

Columbus State University *(Explanation of Certain Prohibited Contract Terms)*

As an instrumentality of the State of Georgia and an educational institution under the auspices of the Board of Regents of the University System of Georgia, Columbus State University is prohibited from entering into contracts containing provisions violative of Georgia law, Board of Regents policy, or inconsistent with official opinions issued by the Office of Attorney General.

Below is a summary and explanation of certain provisions that are prohibited under Georgia law:

- **Indemnity / Hold Harmless**
 - The Georgia Attorney General has determined that public agencies cannot enter into an agreement indemnifying any person or entity against third party claims. *See* Op. No. 80-67 (May 23, 1980). No contract can be entered into if a clause in the contract has the effect of creating an indemnity on behalf of the state of Georgia whether or not the contract contains the words “indemnity,” “indemnify,” or “hold harmless,” or whether the contract contains language obligating the BOR to indemnify a party “to the extent permitted by law,” in an attempt to limit the scope of the offending provision.
- **Jurisdictional Issues**
 - The Georgia Attorney General is the State of Georgia’s attorney for all purposes, including the management of litigation. *See* State of Georgia Constitution, Article 5, Section 3, Paragraph 2. The BOR/CSU has no authority to agree to waivers of any legal process, procedure, or policy that would in any way invade the Attorney General’s exclusive province to control the management of litigation against state instrumentalities. Provisions in contracts requiring the BOR/CSU to submit to the laws of another state’s jurisdiction, waive formal service of process, or submit to binding arbitration are invalid and must be stricken from the agreement.
- **Interest, Penalties, etc.**
 - Provisions in contracts making the BOR/CSU responsible for the payment of interest, penalties, and/or other incalculable fees (e.g., attorney’s fees) exceeding the agreed-upon contract price are strictly prohibited. Such an obligation would be a prohibited pledge of credit to pay an open-ended contingent amount in violation of Article 7, Section 4, Paragraph 8 of the Georgia Constitution. It would also likely constitute an impermissible gratuity because it would increase the compensation after the fact and thereby violate Article 3, Section 6, Paragraph 6 of the State Constitution.
- **Multi-Year Contracts**
 - Contracts that obligate the BOR/CSU to terms beyond the current fiscal year are generally prohibited. Accordingly, contracts will be amended to restrict the term to one year—from July 1 to June 30. Language can be included in the contract indicating CSU’s option to renew the contract for additional period of one year each. Contracts that do not call for the expenditure of University funds are not subject to the one-year limitation.

**PLEASE INCLUDE THIS DOCUMENT WHEN YOU
SEND FINAL CONTRACT BACK TO VENDOR**