



Oro Grande School District

PURCHASE ORDER TERMS AND CONDITIONS

1. Definitions.

- a. "Bid" means the Vendor's offer made in response to a solicitation to perform a contract to supply goods or perform services at a specified price.
- b. "Bidder" means a supplier who submits a Bid to the District in response to a solicitation.
- c. "Contract" means Vendor's Bid; drawings or specifications, if any; these bid/purchase order terms and conditions together with the terms appearing on the reverse side hereof; and any other documents identified therein or herein as incorporated by reference and inclusive of any subsequently issued addenda and/or amendments.
- d. "Vendor" means the business entity designated on the face of this purchase order that is supplying Deliverables To the District. Vendor shall be synonymous with "supplier", "contractor", or other similar term.
- e. "Deliverables" means the tangible and/or intangible personal property, goods, product, service, software, information technology, telecommunications technology, and other items to be delivered pursuant to this purchase order including any such items furnished incident to the provision of services.
- f. "District" means the Oro Grande School District.

2. General.

All Purchase Orders must be approved by the Board of Trustees of the Oro Grande School District ("Board"). Vendor Should not fulfill orders for the District Without a Purchase Order or fully executed agreement.

3. Order of Precedence.

Written acceptance (including, but not limited to, signature on this purchase order or any related proposal, addendum, or agreement) or shipment of all or any portion of the items or the performance of all or any portion of the items or services covered by this purchase order shall constitute unqualified acceptance of these Purchase Order Terms and Conditions. No other terms or conditions shall be binding upon the parties, unless such terms and conditions have expressly been agreed to in a separate written agreement or addendum that has been signed by both parties. These Purchase Order Terms and Conditions shall prevail should any contradiction arise between any terms and conditions provided by the Vendor. The terms and conditions of any proposal referred to in this purchase order are included and made part of this purchase order only to the extent of specifying the nature of the items or services ordered, the price thereof and delivery date, and then only

4. Delivery/Acceptance/Risk of Loss/Substitutions/Title.

- a. All items shall be packaged to protect them from damage during transit. Packing slips must include the District Purchase Order number, contents, quantity, and description. Material Safety Data Sheets shall be included when applicable.
- b. Vendor shall be responsible for delivery on a free-on-board (FOB) Destination basis and shall incur all costs associated with the delivery unless otherwise specified on the face of this Purchase Order or an agreement fully executed by the parties. All deliveries shall be delivered to the location specified on the Purchase Order or as directed by an authorized representative of the District's Purchasing Department. In no case shall deliveries be made to an employee's home address. All Deliverables are subject to acceptance by the District. District will notify Vendor of any defect or nonconformity and Vendor will repair or replace such defective or nonconforming goods or, at the District's option, refund the purchase price to District.
- c. If items are not properly packaged or identified, or if items are determined by the District to be defective or non-conforming, deliveries or any part thereof may be rejected, and all costs (return and re-delivery) shall be at the Vendor's expense. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by the District at destination, notwithstanding any payment or inspection at source.



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Payment for items prior to inspection shall not be construed to be an acceptance of an unsatisfactory or defective item. The District shall give notice of the rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will provide the respect in which the goods do not substantially conform to their specifications. Acceptance shall not be construed to waive any warranty rights the District may have at law or by express reservation in this purchase order with respect to conformity.

- d. Substitutions Require the prior, express written authorization from an authorized District representative.
- e. Title to and risk of loss of Deliverables shall pass to and vest in the District upon final acceptance by the District.

5. Safety/Fingerprinting/Hazardous Substances.

- a. The Vendor and its subcontractors shall fully comply with the provisions of Education Code Section 45125.1 when required by law or requested by the District. Vendor shall ensure that persons who perform services on District property have not been convicted of a serious or violent felony as defined in Education Code section 44830.1(c)(1) , or sex offense as defined in Education Code 44011. Vendor shall be required to comply with the applicable requirements of Education Code sections 45125.1 and 45125.2 with respect to fingerprinting of employees who may have contact with District pupils and shall complete any forms or processes provided to Vendor by District.
- b. All equipment shall conform to the conditions set forth by the California State Department of Industrial Relations, Division of Occupational Safety and Health (DOSH), also known as Cal/OSHA.
- c. Material Safety Data Sheets ("SDS") are to be provided in the packaging and shipping materials for all hazardous substances.

6. Delay in Shipment.

If you cannot fill this order without delay, please notify the Oro Grande School District Purchasing Department immediately with an estimated delivery date.

7. Partial Deliveries

The District will accept and make payments on partial shipments. Invoices submitted for payment must reflect only products that have been shipped and received.

8. Changes

No change or modification in pricing, terms, quantities, or specifications may be made without express authorization in writing or verbal confirmation from the District's Purchasing Office.

