



**JEFFERSON COUNTY SCHOOL DISTRICT R-1
PURCHASE ORDER TERMS AND CONDITIONS**

By accepting and performing under the PO, the Supplier agrees to these terms and conditions.

1. **Definitions.** In these PO terms and conditions, “*Bid/Proposal*” means the Supplier’s response to the Solicitation (if any). “*CUCC*” means the Colorado-adopted version of the Uniform Commercial Code, Article 2, C.R.S. §§4-2-101 *et seq.*, as amended from time to time. “*District*” means Jefferson County Public School District – R1. “*Goods and Services and Services*” means the Goods and Services, products, services and other items of value ordered with the PO. “*PO*” means these Purchase Order Terms and Conditions and the District purchase order to which they are attached, uploaded, or which incorporate a link to these terms and conditions. “*Solicitation*” means the District’s solicitation for the Goods and Services, if any, which includes without limitation a request for proposal (RFP), invitation for bid (IFB), request for quote (RFQ), or any other form of solicitation or order. “*Supplier*” means the company or individual listed as the Supplier on the PO. “*Supplier Forms*” means the Supplier’s order or delivery forms, invoices, billing statements, on-line or other digital subscription or click-through agreements, and any other forms and agreements prepared by the Supplier and used in the transaction or transactions described in this PO, other than the Bid/Proposal.
2. **Offer and Acceptance.**
 - 2.1. **If the Supplier responded to a Solicitation**, then this PO is an ACCEPTANCE of the Supplier’s OFFER TO SELL, if the Solicitation for the Goods and Services refers to the Supplier’s Bid/Proposal. The acceptance is in accordance with the terms and conditions of the Solicitation, as identified in the Bid/Proposal.
 - 2.2. **If there is no Bid/Proposal**, or if the PO does not refer to a Solicitation or Bid/Proposal, then this PO is an OFFER TO BUY. This offer to buy is subject to the Supplier’s acceptance, either in the form of a written acceptance of the PO or acceptance as demonstrated by delivering under the PO.
3. **Priority of Interpretation.** This PO supersedes and controls over any Supplier Forms in the event of conflict or inconsistencies between the PO and any Supplier Forms, regardless of any statement to the contrary in the Supplier Forms.
4. **Changes.** The Supplier shall deliver Goods and Services strictly in accordance with the specifications and rates and price set forth for each item. The parties may modify this PO only in writing and signed by each party. Each shipment of the Goods and Services received is subject to the terms of this PO, notwithstanding any inconsistent or conflicting terms and conditions that may be contained in any Supplier Forms, unless such inconsistent or conflicting terms are modified in accordance with this section.
5. **Delivery.** Delivery of Goods and Services shall be FOB destination, unless otherwise specified in the Solicitation, Bid/Proposal or this PO. The District is relying on the promised delivery date, installation, or other performance set forth in the Bid/Proposal, as material and basic to the District’s acceptance. If the Supplier fails to deliver as and when promised, the District, in its sole discretion, may cancel its order, or any part thereof, without prejudice to its other rights, return all or part of any shipment so made, and charge the Supplier with any loss or expense sustained as a result of such failure to deliver as promised. Time is of the essence.
6. **Quality.** All Goods and Services delivered pursuant to this PO shall strictly conform to the Bid/Proposal or, if no Bid/Proposal, to the specifications set forth in the PO, and shall be of the quality specified. The District will accept no deviation or substitution unless the District consents in writing before such deviation or substitution is made. In the event no quality is specified, the Goods and Services shall be at least equal to the standards of the industry. The

District may conduct such tests and inspections as it deems necessary to assure the Supplier's compliance with the terms of this PO. The District shall be the sole judge in determining "equals" with regard to quality and price. All Goods and Services delivered shall be newly manufactured and the current model, unless otherwise specified in the Bid/Proposal or this PO.

