Terms and Conditions

The Terms and Conditions of the Purchase Order give Cornell University legal protection in all procurement actions and comply with laws governing its operation. See https://www.dfa.cornell.edu/procurement/suppliers/doing-business/terms for the Terms and Conditions document.

Procurement Services is responsible for the issuance of and changes to the Terms and Conditions in consultation with the Office of University Counsel, Risk Management and Insurance, and the Office of Sponsored Programs.

Any time a Supplier presents their Terms and Conditions as part of a transaction, an Procurement Services agent (who has transaction authority for the University as defined in University Policy 4.2, Transaction Authority and Payment Approval) is required to review the supplier’s terms for any conflicts that may exist between the Supplier’s Terms and Conditions and Cornell’s Terms and Conditions. A listing of commonly found conflicts and recommended actions are listed below.

In the event that the supplier’s terms are more extensive than is typical, the unit should forward the requisition and accompanying paperwork to Procurement Services for review. Legal counsel will be asked for assistance as required.

To amend a supplier’s terms and conditions, the procurement agent responsible for issuance of the order may do so either electronically, by requesting the document from the supplier, or by striking the clauses in pen. The agent should be mindful to print legibly any additional terms and initial the change.

Terms and Conditions Standard Modifications

The terms below are typically found in suppliers’ terms and should be modified by Procurement Services as follows.

COMPLETE AGREEMENT
Where possible, the terms of Cornell’s purchase order should govern and take precedence in addition to the seller’s terms and conditions of sale. If there are particular terms the vendor cannot or will not accept then only those clauses which are in direct conflict with the terms of the sellers’ agreement should be excluded. As a last resort, each of Cornell’s terms and conditions can be compared to those of the seller and the individual terms be identified for inclusion and/or exclusion.

CONFIDENTIALITY
Any confidentiality or non-disclosure must be narrowly drawn. The seller/licensor must identify in writing the exact materials which are to be kept confidential and Cornell should only obligate itself to make reasonable efforts to preserve the confidentiality.

EXPORT
Delete any mention of the export of “technical data” or require the seller to identify for us which technical data cannot be exported (which under applicable regulations includes disclosure to students who are foreign nationals).
GOVERNING LAW
All Cornell orders should cite New York State as the governing law. If unable to agree on
governing law it is preferable to be left unsaid. Cornell should not agree to the jurisdiction of any
court outside of New York State, and should not agree to reduce it’s time for bringing a lawsuit
under a contract.

INDEMNIFICATION
Cornell should not agree to indemnify (protect) the seller from anything beyond Cornell’s own
negligent acts. Cornell may agree to defend and hold the seller harmless for our negligent acts
but does not agree to pay the attorneys’ fees of any other party.

LIMITATION OF LIABILITY
Any cap on a seller’s liability should exclude any personal injury and property damage.
Additionally, the cap should be adequate to protect Cornell subject to the size of the transaction.
Strike any mention of direct damages.

PATENT INDEMNITY
This clause will appear in contracts involving patentable or copy writable material. Any exclusions
from coverage should be specific and not allowed to be broad. Allowable exclusions are:
- when infringement results from Cornell use of product in ways other than those specified in
  sellers instructions or publications
- when infringement results from Cornell’s use of the product with other products not supplied
  by the seller

SHIPPING
Shipping terms should read “FOB Cornell.” This change means that the shipment is the
responsibility of the seller until it reaches Cornell. Any freight claims, insurance requirements, or
other shipment issues are the burden of the seller.