

UNIVERSITY OF MISSOURI GENERAL TERMS AND CONDITIONS

Except as otherwise specifically provided herein:

- “University” shall refer to The Curators of the University of Missouri.
- “Respondent” refers to the person or entity that is responding to this Solicitation.
- “Supplier” shall mean the successful Respondent(s) awarded a Contract as a result of this Solicitation.
- “Solicitation” shall mean the Request for Quotation, Request for Qualification, Request for Bids, Request for Proposal, or other competitive procurement process for which Respondent is submitting a response.
- “Contract” shall mean the contract awarded pursuant to this Solicitation.

1. **Governing Laws and Regulations:** Any Contract issued as a result of this Solicitation shall be governed by the laws of the State of Missouri without giving effect to the conflict of laws principles. Any action to enforce the provisions of a Contract issued as a result of this Solicitation shall be brought in a court of competent jurisdiction and proper venue in the State of Missouri. Additionally, the Supplier shall comply with all local, state, and federal laws, ordinances and regulations related to the performance of the Contract to the extent that the same may be applicable.
2. **Taxes:** The Supplier shall assume and pay all taxes and contributions including, but not limited to, State, Federal and Municipal which are payable by virtue of the furnishing and delivery of item(s) specified herein. Materials and services furnished the University are not subject to either Federal Excise Taxes or Missouri Sales Tax.
3. **Sovereign Immunity:** The Curators of the University of Missouri, due to its status as a state entity and its entitlement to sovereign immunity, is unable to accept contract provisions, which require The Curators to indemnify another party (537.600, RSMo). Neither the issuance of this Solicitation, resulting Contract nor any other conduct, action or inaction of any University representative relating to the Solicitation and any resulting Contract is a waiver of sovereign immunity by the University. Any indemnity language in proposed terms and conditions will be modified to conform to language acceptable to the University.
4. **Preference for Missouri Firms:** In accordance with University policy, preference shall be given to Missouri products, materials, services, and firms when the goods or services to be provided are equally or better suited for the intended purpose. In assessing overall value, consideration will be given to the extent to which proximity or Missouri preference of the Respondent provides potential advantages or reduction of risks. Firms are considered "Missouri firms" if they maintain a regular place of business in the State of Missouri.
5. **Appropriation:** The Curators of the University of Missouri is a public corporation and, as such, cannot create indebtedness in any one year (the fiscal year beginning July 1 to June 30) above what they can pay out of the annual income of said year as set forth in 172.250, RSMo. Therefore, if the University determines it has not received adequate appropriations, budget allocations or income to enable it to meet the terms of the awarded Contract, the University reserves the right to cancel the Contract with 30 days' notice.
6. **Non-Discrimination:** In connection with the furnishing of equipment, supplies, and/or services under the Contract, the Supplier and all subcontractors shall not discriminate against any recipients of services, or employees or applicants for employment on the basis of race, color, national origin, ancestry, religion, sex, pregnancy, age, disability, protected veteran status, or any other status protected by applicable state or federal law, and federal funds, if any, may not be used for programs that discriminate based on any such protected status.

The University serves from time to time as a contractor for and/or receives grant funding from the United States government and/or State of Missouri. Accordingly, the Supplier shall comply with all applicable state and federal laws, rules, regulations, and executive orders applicable to subcontractors of government contractors or to contractors of grant recipients, including those relating to non-discrimination, as each may be amended from time to time. Contract

clauses required by the United States government or State of Missouri in such circumstances are incorporated herein by reference.