- 7. Warranties and CUCC.** All provisions and remedies of the CUCC relating to implied and express warranties are incorporated herein, in addition to any warranties contained in the Bid/Proposal or the PO. The United Nations Convention on Contracts for the International Sale of Goods and Services does NOT apply.
- 8. Inspection and Acceptance.** The District's final acceptance is contingent upon completion of all applicable inspection procedures. If the Goods and Services fail to meet any inspection requirements, the District may exercise all of its rights, including those provided in the CUCC. The District may inspect the Goods and Services at all reasonable times and places.
- 9. Safety Information and Recovered Materials.** All chemicals, equipment and materials proposed or used in the satisfaction of the terms of this PO shall conform to the standards and requirements of the Occupational Safety and Health Act of 1970. The Supplier shall furnish all Material Safety Data Sheets ("MSDS") for any regulated chemicals, equipment or hazardous materials at the time of delivery. Failure to provide this information may result in delay of payment. The Supplier shall comply with §6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, concerning procurement of items for contracts above a certain dollar amount with the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, and other requirements, as set forth Environmental Protection Agency regulations at 40 CFR Part 247.
- 10. Payment.** The District will pay the Supplier for amounts due after the District receives and accepts the Goods and Services and received a correct invoice for the Goods and Services.
- 11. Termination Before Shipment.** If the Supplier has not accepted this PO in writing, the District may cancel this PO by written, electronic, or oral notice to the Supplier prior to shipment or delivery of Goods and Services.
- 12. District's Rights in Case of Supplier Non-Performance.** If the Supplier fails to perform any obligation under this PO or Bid/Proposal (if any), the District may notify the Supplier in writing of such non-performance. If non-performance is not corrected within the time specified in the notice, the District may terminate the Supplier's right to proceed with the PO or such part thereof to which there has been delay or failure. The Supplier shall continue performance of this PO to the extent not terminated. The Supplier is liable for the costs the District incurs in procuring Goods and Services and products similar to the Goods and Services elsewhere. The District may withhold amounts due the Supplier as the District deems necessary to reimburse the District for excess costs incurred in curing, completing, or procuring similar Goods and Services and products.
- 13. On-line click through agreements, click-wraps, and browse-wraps; Colorado Student Data Transparency and Security Act.** The District may, in connection with the purchase of the Goods and Services, accept Supplier Form terms and conditions by clicking through on-line agreements or otherwise passively accepting the Supplier Form terms or conditions of use. Any terms or conditions to which the District may consent in this manner are void *ab initio* to the extent such terms or conditions: (i) require the District to indemnify or hold harmless another person, or (ii) by which the District agrees to binding arbitration or any other binding extra-judicial dispute resolution process in which the final resolution is not determined by the District, or (iii) by which the District agrees to limit liability of another person for bodily injury, death, or damage to tangible property of the District caused by such person or such person's employees or agents. If any such consent to or agreement with Supplier Forms is for school services, as that term is defined in C.R.S. §22-16-103(7)(a), or the Supplier is or becomes a school service contract provider, as that term is defined in C.R.S. §22-16-103(8), or both, then the Supplier shall comply with the requirements of C.R.S. §22-16-101 *et seq.*
- 14. District Data and District Name.** The District owns and continues to own all District Data. The Supplier shall securely destroy and return copies of District Data to the District upon the District's reasonable request. By issuing this PO, the District DOES NOT consent or agree to any of the following: (i) Supplier's or Supplier's subcontractors' use of District Data for its own commercial gain and benefit outside of the benefits of the PO, including, without limitation, the sale, rental, transfer, distribution, alteration, mining, or unauthorized disclosure of District Data; (ii) use of the District's name, logos, or reputation; or (iii) use of District Data to conduct External Research, as that term is defined by District Policy IGB and IBG-R. To the extent applicable to the PO and the

Goods and Services, the Service Provider shall comply with the following: (i) the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and 34 CFR Part 99, concerning the confidentiality and release of student records and data, as reflected in District Policy JRA/JRC; and with the provisions of 20 U.S.C. § 1232h, as reflected in District Policy JLDAC, concerning the need to obtain written consent of the parent prior to subjecting a student to a certain manner of survey, analysis, or evaluation, and concerning the provision of psychological services; (ii) the Children’s Online Privacy Protections Act (COPPA); and (iii) the Colorado Student Data Transparency and Security Act, C.R.S. §§ 22-16-101 *et seq.* “**District Data**” means all data, records, and information relating to the District and the District’s mission and operations that the District does not intentionally make generally available on public websites or publications but which the District makes available directly or indirectly to the Supplier or which the Supplier collects or generates, in connection with the PO and the Goods and Services.

15. General Provisions.

- 15.1. Compliance with Laws. The Supplier shall comply with all laws that govern the PO and performance thereunder.
- 15.2. Independent Contractor. The Supplier is an independent contractor for and not an employee of the District.
- 15.3. Insurance. The Supplier shall obtain and, during the term of performance under this PO, maintain insurance as required in the Solicitation, Bid/Proposal, or both, and in any event shall maintain insurance coverage in types and amounts at least customary and reasonable for the business and industry in which the Supplier is operating. The Supplier shall provide proof of any such required insurance coverage upon the District’s request.

