



General Terms and Conditions

1. **DEFINITIONS.** MiraCosta College District shall be hereinafter referred to as "District", and the Vendor shall hereinafter be referred to as "Supplier".
2. **LIMITATION OF PAYMENTS.** Prices and amounts shown herein are the maximum amounts authorized filed on this order.
3. **VARIATION IN QUANTITY OR QUALITY.** No variation in the quantity or quality of any item or service called for by this order shall be accepted, unless agreed to and specified elsewhere in this order. All goods and services must be as specified in the order. No substitution or variance from the specifications shall be allowed without prior written approval from the Purchasing Department.
4. **PURCHASE AND PAYMENT DISCOUNTS.** In connection with any discount offered, the payment discount period shall begin on the date of delivery and acceptance at destination. The District shall be entitled to the maximum educational or any other discount offered. District payment terms shall be Net 30 unless otherwise specified on the purchase order document.
5. **INVOICES.** Separate invoices are required for each purchase order. Invoices shall be submitted in duplicate and shall contain the following information: purchase order number, item number and description, quantity, unit price and extended totals for items delivered. Sales tax, where applicable, shall be shown separately. Shipping/handling/delivery charges shall also be shown separately and shall include the original or a copy of the prepaid bill of lading. Failure to enter the above information on the invoice shall cause a delay in payment.
6. **SHIPPING.** Unless otherwise specified in the purchase order, all goods are to be shipped prepaid, F.O.B. Destination. Where the District has given specific written authorization to ship goods F.O.B. Shipping Point, the supplier shall prepay all shipping charges, route goods the cheapest way (unless authorized by the District use other means) and bill the District for the actual shipping/handling/delivery charges paid. Claims or invoices for shipping/handling/delivery charges which are not properly supported by either the original or a copy of the prepaid bill of lading will not be paid. The District's purchase order number shall be clearly referenced on each parcel and packing slip. Failure to include this information will cause a delay in inspection and acceptance of the order, resulting in a delay of payment. All items shall be prepared and packed for shipment in a manner that will prevent damage in transit. The District reserves the right to reject any shipment which appears to have suffered damage in transit.
7. **INSPECTION AND ACCEPTANCE.** Inspection and acceptance will be at the receiving destination, unless otherwise provided by the District. Regardless of the F.O.B. designation, the Supplier agrees to bear all risks of loss, injury, delay or destruction of goods and materials ordered herein which occur prior to delivery, and such loss, injury, delay or destruction shall not release the Supplier from an obligation hereunder.
8. **HEALTH AND SAFETY.** The Supplier certifies, by shipment, that all goods and equipment furnished under this order shall meet or exceeds all applicable federal and state health and safety regulations, including CAL-OSHA codes.
9. **WARRANTY.** The Supplier agrees that all supplies, equipment or services furnished under this order shall be covered by the most favorable commercial warranties the Supplier provides any customer for such goods or services, and that the rights and remedies provided therein are in addition to and do not limit any rights afforded to the District by any other provisions of this order.
10. **FORCE MAJEURE.** The Supplier shall be excused from performance hereunder during the time and to the extent that he is prevented from performing by act of God, fire, strike, lockout or commandeering of materials or facilities by the government, when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.
11. **INDEPENDENT CONTRACTOR.** While providing the goods or services ordered herein, the Supplier is an independent contractor and not an officer, employee or agent of the District.
12. **INDEMNIFICATION.** To the fullest extent permitted by law, and as a material part of this agreement, the Supplier shall indemnify, hold harmless and defend, the District, it's Board of Trustees, officers, agents, employees and volunteers against any and all liability, claims, damages, losses and expenses, including reasonable attorneys' fees, arising from all acts or omissions to act of the Supplier or its officers, agents, employees, volunteers and subcontractors, excluding, however, such liability claims, losses, damages, or expenses arising from the District's sole and active negligence or willful acts. Supplier assumes complete liability for any goods or materials furnished by the District to the Supplier in connection with this agreement. Supplier agrees to pay for such tools or materials spoiled by it or not otherwise accounted for to the District's satisfaction. The furnishing to Supplier of any goods or materials in connection with this agreement shall not be construed to vest title thereto in Supplier.

The District shall not be liable for any accident, loss, assault, battery, defamation, false arrest, false imprisonment, invasion of privacy, intentional or negligent infliction of emotional distress, injury (including death) or damages happening or accruing during the term of the performance of the work to persons and/or property, and Supplier's shall fully indemnify and protect the District from and against the same.
13. **INSURANCE REQUIREMENTS.** The Supplier and it's officers, employees, agents and subcontractors shall, at their expense, maintain and comply with Insurance Requirements #1-6 below to protect Supplier and District from any and all claims for personal injury, bodily injury and property damage arising from, pertaining to or relating to the scope of work under this agreement.
 - a. Commercial General Liability. Minimum limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate for personal injury, bodily injury and property damage including products and completed operations, under Insurance Services Office Occurrence Number CA 00 01, (any auto).

