

**PURCHASE ORDER TERMS & CONDITIONS**

**1. DEFINITIONS:**

- District: Sierra Joint Community College District
- Vendor: Person, firm or corporation supplying the goods or services under the Order and includes sales or other agents, subcontractors, employees and distributors thereof
- Order: Purchase Order and Purchase Order Terms & Conditions

**2. SPECIFICATIONS OF MATERIALS/SERVICES:** Vendor agrees to provide all materials and/or services in accordance with the specifications set forth in this Order including descriptions, quantity, pricing, delivery/completion date and delivery point.

**3. ACCEPTANCE OF PURCHASE ORDER BY VENDOR:** Vendor's acceptance of District's Purchase Order is pursuant to the terms and conditions set forth herein, which shall supersede any inconsistent or contradictory terms or conditions set forth in any purchase order, receipt, bill of lading or other paper generated by Vendor. Acceptance by District of goods or services delivered under this Purchase Order shall not constitute agreement to any terms and conditions inconsistent with those stated herein.

**4. DELIVERY TERMS:** Unless stated otherwise in this Order, all prices shall be FOB destination and shall include all delivery and unloading at the destination specified in this Order. Vendor agrees to include all delivery and transportation costs in the stated price and agrees to prepay all related shipping costs. All goods or services must be delivered in the fiscal year (July 1 – June 30) for which Order was issued. The District's purchase order number shall be clearly referenced on each parcel and packing slip. The District reserves the right to reject any shipment which appears to have suffered damage in transit. This Order is subject to cancellation if the delivery period is not acceptable.

**5. INSPECTION AND ACCEPTANCE:** Any materials and/or services supplied under this Order are subject to inspection by the District before final acceptance and payment. Payment by the District shall not terminate the District's right to inspect. Nonconforming materials or service may be rejected at any time by the District prior to final acceptance.

All materials rejected by the District shall immediately be removed by the Vendor, and shall be replaced by satisfactory materials. All services rejected by the District shall be at once redone by the Vendor to the District's satisfaction. The Vendor shall assume responsibility for and pay the cost associated with any removal of rejected materials and/or rework of service, without expense to the District.

Until accepted by District as provided above, Vendor shall bear all risk of loss and damage, unless such loss or damage results solely from the active negligence of District.

**6. WARRANTY:** Vendor warrants that the goods and services as identified in Order (a) are of merchantable quality; (b) are fit for the particular needs and purposes of District as may be communicated to Vendor; (c) comply with the highest warranties, representations and options expressed by Vendor orally or in any written advertisement, correspondence or other document provided to or in the possession of District; (d) comply with all applicable laws, codes and

regulations as published by any national or statewide association or group; and (e) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties; (f) will be performed according to applicable industry standards. If any of the foregoing warranties is breached, Vendor agrees to correct all defects and nonconformities, to be liable for all direct, indirect, consequential and other damages suffered as a result thereof by District and any other persons, and to defend and indemnify District from any claim asserted by any person resulting in whole or in part from such breach.