16. District Specific Provisions.

- 16.1. Availability and Contingency of Funds. Financial obligations of the District payable after the current fiscal year of the District are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
- 16.2. Governing Law. The PO is made in and shall be governed by the laws of the State of Colorado. Actions to enforce any rights under the PO shall be brought in a court of competent jurisdiction in Jefferson County, Colorado. The CCUC applies, and the United Nations Convention on Contracts for the International Sale of Goods and Services does not apply to this PO.
- 16.3. Governmental Immunity. No term or condition of the PO shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101 *et seq.* C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).
- 16.4. Indemnification from Supplier (not applicable where the Supplier is a Colorado governmental entity). The Supplier shall indemnify, defend, and hold the District, and its employees, agents, and members of the governing board (“Indemnified Persons”) harmless against any and all costs, expenses, claims, actions, damages, liabilities, court awards, and other amounts (including attorney’s fees, court costs, and related costs) (“Claims”) incurred by any of the Indemnified Persons in relation to any act or omission by the Supplier, or its employees, agents, subcontractors, or assignees in connection with the PO or performance thereunder. In the event any Goods and Services are covered by or infringe upon any intellectual property, including, without limitation, patents, copyrights, trademarks, trade dress, or application therefor (“Intellectual Property”), the Supplier shall indemnify, defend and hold the Indemnified Persons harmless against all Claims resulting from such Intellectual Property based on actual or alleged manufacture, sale or use of Goods and Services in violation, infringement or the like of Intellectual Property rights of others. The provisions of this section survives the PO.
- 16.5. Indemnification by District Void. The District shall NOT indemnify, defend or hold the Supplier harmless. Any provision in any Supplier Form that attempts to require that the District indemnify, defend, or hold the Supplier or any person harmless is null and void *ab initio*.
- 16.6. Limitation of Liability – No Effect on Insurance Coverage. Any provision in the Bid/Proposal (if any) or any Supplier Forms limiting the Supplier’s liability (if any) shall not affect or decrease any insurance coverage or coverage limits otherwise available. Any provision in Supplier Forms seeking to limit or disclaim the Supplier’s liability shall not apply to this PO. The provisions of this subsection shall survive the PO.
- 16.7. Nondiscrimination. The Supplier shall comply with all applicable state and federal laws, rules and regulations, and District policies, prohibiting discrimination, intimidation, or harassment on the basis of ethnicity or race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, genetic information, age, veteran status, or disability.

- 16.8. Open Records Law (CORA). The Colorado Open Records Act, CRS § 24-72-10 *et seq.*, as amended from time to time, applies to the PO, the Supplier's performance, and the records and reports generated thereunder, to the extent not prohibited by federal law.
- 16.9. Public Contracts for Services (not applicable to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services). This provision is required by C.R.S. §§8-17.5-101 *et seq.* The Supplier certifies that it shall comply with the provisions of C.R.S. §8-17.5-101 *et seq.* The Supplier shall not knowingly (i) employ or contract with an illegal alien to perform work under the PO, (ii) enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under the PO, or (iii) enter into a contract with a subcontractor that fails to contain a certification to the Supplier that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the PO, the Supplier also represents and warrants that the Supplier has confirmed and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this PO, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to C.R.S. §8-17.5-102(5)(c). The Supplier shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this PO is being performed. When the Supplier has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this PO, the Supplier shall (i) notify its subcontractor and the District within 3 days and (ii) terminate the subcontract with the subcontractor if the subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice (unless the subcontractor during those 3 days provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien). The Supplier shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to C.R.S. §8-17.5-102(5), by the Colorado Department of Labor and Employment. The District may terminate the PO if the Supplier does not comply with this provision or the requirements of C.R.S. §§8-17.5-101 *et seq.* C.R.S. §§8-17.5-101 *et seq.*, and the Supplier shall be liable for actual and consequential damages to the District.
- 16.10. Public Contracts with Natural Persons. This provision is required by C.R.S. §§24-76.5-101 *et seq.* If the Supplier is a natural person 18 years of age or older, the Supplier hereby swears and affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law; (ii) shall comply with the provisions of C.R.S. §§24-76.5-101 *et seq.*, and (iii) has produced one form of identification required by C.R.S. §24-76.5-103, by the effective date of the PO.
- 16.11. Taxes and Fees. The District is exempt from the payment of any state, and most municipal, sales and use taxes for materials, supplies, and equipment used in the performance under the PO, and may be exempt from federal and other taxes. The Supplier shall not include any of these taxes in any charges or invoices to the District.