- b. Automobile Liability. \$1,000,000 per accident for bodily injury and property damage under Business Automobile Liability Coverage Form Number CA 00 01, (any auto).
- c. Any insurance or self-insurance maintained by the District shall be excess of the Supplier's insurance and shall not contribute with it.
- d. Waiver of Subrogation. Supplier agrees that in the event of loss due to any perils for which it has agreed to provide Commercial General and Automobile Liability insurance, Supplier shall look solely to its insurance carrier(s) for recovery and grants a waiver of any right to subrogation which any such insurer of Supplier may acquire against the District by virtue of payments of any loss under this insurance.
- e. Certificate of Insurance. Supplier shall furnish the District with original certificates of insurance and amendatory endorsements effecting coverage required by this Agreement and indicating a thirty (30) day cancellation notice or notice of reduction in coverage.
- f. Additional Insured. Insurance shall name the District and its Board of Trustees, officers, employees, agents and volunteers as Additional Insured under said policy.

Premiums on all insurance policies shall be paid by Supplier and shall be deemed included in this contract.

- 14. **NON-DISCRIMINATION ENDORSEMENT.** It is the policy of the District that the Supplier and District mutually agree that they will comply with all applicable Federal and California state anti-discrimination laws and regulations and agree not to unlawfully discriminate against any prospective or active employee engaged in the work on the basis of race, color, age, ancestry, national origin, sex, religious creed, marital status, or physical or mental disability, or sexual orientation or any other category protected by law, including but not limited to, the California Fair Employment Practice Act, beginning with Labor Code Section 1410, and Labor Code Section 1735. In addition, the Supplier agrees to require like compliance by all subcontractors employed. Supplier and District mutually agree that they will comply with all applicable federal and state anti-discrimination laws and regulations, and agree not to unlawfully discriminate against Students on the basis of race, color, creed, religion, sex, age, national origin, ancestry, marital status, physical or mental disability, sexual orientation, or any other category protected by law.
- 15. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED:** Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provisions is not inserted, or is not correctly inserted then upon application of either party the contract shall forthwith be physically amended to make such insertion or correction.
- 16. **ELECTRONIC AND INFORMATION TECHNOLOGIES.** The Supplier hereby warrants that the goods or services to be provided to the District comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 194. The Supplier agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Vendor further agrees to indemnify and hold harmless the District from any claim arising out of its failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of this order or agreement.
- 17. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR OTHER INELIGIBILITY.** (applicable to all orders or agreements funded in part or in whole with federal funds) - The Supplier agrees to comply with applicable federal suspension and debarment regulations, including, but not limited to, regulations implementing Executive Order 12549 (29 C.F.R. Part 98). The Supplier certifies to the best of its knowledge and belief that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not, within a three-year period preceding the receipt of this purchase order, been convicted of, or had a civil judgment rendered against them, for: (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) or private transaction or contract; (2) Violation of Federal or State antitrust statutes; (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects Supplier's present responsibility;
 - c. Are not presently indicted for, or otherwise criminally or civilly charged by any government entity (federal, state or local), with commission of any of the offenses enumerated above;
 - d. Have not, within a three-year period preceding the receipt of this purchase order or agreement, had one or more public transactions (federal state or local) terminated for cause or default;
 - e. Shall not, except as otherwise provided under applicable federal regulations, knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded by any federal department or agency from participation in such transaction; and
 - f. Include in all lower tier covered transactions, and all solicitations for covered transactions, provisions substantially similar to those set forth herein.
- 18. **STORM WATER MANAGEMENT.** The District has adopted a Storm Water Management Plan (SWMP). The SWMP was prepared in accordance with waste discharge requirements for storm water discharges from small municipal separate storm sewer systems (General NPDES Permit No. CAS000004) adopted by the State Water Resources Control Board. The Supplier shall comply with the District's SWMP requirements and include all costs for compliance in the contract amount. The Supplier shall also comply with the lawful requirements of other agencies regarding discharges to the storm drain system or other watercourses, including all applicable City, County, State and Federal storm water requirements.
- 19. **COMPLIANCE WITH LOCAL, STATE AND FEDERAL REGULATIONS.** The Supplier shall comply with all lawful requirements of the United States, the State of California, the District, and all applicable municipalities and local agencies .