7. **STANDARD OF SERVICE:** Vendor warrants that all services hereunder shall be performed by personnel experienced and highly skilled in their profession and in accordance with the highest applicable standards of professionalism for these or comparable or similar services. Vendor shall be responsible for the professional quality, timeliness, coordination and completeness of the services. Vendor personnel assigned to perform the services shall be as proposed by Vendor and approved by the District. Vendor shall use only personnel required for the performance of the services who are qualified by education, training and experience to perform the tasks assigned to them. Vendor agrees to replace any of its employees whose work is unsatisfactory or contrary to the requirements of the services to be performed hereunder. The District shall not supervise nor control the details of Vendor's services, but rather shall be interested only in the results of Vendor's services.
8. **DISQUALIFIED EMPLOYEES:** Vendor shall ensure that persons who perform services on District property have not been convicted of any felony, or any controlled substance offense or any sex offense as those terms are defined by Education Code section 87008 - 87010. If District determines that any person employed by Vendor to work on District property is incompetent, intemperate, disorderly, abusive or is otherwise unsatisfactory, Vendor shall cause that employee to be removed from working on District property immediately, and that person shall not be employed again on District property.
9. **INDEPENDENT CONTRACTOR:** While providing the goods or services ordered herein, the Vendor is an independent contractor and neither vendor nor its own officers and employees or agents are officers, employees or agents of the District.
10. **LICENSES & PERMITS:** The Vendor and all of its employees or agents shall secure and maintain in force such licenses and permits as are required by law, in connection with furnishing of materials and performance of services in accordance with Order.
11. **INDEMNIFICATION.** To the fullest extent permitted by law, and as a material part of this Order, the Vendor agrees to and shall indemnify, hold harmless and defend, the District, its Board of Trustees, officers, agents, employees and volunteers against any and all liability, claims, damages, losses and expenses, including reasonable attorneys' fees (hereinafter, "third party claims"), arising from the Vendor's and/or its agents acts/and or omissions alleged by the third party claimant as constituting Vendor's sole or contributory or comparative negligence or other culpable misconduct. Provided, this indemnity obligation shall not apply to such third party claims alleged by claimant to arise from the District's sole, active negligence or willful acts.
12. **DAMAGE TO PROPERTY.** Vendor assumes complete liability for any goods or materials furnished by the District to the Vendor in connection with this agreement. Vendor agrees to pay for such tools or materials damaged, spoiled or lost by it or not otherwise accounted for to the District's satisfaction.

The furnishing to Vendor of any goods or materials in connection with this agreement shall not be construed to vest title thereto in Vendor.

As between the District and Vendor, 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 which occur to persons or property during the term hereof as a result of Vendor's performance and/or attempted performance of its contract obligations, and Vendor shall fully indemnify and protect the District from and against the same.

13. **INSURANCE REQUIREMENTS.** The Vendor and its officers, employees, agents and subcontractors shall, at their expense, maintain and comply with insurance requirements described below to protect Vendor 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 Order. Premiums on all insurance policies are the responsibility of Vendor.
- a) Worker's Compensation insurance and Employer's Liability insurance for its employees in accordance with the law of the State of California. In addition, Vendor shall require any and every subcontractor to similarly maintain Worker's Compensation Insurance and Employer's Liability insurance in accordance with the laws of the State of California for all of subcontractor's employees. This provision shall not apply if the Vendor has not employees performing work under this Purchase Order.
  - b) Commercial General Liability with 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.
  - c) Automobile Liability coverage of \$300,000 per accident for bodily injury and property damage
  - d) Vendor agrees that in the event of loss due to any perils for which it has agreed to provide Commercial General and Automobile Liability insurance, Vendor shall look solely to its insurance carrier(s) for recovery and waives any right to subrogation which any such insurer of Vendor may otherwise acquire against the District by virtue of payments of any loss under Vendor's insurance.
  - e) Upon request by the District, Vendor 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) All such insurance shall name the District and its Board of Trustees, officers, employees, agents and volunteers as Additional Insured under said policies.
  - g) Failure on the part of Vendor to procure or maintain required insurance shall constitute a material breach under which District may terminate Order.
14. **PROTECTION OF WORK AND PROPERTY:** Vendor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the execution of this Order and shall be responsible for the proper care and protection of District property and all materials provided. All work shall be performed solely at the Vendor's risk. Vendor shall take all necessary precautions for safety of all personnel on the work site and shall comply with all applicable safety laws and codes to prevent accidents or injury to persons on or about the premises where work is being performed.

