ii) otherwise nonconforming Goods (including late delivery) and related Services. Notice of rejection must also specify when cure will be allowed.

* + 1. Agency may elect to have Contractor deliver substitute conforming Goods at no additional cost to Agency. In such an event, Contractor shall deliver substitute conforming Goods within ten (10) Calendar Days of receipt of notice of rejection.
    2. If the Goods and related Services are rejected or acceptance is revoked, Contractor shall refund any Contract payments that have been made with regard to the rejected Goods and related Services, and shall (at Contractor’s sole cost and expense) remove the Goods within ten (10) Calendar Days of receiving notice of rejection or revocation of acceptance.
    3. Nothing contained in Section 2.7 precludes Agency from other remedies to which it may be entitled upon rejection or revocation of acceptance.
  1. REPRESENTATIONS AND WARRANTIES
     1. Officer Status, Insurance

Contractor represents and warrants that it is not an “officer,” “employee,” or “agent” of Agency, as those terms are used in ORS 30.265. Contractor represents and warrants that Contractor has obtained and will maintain during the term of this Contract all insurance required by the Agreement.

* + 1. Debt Owed

Contractor represents and warrants that it has no undisclosed liquidated and delinquent debt owed to the State or any agency, board, commission, department or division of the State.

* + 1. Warranty on Materials, Design, Manufacture

[May either end sentence at manufacture, specify duration, or insert “the duration of the warranty period specified in\_\_\_\_\_\_” and insert in the blank a cross-reference to the document and provision of the document containing the warranty period.]

Contractor represents and warrants that all Goods are new, unused, current production models, and are free from defects in materials, design and manufacture. Contractor further represents and warrants that all Goods are in compliance with and meet or exceed all specifications in Exhibit A to the Price Agreement.

* + 1. Warranty on Service Standards

Contractor warrants that all Services required to be performed, if any, shall be performed in a good and workmanlike manner in accordance with standards prevalent in the industry.

* + 1. Warranty of Title

Contractor represents and warrants that all Goods are free and clear of any liens or encumbrances, that Contractor has full legal title to the Goods, and that no other person or entity has any right, title or interest in the Goods which is superior to or infringes upon the rights granted to Agency under this Contract.

* + 1. Warranty on Safety and Health Requirements

[Insert other relevant regulatory standards such as: United States Department of Agriculture (USDA), Food and Drug Administration (FDA), Federal Aviation Administration (FAA), etc.]

Contractor represents and warrants that Goods provided under this Contract comply with all applicable federal health and safety standards, including but not limited to, Occupational Safety and Health Administration (OSHA), and all Oregon safety and health requirements, including, but not limited to, those of the Oregon Consumer and Business Services Department.

* + 1. Manufacturer Warranties

Contractor shall have all manufacturer warranties covering the Goods and component parts, if any, transferred to Agency at time of delivery at no charge.

* + 1. Software License

To the extent the Goods contain software, Contractor hereby grants to Agency, or shall ensure that Agency receives, a perpetual, irrevocable, non-exclusive, non-transferable, royalty-free license to use the operating system software (and documentation and associated manuals) (the “Software”) for the Goods.

In the event the Goods include third party intellectual property and unless otherwise agreed, Contractor shall ensure that Agency receives a license to use the software sufficient to fulfill the business objectives, requirements and specifications identified in this Agreement. Agency shall have the right to review the proposed license agreement and negotiate terms with the licensor; upon agreement to the terms, Agency will be bound by such license agreement. If Agency and licensor cannot reasonably agree to terms, Agency, in its sole discretion, may return the Goods to Contractor (without incurring any termination liability), and Contractor shall provide a full refund including any shipping and handling charges.

* + 1. Warranties are Cumulative

Contractor’s warranties provided in this Section 2.8 are in addition to and not in lieu of any other warranties provided elsewhere in the Contract. All warranties provided for in this Contract are cumulative, will be deemed consistent and not in conflict, are intended to be given full force and effect and to be interpreted expansively to give the broadest warranty protection to Agency.

* 1. COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS

Contractor shall comply with all federal, state and local laws, regulations, and ordinances applicable to this Contract as they may be adopted or amended from time to time.

* + 1. Noncompliant Goods

In the event of a conflict between the specifications in this Contract and applicable federal or State law, the law prevails over the specifications. Contractor shall make any modifications required to achieve compliance with law. When Contractor is notified or becomes aware of any required modifications, Contractor shall immediately notify Agency.

