

Cincinnati and Hamilton County Public Library

Standard Contract Terms and Conditions

Contract Components, Entirety, Changes Interpretation

Contract Components: This contract consists of this document, the Standard Contract Terms and Conditions, the Special Contract Terms and Conditions (if any), the specifications or scope of work (SOW), and any written amendments to this document, valid Cincinnati and Hamilton County Public Library (CHPL) purchase orders or other ordering documents (together referred to as the "Contract").

Entire Agreement; Parties to the Contract: This contract is the entire agreement between the individual or entity selected to provide equipment, supplies, and/or services on the basis of an SOW submitted to CHPL in response to a request (referred to as the Contractor in these Terms and Conditions) and Cincinnati and Hamilton County Public Library (CHPL).

Contract Changes: Waivers, Changes, or Modifications to this Contract must be made in writing and signed by both parties. If a party to this Contract does not demand strict performance of any item of this Contract, the party has not waived or relinquished any of its rights; the party may at any later time demand strict and complete performance of the term.

Contract Orders: CHPL will order supplies or services under this Contract from the Contractor directly. The Contractor may receive purchase orders by telephone, facsimile, electronically or in person by authorized employees of CHPL. The Contractor is not required to fill an order date more than 30 days beyond the date of Contract expiration, termination, or cancellation unless the Contract provides for a quarterly delivery or quarterly service. Under a Contract that provides for quarterly delivery, the Contractor is not required to fill an order with a delivery date of more than 90 days beyond the date of Contract expiration, termination or cancellation.

Standard Invoice and Payment

Invoice: The Contractor shall submit invoices to accountspayable@chp.org. The invoice must be a proper invoice to receive consideration for payment. A "proper Invoice" is defined as being free of defects, discrepancies, errors, or other improprieties. Improper invoices will be returned to the Contractor noting the areas of discrepancy.

Payment: In consideration of the Contractor's performance, CHPL will pay the Contractor at the rate specified in the contract. *Payments will be made by check.* For all transactions, the Contractor must have a valid W9 form on file with the CHPL Fiscal Office. The completed form should be mailed to Fiscal Office, Cincinnati and Hamilton County Public Library, 800 Vine Street, Cincinnati, Ohio 45202.

Payment Due Date: CHPL will pay invoices 30 days after it has received an invoice for supplies and services it has received and accepted unless otherwise indicated herein.

Taxes: Cincinnati and Hamilton County Public Library is exempt from all federal, state, and local taxes. CHPL is a political subdivision of the State of Ohio and is IRS 501(c)(3) exempt.

Term of Contract: This contract is effective upon the projected beginning date of the Contract Cover Page or upon signature of CHPL by the Fiscal Officer, whichever comes later in time. This Contract will remain in effect until the Contract is fully performed by both parties or cancelled in accordance with the Terms found herein.

Contract Renewal: This contract may be renewed solely at the discretion of CHPL for a period of one month. Any further renewals will be by agreement of both parties, any number of times for any period of time. The cumulative time of all renewals may not exceed two years.

Contract Cancellation; Termination; Remedies

Contract Cancellation: If a Contractor fails to perform any one of its obligations under this Contract, it will be in default, and CHPL may cancel this Contract in accordance with this section. The cancellation will be effective on the date delineated by CHPL.

- A. **Contract Performance is Substantially Endangered:** If the Contractor's default is substantial and cannot be cured within a reasonable time, or if CHPL determines that the performance of the contract is substantially endangered through no fault of CHPL, CHPL may cancel this Contract by written notice to the Contractor.
- B. **Cancellation by Unremedied Default:** If a Contractor's default may be cured with a reasonable time, CHPL will provide written notice to the Contractor specifying the default and the time within which the Contractor must correct the default. If Contractor fails to cure its default in the time required, CHPL may cancel this Contract by providing written notice to the Contractor. If CHPL does not give timely notice of default to Contractor, CHPL has not waived any of its rights or remedies concerning the default.
- C. **Cancellation by Persistent Default:** CHPL may cancel this Contract by written notice to Contractor for defaults that are cured but persistent. "Persistent" means three or more defaults. After CHPL has notified Contractor of its third default, CHPL may cancel this Contract without providing Contractor with an opportunity to cure, if the Contractor defaults a fourth time. CHPL shall provide written notice of the termination to the Contractor.
- D. **Cancellation for Financial Instability:** CHPL may cancel this Contract by written notice if Contractor does not pay its subcontractors and material suppliers within 10 days of payment to the Contractor by CHPL. To the extent permitted by law, CHPL may cancel this Contract by written notice to Contractor if a petition in bankruptcy or similar proceedings has been filed by or against the Contractor.

Contract Termination: CHPL may terminate this Contract for convenience after issuing 30 days written notice to the Contractor.

Remedies for Default:

- A. **Actual Damages.** The Contractor is liable to CHPL for all actual and direct damages caused by the Contractor's default. CHPL may buy substitute supplies or services, from a third party, for those that were to be provided by the Contractor, and CHPL may recover the costs associated with acquiring substitute supplies or service, less any expenses or costs saved by the Contractor's default, from the Contractor.

B. Deduction of Damages for Contract Price. CHPL may deduct all or any part of the damages resulting from Contractor's default from any part of the price still due on the Contract, after CHPL has provided prior written notice to Contractor of such default and intent to deduct damages from the Contract Price.

