



TORRANCE UNIFIED SCHOOL DISTRICT

PURCHASE ORDER STANDARD TERMS AND CONDITIONS

GENERAL

In these General Terms and Conditions of Purchase, Buyer, or District shall mean, Torrance Unified School District and the term Seller, Supplier, Vendor, or Contractor shall mean, the person, firm or corporation from whom the item or service has been ordered.

TERMS OF AGREEMENT

The purchase order, together with these terms and conditions, and any attachments and exhibits, specifications, drawings, notes, instructions, and other documents, whether physically attached or incorporated by reference, constitute the entire and complete agreement between Torrance Unified School District and the Seller identified in the purchase order.

If a master agreement covering procurement of the work described in the purchase order exists between the supplier and Torrance Unified School District, the terms of such master agreement shall prevail over any inconsistent terms herein.

Any term different from or in addition to the terms of the purchase order by the Seller shall not be binding on the District unless accepted in writing by the Buyer.

The Buyer shall not be responsible for any goods delivered or services rendered without a purchase order properly signed by the Director, Purchasing and Communication Services or authorized agent.

The electronic acceptance, acknowledgement of this purchase order, constitutes Seller's acceptance of these terms and conditions posted on the Torrance Unified School District's website and referenced on the purchase order.

DEFINITIONS

The term "Material, Equipment, and/or Services" includes materials, supplies, equipment, drawings, data and other property to be furnished and all services including but not limited to, design, delivery, installation, inspection, and testing specified or required, to furnish any material, equipment, and/or services contemplated by the PO.

SHIPPING AND DELIVERY

All goods shall be F.O.B. Destination. The Supplier shall be responsible for safe and adequate packing of the items, which shall conform to the carriers' requirements in the absence of any specifications the District may provide. The District is not liable for extra charges for packing or cartage.

Seller shall observe the requirements of any local laws and regulations relating to hazardous work, including, without limitation, with respect to its accompanying information, packing, labeling, reporting, carriage, and disposal.

Seller shall mark the purchase order number on each container and enclosed a packing slip/list of contents of shipment.

Seller agrees to bear all risk of loss, injury, or destruction of goods and material ordered herein which occur prior to delivery; and such loss, injury, or destruction shall not release the Seller from an obligation hereunder.

In the event of Seller's failure to deliver as and when specified, Buyer reserves the right to cancel this order or any part thereof without prejudice to its other rights, and Seller agrees that Buyer may return part or all of any shipment so

made and may charge Seller with any loss or expense sustained as a result of such failure to deliver.

The Buyer reserves the right to refuse deliveries made in advance of the delivery schedule. Over shipment allowances if authorized, will be applied to the entire order. If the Buyer agrees to accept deliveries after the date of delivery has passed, the Buyer shall have the right to direct the Seller to make shipment to the delivery point set forth in this PO by the most expeditious means, and the total cost of such expedited shipment and handling shall be borne by the Seller. Acceptance of late deliveries shall not be deemed a waiver of the Buyer's right to hold the Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of the Seller's obligation to make future deliveries in accordance with the delivery schedule.

INSPECTION AND APPROVAL

All items are subject to final inspection and approval after delivery to the Buyer. If any items are defective in material or workmanship or otherwise not in conformity with the requirements of this purchase order, the Buyer shall (i) return the nonconforming goods to the Seller for refund or credit, (ii) require Seller to replace the nonconforming goods.

Final acceptance or rejection shall be made by the Buyer as promptly as practicable after delivery. Final acceptance shall be conclusive except with respect to latent defects, fraud or such gross mistakes as amount to fraud, or with respect to the Buyer's rights under the "Warranty" clause.

WARRANTIES-GUARANTEES

Seller warrants that the item will conform to its description and are free from defects in design, material and workmanship, and fit for the known purpose for which it is sold. This warranty is in addition to any expressed warranty or service guarantee given by Seller to Buyer.

Seller warrants that the item is free and clear of all liens and encumbrances and that Seller has a good and marketable title to same at the time title passes to Buyer.

Unless otherwise specified in the PO, this warranty shall remain in effect for a one (1) year period after delivery or for such period of time as the item is normally warranted. At the Buyer's option, the Seller shall promptly either repair or replace defective items after receipt of the Buyer's written notice of a defect.

Seller shall comply with all State, Federal, and local laws, regulations, or orders applicable to the purchase, manufacturing, processing, construction, installation, servicing and delivery of the item. In the event of failure to comply with applicable laws, regulations, or orders, the Seller shall reimburse the District for any loss incurred by Seller's failure to comply.