* + 1. Recalled Goods or Components

In the event any Goods or component parts are recalled by a regulatory body or the manufacturer, or discovered by Contractor not to be in compliance with the applicable specifications or law, Contractor shall immediately notify Agency of the recall or non-compliance, and shall provide copies of the notice or other documentation. Upon notification, Agency may elect to do any of the following:

* Cancel any portion of the ordering instrument.
* Reject the Goods.
* Revoke its acceptance of the Goods.
* Require Contractor to complete necessary modifications, where applicable, in a timely manner, at no charge to Agency.
* Terminate the Contract.

In the event of rejection or revocation of acceptance under this subsection, Contractor shall promptly remove the Goods at its sole cost and expense and reimburse Agency for any payments made.

* 1. FOREIGN CONTRACTOR

If the amount of the Contract exceeds ten thousand dollars ($10,000), and if Contractor is not domiciled in or registered to do business in the State, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract. Agency may withhold final payment under the Contract until Contractor has met this requirement.

* 1. SAFETY DATA SHEET

Contractor shall provide Agency at time of delivery with a Safety Data Sheet (SDS) as defined by the Occupational Safety and Health Administration (OSHA) for any Goods provided under the Agreement which may release or otherwise result in exposure to a hazardous chemical under normal conditions of use. In addition, Contractor must properly label, tag or mark such Goods. Additionally, Contractor shall deliver EPA labels and SDS information if available and as requested by Agency.

* 1. TIME IS OF THE ESSENCE

Time is of the essence for Contractor’s performance obligations under this Contract.

* 1. FORCE MAJEURE

Neither Agency nor Contractor shall be held responsible for delay or default caused by an event which is beyond the party’s reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract. Agency may terminate this Contract upon written notice to Contractor after reasonably determining that such delay or default will likely prevent successful performance of the Contract.

* 1. FUNDS AVAILABLE AND AUTHORIZED

If Agency is an agency of the State of Oregon, payment obligations under this Contract are conditioned upon Agency’s receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Contract. At the time the ordering instrument was issued, Agency had sufficient funds available and authorized to make payments under this Contract.

* 1. Independent Contractor Status; Responsibility for Taxes and Withholding
     1. Contractor is an independent contractor. Although Agency reserves the right (i) to determine (and modify) the delivery schedule for the Goods and related Services and (ii) to evaluate the quality of completed performance, Agency cannot and will not control the means or manner of Contractor’s performance. Contractor is responsible for determining the appropriate means and manner of performing any obligations required by this Contract.
     2. Contractor is responsible for all federal and state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, Agency will not withhold from such compensation or payments any amount(s) to cover Contractor’s federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers’ compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.
  2. INDEMNIFICATION
     1. Contractor shall defend, save, hold harmless, and indemnify Agency, the State and their officers, employees and agents from and against all third party claims, suits, actions, proceedings, losses, damages, statutory penalties, liabilities, awards and costs of every kind and description (including reasonable attorney’s fees and expenses at trial, on appeal and in connection with any petition for review) (collectively, “Claim”) which may be brought or made against any Agency, the State, or their officers, employees or agents, arising out of or related to (i) any personal injury, death or property damage caused by any defect in the Goods or any alleged act, omission, error, fault, mistake or negligence of Contractor, its employees, agents, related to this Contract, (ii) any act or omission by Contractor that constitutes a material breach of this Contract, including without limitation any breach of warranty, or (iii) the infringement of any patent, copyright, trade secret or other proprietary right of any third party by delivery or use of the Goods. Agency or State shall promptly notify Contractor in writing of any claim of which Agency or State becomes aware. Contractor’s obligation under this section shall not extend to any Claim primarily caused by (i) the negligent or willful misconduct of Agency, or (ii) Agency’s modification of Goods without Contractor’s approval and in a manner inconsistent with the purpose and proper usage of such Goods.
     2. The Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of, the State or its officers, employees and agents prior to such action or representation. Further, the State, acting by and through its Department of Justice, may assume its own defense, including its officers, employees and agents, at any time when, in the State’s sole discretion, it determines (i) proposed counsel is prohibited from the particular representation contemplated; (ii) Counsel is not adequately defending or able to defend the interests of the State, its officers, employees or agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State are served thereby. Contractor’s obligation to pay for all costs and expenses shall include those incurred by the State in assuming its own defense and its officers, employees, or agents under (i) and (ii) above.
  3. EVENTS OF DEFAULT
     1. By Contractor

Contractor will be in default of the provisions of a Contract if:

* Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
* Contractor has undisclosed liquidated and delinquent debt owed to the State or any agency, board, commission, department or division of the State; or
* Contractor no longer holds a license or certificate that is required for Contractor to perform Contractor’s obligations under this Contract; or
* Contractor fails to comply with its obligations in Section 2.27, Prompt Payment, and has not cured the non-performance within thirty (30) Calendar Days of Agency’s written notice to cure.
* Contractor violates any provision, covenant, warranty, obligation or certification or fails to perform under this Contract, provided however that Contractor may cure the default within the period specified in Agency’s notice of default when Agency determines the default is curable by Contractor.
  + 1. By Agency

Agency will be in default of a Contract if:

* Agency fails to pay Contractor any amount pursuant to the terms of this Contract, and Agency fails to cure such failure within ten (10) Business Days after delivery of Contractor’s notice or such longer period as Contractor may specify in such notice; or
* Agency violates any provision, covenant, warranty, or obligation or fails to perform under this Contract and such breach is not cured within ten (10) Business Days after delivery of Contractor’s notice of breach or such longer period as Contractor may specify in such notice.
  1. REMEDIES
     1. Agency’s Remedies

If Contractor is in default under Section 2.17.1, in addition to the remedies afforded elsewhere in this Contract, Agency may recover any and all damages suffered as the result of Contractor’s breach, including but not limited to direct, indirect, incidental and consequential damages, as provided in ORS 72.7110 to 72.7170. Agency may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to:

* Stop Work or Suspend delivery of Goods or performance of related Services as provided in Section 2.19.2; or
* Termination of the Contract as provided in Section 2.19.1 or 2.19.2; or
* Withholding all monies due for invoiced Goods that Contractor is obligated but has failed to deliver or perform within any scheduled completion dates or has performed inadequately or defectively; or
* Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief including, but not limited to, temporary suspension of work or permanent work stoppage until such relief has been restored to the satisfaction of the Agency; or
* Undertaking collection by administrative offset, or garnishment if applicable, of all monies due for Good to recover liquidated and delinquent debt owed to the State or any department or agency of the State. Offsets or garnishment may be initiated only after the Contractor has been given: i) written notice of the type and amount of the debt, the intention of the State to use administrative offset or garnishment to collect the debt, and an explanation of the debtor's rights under applicable law; and ii) the opportunity to make a written agreement to repay the debt; or
* Exercise of its right of setoff, and withholding of monies otherwise due and owing in an amount equal to Agency’s setoff without penalty to Agency.
* **Withholding of Amounts Due Subcontractors**. If Contractor does not satisfy its prompt payment obligations to a subcontractor within thirty (30) Calendar Days after receiving written notice from Agency of Contractor’s failure to perform its prompt payment obligations, Agency may withhold, from any amounts otherwise payable and due to Contractor, an amount equal to \_\_\_\_\_ percent of an amount not paid to a subcontractor in accordance with Contractor’s prompt payment obligations, plus interest at \_\_\_% per annum.
  + Agency may pay, from the withheld amounts, amount due to the subcontractor plus interest. An Agency payment under this section is a deduction from Agency’s payment obligation to Contractor under this Contract/Price Agreement, and Contractor will have no claim against Agency for any amounts paid to its subcontractor under this section.

This subsection imposes no obligation on Agency to withhold any sums, or to pay any sums to any subcontractor [, and creates no third-party beneficiary status or right to enforce on the part of any subcontractor].

Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

* + 1. Contractor’s Remedies

If Agency terminates a Contract, or if Agency is in default under Section 2.17.2 and whether or not Contractor elects to exercise its right to terminate this Contract under Section 2.19.3, Contractor’s sole remedy is: (a) A claim against Agency for the unpaid purchase price for Goods delivered and related Services performed and accepted by Agency, (b) with respect to Services compensable on an hourly basis, a claim for unpaid invoices, hours worked but not yet billed and authorized expenses for services completed and accepted by Agency, and (c) with respect to deliverable-based Services, a claim for the sum designated for completing the deliverable multiplied by the percentage of Services completed and accepted by Agency, less previous amounts paid and any claim(s) which Agency has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section, Contractor shall pay any excess to Agency immediately upon written demand.

* 1. TERMINATION AND STOP WORK
     1. By Mutual Agreement

A Contract may be terminated at any time by mutual agreement of Agency and Contractor.

