WEST VIRGINIA CODE: §5A-3-62

§5A-3-62. Prohibited contract clauses.

(a) Any term or condition in any contract entered into by the state shall be void ab initio to the extent that it requires the state to:

(1) Indemnify or hold harmless any entity;

(2) Agree to binding arbitration or any other binding extra-judicial dispute resolution process;

(3) Limit liability for direct damages for bodily injury, death, or damage to property (tangible or intangible) caused by the negligence or willful misconduct of such person's employees or agents;

(4) Agree to shorten statutes of limitation established by this code;

(5) Allow automatic renewal of contracts without express written consent of the state;

(6) Agree to payment in advance (unless specifically authorized by statute or the policy of the West Virginia State Auditor);

(7) Agree to jurisdiction anywhere other than a court authorized by the West Virginia Legislature to hear the dispute;

(8) Be governed by any law other than the laws of the State of West Virginia or required federal law;

(9) Pay court costs;

(10) Pay taxes;

(11) Waive defenses;

(12) Permit assignment of contracts without express written consent from the state;

(13) Treat information as confidential contrary to the state's disclosure responsibilities under any applicable bid disclosure laws and the Freedom of Information Act;

(14) Agree to unsigned third-party terms and conditions;

(15) Limit the state's ability to cancel a contract for convenience with 30 days' notice;

(16) Give up its ownership rights or interest in any information or data, including confidential information, provided to, or collected by, a vendor on behalf of the state;

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(17) Maintain any type of insurance; or

(18) Permit modification of contract terms without prior approval from the state.

(b) No official, employee, agent, or representative of the state has the authority to contravene this section, and no oral or written expression of consent to any term or condition declared void ab initio by this section, or signature on a contract, may be deemed as such. Any contract that contains a term or condition declared void ab initio by this section shall otherwise be enforceable as if it did not contain such term or condition. All contracts entered into by the state, except for contracts with another government, shall be governed by West Virginia law notwithstanding any term or condition to the contrary.

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