

Sacramento City Unified School District Terms and Conditions for Purchase Order

1. DEFINITIONS: "Products" = All equipment, materials, or supplies to be furnished, sold, or leased to District pursuant to this PO (also referenced as "Contract"). "Site" = the site(s) at which the Products are provided. "Parties" = District and Vendor.

2. STANDARD OF CARE: Vendor represents that it has the qualifications and ability to furnish and deliver the Products as specified, without the advice, control or supervision of District in accordance with industry standards. Failure to furnish all items per the PO, in a timely manner, as specified, shall constitute unsatisfactory service. Vendor shall perform, at its own cost, any service necessary to correct Vendor's failure to comply with the standard of care required herein. Vendor shall be responsible for any damage which may be sustained because of failure or neglect of Vendor to comply with the terms or conditions listed herein.

3. DELIVERIES: Unless otherwise indicated on the PO, the delivery of all materials, equipment, supplies, or other items shall be (1) part of the Contract Price, (2) delivered by Vendor at no additional cost to District, (3) accompanied by all necessary MSDS(s).

4. INSPECTION OF PRODUCTS FURNISHED: All items furnished shall be subject to inspection and rejection by District for spoilage, defects or non-compliance with the specifications. Defective items shall be made good by Vendor, and unsuitable items may be rejected, notwithstanding that such defective items may have been previously overlooked by District and accepted. If a Product is rejected at time of delivery, a credit is to be issued for a Product or Vendor shall immediately remedy such defect in a manner satisfactory to District. Several notices of Products failing to meet specifications may result in contract termination.

5. ANTI-TRUST CLAIM: Vendor and its subcontractor(s) assign to District all rights, title, and interest to all causes of action under § 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to a contract or subcontract. This assignment shall become effective when District tenders final payment to Vendor, without further acknowledgment.

6. SUBSTITUTIONS: No substitutions of material shall be made without District's prior written approval.

7. INDEPENDENT CONTRACTOR STATUS: While carrying out the Work, Contractor represents and warrants that Contractor is an independent contractor or business entity that is: (i) free from the control and direction of the District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of the District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Contractor understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor is solely responsible for its Workers' Compensation insurance, taxes, and similar obligations. Contractor is liable for

its actions, including negligence, gross negligence, and acts or omissions of its agents or employees.

8. EQUIPMENT & LABOR: Vendor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material to provide the Products at the times and places directed and approved by District.

9. WORKERS: Vendor shall enforce discipline and order among employees and provide competent supervision of personnel on the Site.

10. SUBCONTRACTORS: District reserves the right to approve any subcontractors. Vendor agrees to bind every subcontractor by the terms of the PO, including, without limitation, indemnification, insurance, and warranty requirements. If Vendor subcontracts any portion or all of the Contract, Vendor shall be fully responsible to District for its subcontractors and persons directly or indirectly employed by them. The Contract shall not create any contractual relations between any subcontractor and District.

11. SAFETY; PROTECTION OF WORK & PROPERTY: Vendor shall ascertain from District all rules and regulations about safety, security, and driving on school grounds. Vendor shall maintain safety on the Site. In an emergency affecting life and safety of property, Vendor may act to prevent loss or injury.

12. CLEAN UP: Vendor shall remove debris.

13. WARRANTY/QUALITY: Unless specified otherwise, Vendor, manufacturer, or their assigned agents shall guarantee workmanship, products or Work against defects or failures for a minimum of one (1) year from filing of Notice of Completion or acceptance of Work by final payment or other written form. All Products must comply with California energy, conservation, environmental, and educational standards.

14. CHANGE IN SCOPE OF WORK: District shall not accept any change in the scope of Work, performance method, materials, price, or any other matter affecting the Work unless District approves the change in advance by a written, executed change order. Vendor shall provide District with all information to substantiate the cost. Prior to approval of a change order, Vendor shall submit any request for a time extension, and all information substantiating its claim for delay. If Vendor fails to submit a time extension request or all supporting information, it shall have waived any extension.