* + 1. Rights of Agency
* Agency may, in its sole discretion, send Contractor a notice to stop work or to suspend delivery of Goods or performance of related Services for a period of up to ninety (90) Calendar Days after the date of the notice, or for any further period to which the parties may agree.

Upon receipt of the notice, Contractor shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the Stop Work Order notice. Within a period of ninety (90) Calendar Days after issuance of the written notice, or within any extension of that period to which the parties have agreed, Agency will either cancel or modify the Stop Work Order by a supplementary written notice and amend the Contract; or terminate the work the Contract.

* Agency may, in its sole discretion, terminate a Contract for convenience upon thirty (30) Calendar Days prior written notice.
* Agency may terminate a Contract immediately upon notice to Contractor, or at such later date as Agency may establish in such notice, upon the occurrence of any of the following events: (a) Agency fails to receive funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its payment obligations under a Contract; (b) federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the purchase of the Goods by Agency under the Agreement is prohibited, or Agency is prohibited from paying for such Goods from the planned funding sources; or (c) Contractor is in default of the Contract under Section 2.17.1 and has failed to cure the default. Upon receipt of written notice of termination, Contractor shall stop performance under the Contract if, and as, directed by Agency.
  + 1. Rights of the Contractor

Contractor may terminate a Contract upon thirty (30) Calendar Days prior written notice to the Agency, if Agency is in default of a Contract as described in Section 2.17.2.

* 1. ACCESS TO RECORDS

Contractor shall retain, maintain, and keep accessible all records relevant to this Contract (the “Records”) for a minimum of six (6) years, or such longer period as may be required by applicable law following expiration or termination of the Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later. Financial Records will be kept in accordance with Generally Accepted Accounting Principles (GAAP). During the record-retention period established in this Section, Contractor shall permit the Agency, their duly authorized representatives, and the federal government access to the Records at a reasonable time and place for purposes of examination and copying.

* 1. NOTICES

Except as otherwise expressly provided in this Contract, any notices sent between Agency and Contractor are effective only if in writing and addressed to the assigned Authorized Representatives of both parties as designated in the Contract. A party may change its Authorized Representative upon written notice to the other party. The following methods of delivery may be used: Personal delivery, Email or United States Postal Service (“USPS”) with postage prepaid. For confirmation of delivery to the recipient, sender guidelines are as follows:

When choosing Personal delivery, parties may consider their communication or notice received immediately. When choosing Email, parties may consider their communication received upon reply to email by the recipient. However, if using email, the use of “read receipt” is not a valid form of delivery confirmation. When parties choose to use USPS, parties may consider their communication received five (5) Calender Days after the date of the mailing.

* 1. ORDERING ACKNOWLEDGEMENTS

The parties acknowledge and agree other than designation of order quantities, types of Goods and related Services, delivery destination, dates of order, and scheduled delivery of other performance, any purchase orders or acknowledgement documents are simply for the convenience of the parties to initiate or confirm an order of Goods and related services under this Contract and no other terms or conditions contained in those documents are of any force, effect or are binding upon the parties.

* 1. GOVERNING LAW

This Contract is governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws.

* 1. VENUE; CONSENT TO JURISDICTION

Any Claims between Agency and Contractor arising from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim 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 and waives any objection to venue in such courts, and waives any claim that such forum is an inconvenient forum. Nothing herein shall be construed as a waiver of the State’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 consent to jurisdiction based thereon.

* 1. SURVIVAL

The following provisions survive termination or expiration of this Contract: Sections 2.8, 2.9.1, 2.9.2, 2.20, 2.23, 2.24, 2.26, 2.27; “TAIL COVERAGE” as defined in Exhibit C, and Insurance.

* 1. SEVERABILITY

If any provision of this Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

* 1. ASSIGNMENTS, SUBCONTRACTS, AND SUCCESSORS

Contractor shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Agency. Further, no such written approval shall relieve Contractor of any obligations under the Contract, and any assignee, transferee, or delegate shall be considered the agent of Contractor. The provisions of this Contract are binding upon, and shall inure to the benefit of the parties and their respective successors and permitted assigns.