15. **INVOICES:** The District shall pay Vendor upon the submission of a proper invoice. A proper invoice shall contain purchase order number, date, description of items, sizes and quantities, unit prices, extended totals, sales tax, place and date of delivery and deductions or discounts. With the exception of Blanket Purchase Order, or unless otherwise stated herein, payment shall only be made to the Vendor after all materials and/or services ordered on this Order have been received and accepted by the District. Except where Contractor is not a California resident within the meaning of State Franchise Tax Board rules, District shall not withhold from the amounts deemed owed to Vendor. Provided, however, where Contractor is a California resident, the District may withhold from its payments to Contractor such sums as are required by State laws and regulations, and remit that money to the State Franchise Tax Board, which sums shall thereafter not be owed by District to Contractor.
16. **TERMINATION FOR CONVENIENCE:** The District reserves the right to cancel this Order for convenience in part or in its entirety upon thirty (30) days written notice at no cost to the District except for acceptable materials and/or services rendered prior to the termination date.
17. **TERMINATION FOR CAUSE:** District may terminate this Order and be relieved of the payment of any consideration to Vendor should Vendor fail to perform the covenants and at the time and in the manner provided herein. In the event of such termination District may proceed with the work in any manner deemed proper by District.
18. **CHANGES:** No change or modification in these terms, quantities, or specifications may be made without a writing signed by an authorized employee of both parties. Verbally accepted changes are not authorized and shall not be binding. Contractor shall not be entitled to, and shall not receive, compensation for the performance of unauthorized work.
19. **RIGHTS AND REMEDIES:** In the event of Vendor's breach of this contract, the District may take any of the following actions without prejudice to any other rights or remedies available to the District by law: (i) require Vendor to repair or replace such goods or services, and upon Vendor's failure or refusal to do so, repair or replace the same at Vendor's expense; (ii) reject any shipment or delivery containing defective or nonconforming goods and services and return for credit or replacement at Vendor's option; said return to be made at Vendor's cost and risk; (iii) cancel any outstanding deliveries and treat such breach by Vendor as Vendor's repudiation or material breach of this contract. In the event of such cancellation, Vendor's exclusive remedy shall be Vendor's recovery of the goods or the purchase price payable for goods shipped or services performed prior to such breach.
20. **PATENT INDEMNITY:** The Vendor shall hold District, its officers, agents and employees harmless from alleged liability of any nature or kind related to or arising from an alleged breach of intellectual property, including costs and attorney fees and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance or piece of intellectual property furnished or used by Vendor in connection with this Order.
21. **NON DISCRIMINATION:** Vendor and District agree to comply with all applicable Federal and state anti-discrimination laws and regulations and agree not to unlawfully discriminate 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. In addition, Vendor agrees to require like compliance by all subcontractors employed.

22. **HEALTH AND SAFETY:** Vendor certifies that all materials, equipment and supplies furnished under this Order shall meet or exceed all applicable federal and state health and safety regulations.
23. **PREVAILING WAGES:** For Public Works or repair/maintenance/installation projects exceeding \$1,000, vendor and vendor's subcontractors shall be a registered contractor with the California Department of Industrial Relations (DIR) and shall comply with all DIR regulations throughout the performance of this Order.
24. **FORCE MAJEURE:** If the District determines that the Vendor has been delayed in the work due to causes beyond the control and without the fault of negligence of Vendor, the District may extend the time for completion of the work called for by this Order, when promptly applied for in writing by the Vendor.
25. **EXCISE TAX:** District is exempt from Federal excise tax. District purchases are subject to California sales tax.
26. **APPLICABLE LAW:** The contract resulting from this Order shall be governed by the laws of the State of California, including the Education Code, Public Contracts Code and any other relevant laws.
27. **ASSIGNMENT:** Without the written consent of District, this agreement is not assignable by Vendor either in whole or in part.
28. **SEVERABILITY:** If any provision of this Order or any portion thereof is held to be invalid and unenforceable, the balance of this Order shall nevertheless remain in full force and effect.
29. **ELECTRONIC AND INFORMATION TECHNOLOGIES:** The Vendor 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 Vendor 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.