

TERMS CSU CANNOT AGREE TO DUE TO STATE LAW

Due to Ohio law, CSU cannot agree to certain terms in contracts. Below is a list of such terms and alternative language that CSU can agree to. If your contract contains any of the below prohibited terms: (i) inform the vendor that CSU cannot agree to the terms; and (ii) ask the vendor to remove the terms and, if the vendor chooses, to add the alternative language. This practice streamlines the contract review process and saves precious time. If you have any questions, please contact CSU's Contract Administrator at: purchasing@csuohio.edu.

| | PROHIBITED TERMS | ALTERNATIVE LANGUAGE |
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| 1 | Automatic Contract Renewal - CSU cannot commit to the expenditure of funds beyond the State Biennium, which begins on July 1 of each odd year and ends on June 30 of the next odd year. | "This contract may be renewed for an additional term upon the written agreement of the parties via an amendment. Any such renewal shall not extend beyond the expiration of the biennium in which the renewal commences." |
| 2 | Charging CSU late fees without reference to Ohio Revised Code Section 126.30. | "If CSU fails to timely make a payment as required by this contract, interest shall accrue on the late payment as set forth in O.R.C §126.30." |
| 3 | Governing Law/ Venue other than Ohio; Arbitration - CSU cannot agree to any provision that calls for the application of the law of some other state, to submit to the jurisdiction of a court other than a court of competent jurisdiction located in the State of Ohio, or to arbitration. | "This contract and the rights of the parties shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio, without regard for its choice of law principles, and only Ohio courts shall have jurisdiction over any action or proceeding concerning this contract." |
| 4 | Requiring Confidentiality - any confidentiality requirements must be subject to the Ohio Public Records Act. | "The parties understand and agree that confidentiality obligations are subject to applicable law including but not limited to the Ohio Public Records Act, and that disclosure of records pursuant to the Ohio Public Records Act is not a breach of contract." |
| 5 | Requiring CSU to pay taxes - CSU is exempt from tax and can provide an exemption certificate upon request. | "Vendor recognizes that CSU is an instrumentality of the State of Ohio, created by O.R.C. Chapter 3344 and thus exempt from all state, local, and federal excise taxes and that CSU does not agree to pay any such taxes." |
| 6 | Legal Representation of CSU by any entity other than the Ohio Attorney General - pursuant to the Ohio Revised Code Section 3345.15, only the Ohio Attorney General can represent CSU. | "The parties to this contract understand and agree that CSU is represented by the Ohio Attorney General under O.R.C. § 3345.15. No suit against CSU shall be compromised or settled without the approval of the Ohio Attorney General." |
| 7 | Requiring CSU to indemnify; Specifying contract damages against CSU - As a State institution, CSU is prohibited from providing indemnification. CSU's liability is determined in the Ohio Court of Claims pursuant to Ohio law as set forth in Ohio Revised Code Section 2743.02. Therefore, CSU cannot agree to provide indemnity nor can CSU agree to be responsible for any cancellation fees, penalties, incidental, special, consequential, punitive, or liquidated damages. | "As a publically funded state institution, CSU cannot indemnify another entity. To the extent permitted by the laws of the State of Ohio, including, but not limited to O.R.C. Chapter 2743, CSU agrees to be liable for the negligent acts and negligent omissions of its officers and employees engaged in the scope of their employment arising under the contract. The parties hereby agree that nothing in this contract or any attachment shall be construed or interpreted as a waiver of the sovereign immunity of CSU and/or the State of Ohio beyond the waiver provided in O.R.C. § 2743.02 and that the determination of liability is subject to the limitations set forth in O. R. C. § 3345.40." |