7. **OSHA requirements:** All items or services to be furnished hereunder shall meet all applicable State and Federal requirements of the Occupational Safety and Health Standard. All alleged violations and deviations from said State and Federal regulations or standards of the items of services to be furnished hereunder, must be set forth at the time of submission of the response. Or if at any later date the items or services contained herein shall not meet all applicable state and federal requirements after the Supplier is awarded the Contract hereunder, the Supplier must notify UM Procurement immediately in writing.
8. **Anti-Discrimination Against Israel Act:** If the Contract resulting from this Solicitation involves the acquisition or disposal of services, supplies, information technology, or construction and has a total potential value of \$100,000 or more, and if Supplier is a company with ten (10) or more employees, then Supplier certifies that it, and any company affiliated with it, does not boycott Israel and will not boycott Israel during the term of the Contract. In this paragraph, the terms “company” and “boycott Israel” shall have the meanings described in Section 34.600 of the Missouri Revised Statutes.
9. **Applicable Digital Accessibility Laws and Regulations:** The University affords equal opportunity to individuals with disabilities in its employment, services, programs and activities in accordance with federal and state laws, including [28 C.F.R. Pt. 35](#), Section 508 of the Rehabilitation Act, and RSMo. 161.935. This includes effective communication and access to electronic and information communication technology resources, and the University expects that all products will, to the greatest extent possible, provide equivalent ease of use for individuals with disabilities as for non-disabled individuals. The University of Missouri has adopted the Web Content Accessibility Guidelines (WCAG) 2.2 A and AA as the minimum standard.

Supplier shall: (1) deliver all applicable services and products in reasonable compliance with University standards (Web Content Accessibility Guidelines 2.2, Level A and AA or above); (2) provide the University with an Accessibility Conformance Report detailing the product’s current accessibility according to WCAG standards using the latest version of the Voluntary Product Accessibility Template (VPAT); (3) if accessibility issues exist, provide a “roadmap” plan for remedying those deficiencies on a reasonable timeline to be approved by the University; (4) within 15 days of notice respond to assist the University with resolving any accessibility complaints and requests for accommodation from users with disabilities resulting from Supplier’s failure to meet WCAG 2.2 A and AA guidelines at no cost to the University; and (5) indemnify and hold the University harmless in the event of any claims arising from inaccessibility. If supplier does not currently comply with WCAG 2.2 A and AA, they must provide confirmation that they have a roadmap in place to comply.

When installation, configuration, integration, updates, or maintenance are provided, the Supplier must ensure these processes are completed in a way that does not reduce the original level of WCAG conformance. If at any point after procurement it is determined that accessibility improvements need to be made in order to comply with the WCAG 2.2 A and AA standards, the Supplier agrees to work with the University to remedy the non-compliance by submitting a roadmap detailing a plan for improvement on a reasonable timeline; provided, however, that any such improvements shall be implemented within 15 days of notice. Resolution of reported accessibility issue(s) that may arise should be addressed as high priority, and failure to make satisfactory progress towards compliance with WCAG, as agreed to in the roadmap, shall constitute a breach of contract and be grounds for termination or non-renewal of the agreement. The foregoing requirements are subject to the discretion of the University of Missouri System Director of Accessibility and ADA Coordinator.

10. **Applicable Health Related Laws and Regulations:** If these specifications or any resulting Contract involves health care services or products, then the following provisions apply: (i) Supplier agrees to maintain and will further assure such compliance by its employees or subcontractors, the confidential nature of all information which may come to Supplier with regard to patients of the University. All services provided pursuant to this Contract shall be provided