Force Majeure: If CHPL or Contractor is unable to perform any part of its obligation under this Contract by reason of force majeure, the party is excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Contract. The term "force majeure" means without limitation: Acts of God, such as epidemics, lightning, earthquakes, fires, storms, hurricanes, tornadoes, floods, washouts, droughts, and any other severe weather; explosions; arrests; restraint of government and people; strikes; and any other like events or any other cause that could not be reasonable foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

CHPL Consent to Assign or Delegate: The Contractor may not assign any of its rights under this contract unless CHPL consents to the assignment or delegation in writing. Any purported assignment or delegation made without CHPL's written consent is void.

Indemnification: Contractor will indemnify CHPL, its employees, members of the Board of Trustees, and its Officers and administrators for any and all claims, damages, lawsuits, costs, judgments, expenses, liabilities that may arise out of, or are related to, the Contractor's performance under this Contract, including the performance by Contractor's employees and agents and any individual or entity for which the Contractor is responsible.

Publicity: Contractor and any of its subcontractors may not use or refer to this Contract to promote or solicit Contractor's or subcontractor's supplies or services. Contractor and its subcontractors may not disseminate information regarding this Contract, unless agreed to in writing by CHPL.

Governing Laws; Severability: The Laws of the State of Ohio govern this Contract, and venue for any dispute will be exclusively with the appropriate court of competent jurisdiction in Hamilton County, Ohio. If any provision of the Contract or the application of any provision is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of the Contract will remain in full force and effect to the extent that the remaining provisions continue to make sense.

Workers Compensation: The Contractor shall carry Workers' Compensation Liability Insurance as required by Ohio law for any work to be performed within the State of Ohio. Failure to maintain Workers Compensation Liability Insurance for the duration of the contract and any renewal hereto will be considered a default.

Automobile and General Liability Requirements: During the term of the Contract and any renewal hereto, the Contractor, and any agent of the Contractor, at its sole cost and expense, shall maintain a policy of automobile liability and commercial general liability insurance as described in this clause. Copies of the respective insurance certificates shall be filed with the Fiscal Office within seven (7) calendar days after notification by the CHPL of its selection of the Contractor to provide the specified supplies and/or services. Failure to

submit the insurance certificates within the time period may result in the Contractor being considered in default. Said certificates are subject to the approval of the CHPL Fiscal Office and shall contain a clause or endorsement providing thirty (30) days prior written notice of cancellation, non-renewal or decrease in coverage will be given to the Procurement Manager. Failure of the Contractor to maintain this coverage for the duration of the Contract, and any renewals, thereto may be considered a default.

Automobile Liability: Automobile Insurance is required for anyone coming onto CHPL branches and/or property to deliver goods or perform services using a vehicle, which is owned, leased, hired, or rented by the Contractor. Any Contractor, broker, or subcontractor who will be on CHPL property, but not delivering goods or performing services, is required to carry Automobile Liability Insurance that complies with the state and federal laws regarding financial responsibility. Automobile liability insurance, including hired, owned, and non-owned vehicles used in connection with the Work, shall have a combined single limit coverage covering personal injury, bodily injury (including death) and property damage of not less than \$1,000,000 per accident.

Commercial General Liability: The contractor is required to carry insurance coverage with a \$2,000,000 annual aggregate and \$1,000,000 per occurrence limit for bodily injury, personal injury, wrongful death and property damage. The defense cost shall be outside of the policy limits. Such policy shall designate CHPL as an Additional Insured, as its interest may appear. The policy shall also be endorsed to include a blanket waiver of subrogation that shall be provided to CHPL. The certificate shall be endorsed to reflect a per project/per location General Aggregate limit of \$2,000,000. If the Contractor uses an umbrella/excess policy to meet the required limits, it is understood that the policy shall follow from per project/per location basis. It is agreed upon that the Contractor's commercial general liability insurance shall be primary over any other coverage. The Procurement Department reserves the right to approve all policy deductibles and levels of self-insurance retention

Contract Compliance: CHPL staff will be responsible for the administration of the Contract and will monitor the Contractor's performance and compliance with the terms, conditions and specifications of the Contract. If staff observes any infraction such shall be documented and conveyed to the Contractor for immediate correction. If the Contractor fails to rectify the infraction, the department/branch will notify the Fiscal Office (or other identified department) in order to resolve the issues. These terms and conditions will be used by CHPL to resolve the issues

Warranties: Unless otherwise stated, all supplies shall be new and unused. All products shall carry manufacturer's warranties in addition to implied warranties. The Contractor warrants all supplies to be free from defects in labor, material, and workmanship (manufacturing) and be in compliance with the contract specifications.

ADDITIONAL TERMS:

1. This Contract represents the entire agreement of the parties hereto, and may not be amended except in writing signed by both parties.
2. All times referenced herein are Cincinnati, Ohio local times.

3. *CHPL is not responsible for any work or services provided by Contractor prior to the issuance of a P.O. by CHPL.*
4. Contractor will supply its own tools and materials.
5. All entities with 5 or fewer employees providing independent contractor services to CHPL must complete the Non-Member Acknowledgement form from the Ohio Public Employees Retirement System - [OPERS Independent Contractor Acknowledgement - Consulting.pdf \(plch.net\)](#).
5. A completed W9 form is required on file with CHPL prior to CHPL issuing payment for services provided by Contractor. The W9 form can be found at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>. Please fill out the form and return with the signed contract to the Fiscal Office, Cincinnati and Hamilton County Public Library at 800 Vine Street, Cincinnati, Ohio 45202.