* + 1. Prompt Payments to Subcontractors

Contractor shall make prompt payments to its subcontractors supplying the Goods or Services identified for delivery under this Agreement

* + - 1. “Prompt payment(s)” are Contractor’s payment(s) to its subcontractor(s) for satisfactory performance or delivery that are issued by Contractor within fifteen (15) Calendar Days of Contractor’s receipt of the related payment from Agency, unless a different payment schedule is otherwise agreed upon in the applicable subcontractor agreement, in which case the payment schedule in the applicable subcontractor agreement establishes “prompt payment(s).”
      2. Prompt payment includes Contractor’s receipt of an acceptable invoice from the subcontractor.
      3. Contractor’s prompt payment obligations do not extend to amounts that are subject to a good faith dispute between Contractor and the subcontractor.
      4. Contractor’s invoices to Agency must include a written certification that Contractor is in compliance with its prompt payment obligations under this Contract.
      5. Contractor shall include, in each subcontract for the Services delivered under this Agreement, provisions that require the subcontractor to comply with the prompt payment obligations of this Agreement with respect to its contractors supplying the Services identified for delivery under this Contract.
      6. If Contractor fails to meet its prompt payment obligations under this section, Agency may suspend its performance without being in default under this Contract on written notice to Contractor, may issue a Stop Work Order under Section 2.19.2, or both.
  1. MERGER CLAUSE; AMENDMENT; WAIVER

This Contract constitutes the entire agreement between Contractor and Agency on the subject matter of this Contract. There are no understandings, agreements, or representations, oral or written, not specified in this Contract on the subject matter. No amendment of this Contract is valid unless it is in writing and signed by the parties. No waiver or consent is effective unless in writing and signed by the party against whom it is asserted. Waivers and consents are effective only in the specific instance and for the specific purpose given. The failure of Agency to enforce any provision his Contract is not a waiver by Agency of that or any other provision

* 1. ASSIGNMENT OF ANTITRUST RIGHTS

Contractor irrevocably assigns to the State Of Oregon any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of 15 U.S.C. § 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Contract, including, at the State's option, the right to control any such litigation on such claim or relief or cause of action. Contractor shall require any subcontractors hired to perform any of Contractor's duties under this Agreement to irrevocably assign to the State of Oregon, as third party beneficiary, any right, title or interest that has accrued or which may accrue in the future by reason of any violation of 15 U.S.C. § 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the subcontractor for the purpose of carrying out the subcontractor's obligations to the Contractor in pursuance of this Agreement, including, at the State's option, the right to control any such litigation on such claim or relief or cause of action.

* 1. OREGON FALSE CLAIMS

Contractor acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Contractor pertaining to this Contract, including the procurement process relating to this Contract, which constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Contract, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Contract. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Contractor. Contractor understands and agrees that any remedy that may be available under the Oregon False Claims Act is in addition to any other remedy available to the State or Agency under this Contract or any other provision of law. irrevocably assigns to the State Of Oregon any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of 15 U.S.C. § 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Contract, including, at the State's option, the right to control any such litigation on such claim or relief or cause of action. Contractor shall require any subcontractors hired to perform any of Contractor's duties under this Agreement to irrevocably assign to the State of Oregon, as third party beneficiary, any right, title or interest that has accrued or which may accrue in the future by reason of any violation of 15 U.S.C. § 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the subcontractor for the purpose of carrying out the subcontractor's obligations to the Contractor in pursuance of this Agreement, including, at the State's option, the right to control any such litigation on such claim or relief or cause of action.

1. Special Terms for Contracts Under This Agreement

Contractor shall include with all Goods delivered and related services performed all of the following items:

[Insert all other Special Contract Terms and Conditions, if any.]

1. Signature of Contractor’s Duly Authorized  
   Representative

The undersigned represents

1. Signee is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Agreement and to execute this Agreement on behalf of Contractor;
2. Contractor is bound by and will comply with all requirements, specifications, and terms contained in this Agreement;
3. Contractor will furnish the Goods and related Services in accordance with Contracts under this Agreement;
4. Contractor shall furnish federal identification number or social security number under a separate document.;
5. Contractor has no undisclosed liquidated and delinquent debt owed to the State or any agency, board, commission, department or division of the State;
6. Contractor has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 or against a business enterprise that is owned or controlled by or that employs a disabled veteran as defined in ORS 408.225 in obtaining any required subcontracts, and that Contractor is not in violation of any nondiscrimination laws;
7. Contractor has a written policy and practice that meets the requirements, described in ORS 279A.112, of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material term of the Agreement, to maintain the policy and practice in force during the entire Agreement term; and
8. Contractor complies with ORS 652.220 and does not unlawfully discriminate against any of Contractor’s employees in the payment of wages or other compensation for work of comparable character on the basis of an employee’s membership in a Protected Class. Contractor’s continuing compliance constitutes a material element of this Agreement and a failure to comply constitutes a default entitling Agency to terminate this Agreement for cause. Contractor may not prohibit any of Contractor’s employees from discussing the employee’s rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee’s rate of wage, salary, benefits, or other compensation with another employee or another person.