9. Vendor Warranty.

- a. Vendor warrants that all Deliverables Furnished hereunder will be free from defects in design, material, and workmanship, and will conform to applicable specifications, drawings, samples, and descriptions. All warranties shall be in addition to any warranties available under law and any standard Vendor warranty.
- b. Vendor represents and warrants that the Deliverables provided to District shall not run any process, audit, or the like, that collects, retrieves, extracts or otherwise provides access to District's data, system information, or the like, by Vendor, without District's prior written consent. Vendor further represents and warrants that the products and services provided to District Shall contain no computer instructions, circuitry or other technological means whose purpose or effect is to disrupt, damage, extract information from or interfere with District's computers, communications facilities or equipment and their use ("Harmful Code"), and Vendor will prevent the introduction of such Harmful Code to its products and services prior to delivery to District. "Harmful Code" shall include without limitation, any code containing viruses, Trojan horses, worms or like destructive code or code that self-replicates.
- c. No Deliverable shall violate or infringe upon the rights of any third party, including, without limitation, any patent, copyright, trademark, trade secret, or other proprietary rights of any kind. There is no action, suit, proceeding, or material claim or investigation pending or threatened against Vendor, that, if adversely



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determined, might affect any Deliverable or restrict the District's right to use any Deliverable. Vendor knows of no basis for any such action, suit, claim, investigation, or proceeding. Vendor warrants it has full title to the Deliverables and has the right to grant the District the rights and licenses contemplated herein without the requirement for consent of any third party.

10. **Debarment/Suspension:**

Vendor certifies, to the best of his or her knowledge and belief, that the Vendor and its principals:

- a. presently are not debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any federal department or agency;
- b. within the three-year period preceding the parties entering into this Purchase Order and/or Agreement have not been convicted or had a civil judgment rendered against them for:
 - i. commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction,
 - ii. violation of federal or state antitrust statutes, or
 - iii. commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making a false statement, or receiving stolen property;
- c. presently are not indicted or otherwise criminally charged by a governmental entity (federal, state, or local) with commission of any of the offenses described in paragraph B or this section; and
- d. Within the three-year period preceding the parties entering into this Agreement have not had one or more public transactions (federal, state or local) terminated for cause or default.

11. **Payments.**

Invoices can be mailed to PO Box 386, Oro Grande, CA 92368 or emailed to accounts_payable@orogrande.org. Invoices shall contain the purchase order number, date, description of items, sizes, quantities, unit prices, extended total, place, date of delivery, and any other information requested by the District. Every invoice shall be properly itemized. To facilitate payment after the Deliverables are provided and accepted by the District, please ensure that invoices clearly reference the purchase order number.

12. **Tax.**

The District shall pay only California sales tax and use tax and/or San Bernardino County sales and use tax, as applicable. Vendor shall separately list all applicable taxes on the invoice. Vendor shall cooperate with the District in all matters related to taxation and the collection of taxes.

13. **Assignment/Subcontracting.**

Vendor may not assign this Contract in whole or in part, and/or monies due Vendor, without the prior written consent of the District and surety, if any. Subject to the foregoing, this Purchase Order shall be binding upon the parties and their respective successors and assigns. All subcontractors must be approved in advance, in writing by the District. Upon the District's written request, Vendor shall terminate any subcontractor.

14. **Audit.**

The District shall have the right to examine and audit Vendor's records related to this Purchase Order. Vendor and its subcontractors shall maintain and preserve all such records for a period of at least three (3) years after final payment is received by Vendor, unless a longer period of time for records retention is required by law or requested in writing by the District.

15. **Award of Contract.**

All quotations, proposals, and Bidder's Bid will be deemed a firm offer; issuance of this document as a purchase order evidences the District's acceptance of that offer. If an award is made on a bid, the contract will be awarded according to the authority granted by the Board pursuant to California law.

16. **District Name/Logos May Not Be Used.**

The name and/or logos of the District or any school of the District may not be used in any manner without prior written authorization from the District Superintendent. This includes but is not limited to any advertisements, lists or



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communications which may convey the impression that the District authorizes the solicitation and/or that there may be some connection or endorsement between the District and the Vendor

17. Independent Contractor.

Vendor shall perform its obligations under this Purchase Order and/or accompanying agreement, as an independent contractor of the District. Nothing herein shall be deemed to constitute Vendor and the District as partners, joint venturers, or principal and agent. Vendor has no authority to represent the District. Vendor shall not at any time or manner represent that it or any of its subcontractors or agents are in any manner agents or employees of the District.

18. Indemnification.

Vendor agrees to indemnify and hold harmless the District, the Board, and its employees, agents, volunteers, affiliates, officers and directors from, and defend each of them against, any injury to person or property, claims, suits, liabilities or expenses (including reasonable attorneys' fees and costs) resulting from or connected with Vendor's performance hereunder, breach of its representations, warranties or obligations hereunder, or Vendor's failure to comply with any applicable law, or regulation.