in accordance with all applicable federal and state laws including The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, sections 261-264 (the Administrative Simplification sections) and any other regulatory agency; (ii) Supplier represents that it is not excluded from participating in federal health care programs including Medicare and Medicaid, and is not debarred or suspended or listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs; Supplier will notify University if it becomes excluded, debarred, or suspended during the term of the resulting Contract, Supplier will correct any breach of warranty at Supplier's sole expense. University does not waive any warranty by acceptance of goods, services or payment, and reserves all rights and remedies; and (iii) If the Supplier should be deemed a subcontractor of the University subject to the disclosure requirements of 42 U.S.C. § 1395x(v)(1), Supplier shall, until the expiration of four years after the furnishing of services pursuant to the resulting Contract, make available upon request to the Secretary, U.S. Department of Health and Human Services, and the U. S. Comptroller General, or any of their duly authorized representatives, a copy of the resulting Contract and the books, documents and records of services that are necessary to certify the nature and extent of the costs incurred under this resulting Contract by Supplier. If services or any duties of the resulting Contract are through a subcontractor with a value or cost of \$10,000 or more over a 12-month period with a third party, such subcontract shall contain a clause to the effect that should the third party be deemed a related organization, until the expiration of four years after the furnishing of services pursuant to such subcontract, the third party shall make available upon request to the Secretary, U.S. Department of Health and Human Services, and the U. S. Comptroller General, or any of their duly authorized representatives, a copy of the subcontract and the books, documents and records of such third party that are necessary to verify the nature and extent of the costs incurred under this resulting Contract by Supplier. No attorney-client, accountant-client or other legal privilege will be deemed to have been waived by either Party as a result of this resulting Contract; (iv) In relation to and for purposes of compliance with the "Stark" law, 42 U.S.C. § 1395nn, Supplier represents and warrants that: (i) it is not a physician owned distributor or "POD", (ii) it is not owned by one or more providers or physicians (as defined by the Stark law), and (iii) there are no physicians or providers with investment interests in the Supplier, in the case of (ii) and (iii) where any such ownership or investment interest would cause this arrangement to create a financial relationship between a "DHS entity" and a physician (hereinafter a "Stark Entity"). In the event the above representation and warranty changes so that it is inaccurate, Supplier will provide University with prompt written notice and the parties will negotiate any amendments to this Agreement necessary to ensure compliance with the Stark law.

11. **Excluded Individuals/Entities:** The University will regularly check the "List of Excluded Individuals/Entities" (LEIE), maintained by the Office of Inspector General, United States Department of Health and Human Services ("OIG") to determine if any Respondents have been excluded from participation in federal health care programs, as that term is defined in 42 U.S.C. §1320a-7b(f). The University reserves the sole right to reject any Respondents who are excluded by the OIG, who have been debarred by the federal government, or who have otherwise committed any act that could furnish a basis for such exclusion or debarment.
12. **Compliance with CDC Guidelines (if applicable):** Supplier will monitor and comply with CDC and other federal, state, and local guidance related to any pandemic or global health concern; modifications to University operating procedures; and directives of University relating to protection of the health and safety of the University community.
13. **Inventions, Patents, and Copyrights:** The Supplier shall pay for all royalties, license fees, patent or invention rights, or copyrights and defend all suits or claims for infringements of any patent or invention right or copyrights involved in the items furnished hereunder. The Supplier shall indemnify, defend, protect, and hold harmless the University its officers, agents, servants, and employees against all suits of law or in equity resulting from patent and or copyright infringement concerning the Supplier's performance or products produced under the terms of the Contract.

Copyrights for any item developed for the University shall be the property of the University and inure to its benefit and the Supplier shall execute such documents as the University may require for the perfection thereof.

14. **Gifts:** Any Respondent to this Solicitation or Supplier shall refrain from offering any offers of gifts to the University, and all University of Missouri employees, in accordance with University of Missouri Policy #26301, Suppliers.
15. **Third Party Software:** If the resulting Contract contemplates or requires the use of third-party software, Supplier represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of the resulting Contract or that it has authority to modify such third-party software's terms and conditions to be subordinate to the resulting Contract. Supplier shall indemnify and defend University against all claims resulting from an assertion that any such third-party terms and conditions are not in accord with, or subordinate to, the resulting Contract.
16. **University Premises:** If this resulting Contract requires Supplier's presence on University's premises or in University's facilities, Supplier will cause its employees, representatives, agents, and subcontractors to become aware of, fully informed about, and in full compliance with all applicable University rules and policies, including but not limited to those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.
17. **Use of University Marks:** Supplier shall not use the name or indicia of the University, nor of any of University's employees, in any manner of publicity, advertising, or news releases without prior written approval of the University.
18. **Debarment and Suspension Certification:** The Supplier certifies to the best of its knowledge and belief that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency in accordance with Executive Order 12549 (2/18/86).
19. **Cooperative Purchasing:** The intended coverage of this Solicitation, and any Agreement resulting from this Solicitation, shall be for the use by all faculty, staff, students, departments, locations, and affiliates of the University of Missouri, including MU Health Care.