Agreed:

Contractor’s Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name of Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title of Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Administrative Contact (also referred to as Contract Administrator – Type or Print):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone Number of Administrative Contact: (\_\_\_\_\_\_) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax Number of Administrative Contact: (\_\_\_\_\_\_\_) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email Address of Administrative Contact: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mailing Address of Administrative Contact:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Signature of Agency

[Add additional signature lines as necessary]

Agreed:

Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Agency Contract Administrator (Type or Print):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone Number: (\_\_\_\_\_\_) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax Number: (\_\_\_\_\_\_) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Approval by the Department of Justice pursuant to ORS 291.047:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Assistant Attorney General

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Include description of goods, prices and lead times, if applicable]

[If separate parts are desired, Buyers may attach Exhibit A-1, A-2 etc.]

The pricing for this Agreement is in U.S. funds.

**SPECIFICATIONS**

**1: SPECIFICATIONS**

These specifications describe a insert type.

[Insert all specifications for all line items.]

[The specifications section is primarily used to specify the attributes of goods, such as weight, size, capacity, style, ingredients/composition, brand, if applicable, etc. Performance specifications indicate the performance capabilities of the goods, such as “capable of sorting 1,000/minute,” “shreds 200 sheets/minute, etc. At times specifications may apply to services, such as specifications for storage boxes/shipping containers used in conjunction with storage or shipping services, etc.]

[All provisions (other than pricing) that require a response (such as delivery dates, delivery charges, etc., should be included in this section. However, if the provision relates to Contractor obligations (as opposed to item attributes), the provision should be included in the “Terms and Conditions” sections, not the “Specifications” section. This means that Contractor obligations with regard to ordering and delivery issues, shortages, invoicing and payment terms, etc., should never be placed in the “Specifications” section.]

**2:** SILENCE OF SPECIFICATIONS

The apparent silence of the specifications as to any detail, or the apparent omission of a detailed description concerning any point, shall be interpreted as requiring that Contractor shall perform to only the best commercial practice and that Contractor shall supply and incorporate into Goods only materials and workmanship of first quality. However, if any omitted specification results in ambiguity as to material characteristics of the Goods, and inclusion is necessary to enable a reasonable person in the particular industry to properly identify such characteristics, and Contractor failed to seek a formal request for solicitation change during the solicitation process for the Agreement, then Contractor shall be required to provide Goods meeting Agency’s needs with regard to any omitted specification.

**3:** ADHERENCE TO THE SPECIFICATIONS

Deviations from specifications discovered after purchase shall be corrected by Contractor at no cost to Agency.

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | | **STATE OF OREGON** | | | | | | | | | PURCHASE ORDER (PO) NO. | PAGE # | | | | |
| Authorized Purchaser’s Authorized Representative | | | | Purchase Order Date | | | | Requisition No. | | | | | | | | |
| Contractor Name and Address | | | | | Authorized Purchaser’s Invoicing Address | | | | | | | | | | | |
| Contractor FEIN | | | Price Agreement number | | Authorized Purchaser’s Authorized Representative  Email Address | | | | | | | | | | | |
| Deliver to Address | | | | | Authorized Purchaser’s Authorized Representative  Phone and Fax Number | | | | | | | | | | | |
|  | | | | | Delivery Schedule or Delivery Date | | | | | | | | | | | |
| Item | Description | | | | Quantity | U/M | | | Unit Price | | | | Net Price | | |
|  |  | | | |  | |  | | |  | | | |  | | |
|  | | | | | | | | | | Sub Total | | | |  | | |
| Freight | | | |  | | |
| Total | | | |  | | |
| This Purchase Order, in addition to any exhibits or addenda attached, is placed against State of Oregon  Price Agreement \_\_\_\_\_\_\_\_\_\_. The terms and conditions contained in the Price Agreement apply to this purchase and take precedence over all other conflicting terms and conditions, express or implied. There are no understandings, agreements or representations, oral or written, not specified herein. | | | | | | | | | | | | | | | | |
| Agency’s Authorized Representative to Make Purchase | | | | | | | | | | Date | | | | | |  | | --- | |  | | |

[To complete a risk assessment and access the insurance requirement templates,   
go to the DAS Risk website at: <http://www.oregon.gov/das/Risk/Pages/CntrctrInsReq.aspx>]