19. Insurance.

Vendor shall provide and maintain, and require its subcontractors to maintain, insurance policy/policies and limits of coverage acceptable to the District to protect against claims that may arise from this Purchase Order and/or accompanying agreement fully executed by Vendor and District. Vendor's maintenance of insurance, as required by this purchase order, shall not be construed to limit the liability of Vendor to the coverage provided by such insurance, or otherwise limit the District's Recourse to any remedy available at law or in equity. Vendors shall provide evidence of insurance coverage and/or provide Certificates of Insurance as requested by the District.

20. Confidentiality

Software or Subscriptions that include the collection and/or maintenance of records that contain personally identifiable information of students and/or staff of the District shall conform to all legal requirements including Education Code sections 49076 and 49076.5, as amended by AB 733 and AB 1584, the Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C. § 1232g; 34 CFR Part 99, as amended), Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Student Online Personal Information Protection Act ("SOPIPA") (California Business and Professions Code section 22584), and other state and federal laws and regulations regarding educational records.

21. Software Licenses.

Upon payment in full for software, Vendor grants the District a perpetual, non-exclusive, worldwide, irrevocable, fully paid right and license, to install and use the software on all computing devices used by or for the benefit of the District. This license is subject to the limitation on the maximum number of end users or other scope limitations listed on the face of this purchase order or accompanying agreement fully executed by the parties, and, if none are listed, this license shall be deemed to be enterprise-wide and the software may be used by all District end users without any maximum number of users. The license shall extend to permit contractors working for the District to use the software in the performance of their duties for the District.

22. Termination.

The District may, by written notice to the Vendor, terminate this Contract in whole or in part at any time, for any reason, including the District's convenience or Vendor's default. Upon receipt of such written notice, the Vendor

shall: (a) immediately discontinue all services affected (unless the notice directs otherwise) and, (b) deliver to the District all material and information as may have been involved in the provision of services, whether provided by the



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District or generated by the Vendor in the performance of this purchase order or accompanying agreement, whether completed or in process. Vendor shall submit a final invoice within sixty (60) days of termination.

The Vendor will not be entitled to anticipatory or consequential damages as a result of any termination under this Section. Payment to the Vendor in accordance with this Section shall constitute the Vendor's exclusive remedy for any termination hereunder. The rights and remedies of the District provided in this Section are in addition to any other rights and remedies provided by law, equity, or this purchase order or accompanying agreement.

23. Compliance with Law/Non-Discrimination.

- a. Vendor warrants that it will comply with all federal, state, and local laws, including, but not limited to, any statute, rule, regulation, judgment, decree, order or permit applicable to its performance under this purchase order including all employment, health, or safety agency regulations.
- b. In addition, Vendor shall specifically comply with any and all applicable state, federal, and other laws that prohibit discrimination and retaliation including, without limitation, Title IV, Title VI and Title VII of the Civil Rights Act, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination in Employment Act. Vendors shall also include this nondiscrimination requirement in all subcontractors to perform work under this Purchase Order or accompanying agreement.
- c. Vendor, and Vendor's staff, shall at all times comply with the provisions and requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.).
- d. Vendors shall abide with the District's tobacco-free environment/policies. Smoking, vaping or the use of any tobacco product(s) is prohibited in buildings, vehicles and on any property owned, leased or contracted for by the District.

24. Governing Law/Jurisdiction/Venue/Severability.

This Purchase Order shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Purchase Order shall be filed only in the Superior Court of the State of California located in San Bernardino County, California, and the parties waive any provision of law providing for a change of venue to another location. Prior to the filing of any legal action, the parties shall be obligated to attend a mediation session with a third party mediator in an attempt to resolve the dispute. In the event any provision in this Purchase Order or accompanying agreement that is signed by both parties, is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way. Should either party file any legal action to enforce or interpret the provisions of the Purchase Order, the prevailing party shall be entitled to attorney's fees in addition to whatever other relief is granted.

25. Prevailing Wages, Monitoring, and Registration.

Vendors must comply with all applicable requirements for payment of prevailing wages and furnish certified payrolls to, and be subject to monitoring by and registration with, the California Department of Industrial Relations as required by law.

26. Termination for Non-Appropriation of Funds.

If the term of this agreement extends into fiscal years subsequent to that in which it is approved, Purchase Order Term and Conditions such continuation of the agreement is contingent on the appropriation and availability of funds



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for such purpose, as determined in good faith by the District. If funds to effect such continued purpose are not appropriated or available as determined in good faith by the District, this agreement shall automatically terminate and the District shall be relieved of any further obligation.