The University of Missouri System seeks to make the terms and prices of this Contract available to other higher education institutions and public entities. Extension of the terms and prices to any or all other higher education institutions and public entities is at the discretion of Supplier and shall not be considered in the award of this Contract. The contractor shall further understand and agree that participation by other higher education institutions and public entities is discretionary on the part of these institutions, and the University of Missouri System bears no financial responsibility for any payments due the contractor by such entities, nor will the University be responsible for contract administration for other institutions.

20. **Contract Assignment:** The Contract to be awarded and any amount to be paid thereunder shall not be transferred, sublet, or assigned without the prior approval of the University.
21. **Contract Termination for Cause:** In the event the Supplier violates any provisions of the resulting Contract, the University may serve written notice upon Supplier and Surety setting forth the violations and demanding compliance with the Contract. Unless within ten (10) days after serving such notice, such violations shall cease and satisfactory arrangements for correction be made, the University may terminate the Contract by serving written notice upon the Supplier; but the liability of Supplier and Surety for such violation; and for any and all damages resulting there from, as well as from such termination, shall not be affected by any such termination.
22. **Contract Termination for Convenience:** The University reserves the right, in its best interest as determined by the University, to cancel the resulting Contract by giving written notice to the Supplier thirty (30) days prior to the effective date of such cancellation.
23. **Force Majeure:** University shall not be responsible for any failure to perform or delay in performing any of its obligations under this Agreement where and to the extent that such failure or delay results from causes outside the

reasonable control of University. Such causes shall include, without limitation, war (whether declared or not), armed conflict or the serious threat of the same (including but not limited to hostile attack, blockade, military embargo), hostilities, invasion, act of a foreign enemy, extensive military mobilization; civil war, riot, rebellion, revolution, military or usurped power, insurrection, civil commotion or disorder, mob violence, act of civil disobedience; act of terrorism, sabotage or piracy; plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions; act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulation or direction, curfew restriction, expropriation, compulsory acquisition, seizure of works, requisition, nationalization; act of God or natural disaster such as but not limited to violent storm, cyclone, typhoon, hurricane, tornado, blizzard, earthquake, volcanic activity, landslide, tidal wave, tsunami, flood, damage or destruction by lightning, drought; explosion, fire, destruction of machines, equipment, factories and of any kind of installation, prolonged break-down of transport, telecommunication or electric current; general labor disturbance such as but not limited to boycott, strike and lock-out, go-slow, occupation of factories and premises; shortage or inability to obtain critical material or supplies, and the like.

24. **Warranty and Acceptance:** The Supplier expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished or adopted by the University, (2) be fit and sufficient for the purpose expressed in the Solicitation, (3) be merchantable, (4) be of good materials and workmanship, (5) be free from defect. Such warranty shall survive delivery and shall not be deemed waived either by reason of the University's acceptance of or payment for such equipment, supplies, and/or services.

No equipment, supplies, and/or services received by the University pursuant to a Contract shall be deemed accepted until the University has had a reasonable opportunity to inspect said equipment, supplies and/or services. All equipment, supplies, and/or services which do not comply with specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Supplier upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

The bidder hereby guarantees that no article listed herein is adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act or an article which may not, under the provisions of Federal Law, be introduced into interstate commerce.

25. **Accounting Practices:** The Supplier shall maintain, during the term of the Contract, all books of account, reports, and records in accordance with generally accepted accounting practices and standard for records directly related to this Contract. The Supplier agrees to make available to the University, during normal business hours, all book of account, reports and records relating to this Contract for the duration of the Contract and retain them for a minimum period of one (1) year beyond the last day of the Contract term. In the event time and materials are a portion of this bid, the University reserves the right to audit supplier's records concerning this bid.
26. **Personal Information:** If Respondent provides any "personal information" as defined in §105.1500, RSMo concerning an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code of 1986, as amended, Respondent understands and agrees that it is voluntarily choosing to seek a contract with an entity of the State of Missouri and providing such information for that purpose. University will treat such personal information in accordance with §105.1500, RSMo.