15. TIME IS OF THE ESSENCE: Time is of the essence in each Contract provision and condition.

16. PAYMENT: Unless otherwise specified, Vendor shall submit an invoice for Products under the PO. District shall make payment for Products in a lump sum within thirty (30) days of delivery to and approval by authorized District agents of all invoices and evidence required by District. District may deduct from payment amounts to protect District from loss because of: (i) expenses, losses, or damages, determined and incurred by District for which Vendor is liable under the PO; (ii) unauthorized deviations from the PO; (iii) Vendor's failure to submit timely, sufficient documentation; and (iv) any other sums which District may recover from Vendor under the PO or state law.

Sacramento City Unified School District **Terms and Conditions for Purchase Order**

17. VENDOR'S INSURANCE: Insurance during shipping (F.O.B. Destination) is included in the Contract Price.

18. INDEMNIFICATION: To the furthest extent permitted by California law, Vendor shall defend, indemnify, and hold harmless District, its agents, representatives, officers, consultants, employees, and volunteers ("Indemnified Parties") from any and all demands, losses, liabilities, claims, suits, and actions ("Claims") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from performance of the PO unless Claims are caused wholly by the sole negligence or willful misconduct of Indemnified Parties. District may reject any legal representation that Vendor proposes to defend District.

19. TERMINATION: District may terminate all or any portion of the PO immediately upon District's written notice to Vendor. Termination shall not affect the rights and obligations of the Parties arising prior to the effective date of termination.

20. DISPUTES: In the event of a dispute between the Parties as to provision of the Products, the interpretation of this Contract, or payment or nonpayment, the Parties shall attempt to resolve the dispute in good faith. Disputes may be determined by mediation, if mutually agreeable, otherwise by litigation. If a claim, or any portion thereof, remains in dispute, Vendor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to Vendor's right to bring a civil action against District. Pending resolution of the dispute, Vendor agrees it will neither rescind the PO nor stop performance.

21. GOVERNING LAW: The PO shall be governed by and construed in accordance with California laws with venue in District's County.

22. PROVISIONS REQUIRED BY LAW DEEMED INSERTED: Every provision required by law to be in the PO shall be deemed to be inserted and the PO shall be read and enforced as though included.

23. BINDING CONTRACT: The PO shall be binding upon the Parties and their successors and assigns, and inure to the benefit of the Parties, successors and assigns.

24. DISTRICT WAIVER: District's waiver of any term or of a breach of any term shall not constitute waiver of any other term or a breach of any other term.

25. INVALID TERM: If a Court determined any Contract term to be illegal, invalid or unenforceable (illegal), the legality of the remaining terms shall not be affected, and the illegal term will not be part of the PO.

26. ENTIRE CONTRACT: This PO and the documents expressly incorporated herein set forth the entire contract between the Parties and supersedes all prior agreements or understandings between the Parties concerning the subject of this PO. Where a conflict exists between the provision(s) of this PO and an incorporated document, the provision(s) of this PO shall control.

27. ASSIGNMENT OF CONTRACT: Vendor shall not assign or transfer any of its rights, burdens, duties, or obligations under the PO without District's prior written consent.

28. COMPLIANCE WITH LAWS: Vendor shall give all notices and comply with all laws, ordinances, rules and regulations concerning the Work ("Laws"). If Vendor performs any work that is in violation of Laws, without first notifying District, Vendor shall bear all costs.

29. ANTI-DISCRIMINATION: Vendor herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Vendor and all of its subcontractors. In addition, the Vendor agrees to require like compliance by all its subcontractor(s).

30. FINGERPRINTING: Vendor shall meet applicable fingerprinting and criminal background investigation requirements of Education Code sections 45125.1 or 45125.2. Vendor shall execute an applicable Fingerprinting/Criminal Background Investigation Certification.

31. LIMITATION OF DISTRICT LIABILITY: District's financial obligations under this Contract shall be limited to the payment of the compensation provided in this Contract. Notwithstanding any other provision of this Contract, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, or lost bonding capacity, arising out of or in connection with this Contract for the services performed in connection with this Contract.