In the event any article sold and delivered hereunder shall be covered by any patent, copyright, or application therefore, Seller shall indemnify and hold harmless the District from any and all loss, cost, or expense on account of any and all claims, suits, or judgments on account of the use of such article in violation of rights under such patent, copyright, or application.

CHANGES

The Buyer may direct in writing a change, including add-ons to or deletions from the quantities originally ordered, or in the specifications or drawings. If any such change causes a material increase or decrease in the cost of, or the



TORRANCE UNIFIED SCHOOL DISTRICT

PURCHASE ORDER STANDARD TERMS AND CONDITIONS

time required for, performance hereunder, an equitable adjustment shall be made in the price or schedule. Any claims for adjustment which Seller believes result from any change directed by Buyer shall be asserted in writing by Seller no later than five (5) days from the date of Seller's receipt of any such direction.

Equitable adjustments for any claims or changes under this agreement, including claims arising from terminations or suspensions of this agreement, will be made by written Change Order. Nothing contained herein shall excuse Seller from proceeding with the change as directed prior to negotiation of any adjustment. Whether made pursuant to this clause or by mutual agreement, changes shall not be binding upon the Buyer, except when confirmed in writing by a member of the Purchasing Department.

When this PO covers a continuing service rendered over a stated period of time, Seller must obtain a new PO upon expiration of the time period to authorize the continuance of the service for an additional period of time.

INVOICE AND PAYMENT

Invoices must reference purchase order and be itemized, showing quantity, unit price, labor, material, State taxes and shipping charges.

Seller shall send a separate invoice for each corresponding purchase order number. Invoice can be sent to the address set forth in the purchase order or electronic e-mail to: invoice@tUSD.org

Payment term is Net 30 days. Payment shall be made in accordance with the payment terms set forth in the purchase order upon receipt of all goods and/or acceptance of services rendered.

LIABILITY OF SELLER

In the event any article sold and delivered hereunder shall be defective in any respect whatsoever, Seller shall indemnify and hold harmless the District from all loss or the payment of all sums of money by reason of all accidents, injuries, or damages to persons or property that may happen or occur in connection with the use of such article and are contributed to by said defective condition.

The Seller shall hold harmless and indemnify the District, its officers, agents and employees from every claim, demand, or liability which may be made by reason of: i) Any injury to property or person including death, sustained by the Seller or by any person, firm or corporation employed by the Seller directly or indirectly upon or in connection with the service hereunder; however caused; and ii) Any injury to property or person, including death, sustained by any firm or corporation, caused by any error, omission, neglect, or torturous act of the Seller, its officers, agents or employees, upon or in connection with the services hereunder, whether the injury or damage occurs upon or adjacent to the premises whose services hereunder are performed; and iii) the Seller, at its own expense, cost, and risk, shall defend any and all actions, suits, or other proceedings, that may be brought or instituted against the District on any such claim, demand, or liability, and pay or satisfy any judgment that may be rendered against the District, its officers, agents, or employees in any such action suit, or other proceedings as a result thereof.

Seller shall be responsible for any and all loss or damage to the item until delivered to Buyer at the F.O.B. Destination specified on the face of this order.

PREVAILING WAGES AND DIR REGISTRATION

Contractors are recommended to periodically review the DIR's website at www.dir.ca.gov. Contractor shall be solely responsible for ensuring compliance with Labor Code section 1725.5 as well as any requirements implemented by DIR applicable to its services or its subcontractors throughout

the performance of any public works project with the District. Failure to comply with the requirements shall be deemed a material breach of any agreement awarded by the District.

FORCE MAJEURE

Neither party shall be deemed in default or have any liability for its delays or its failure to perform or deliver product(s) due to fire, explosion, pest damage, power failures, strikes or labor disputes, acts of God, the elements, war, civil disturbance, acts of civil or military authorities or public enemy, inability to secure raw materials, transport, transportation facilities, fuel or energy shortages, or other causes beyond its control, quarantine, pandemics, epidemics, and diseases, which includes the SARS-CoV-2 (COVID-19) outbreak, act by any local, state, or federal government that would cause or order any work to stop or any funding to be frozen, whether or not similar to the foregoing.

In the event, of any impact upon the ability of the affected party to fulfill its contractual obligations, as stated in the paragraph above, the following three distinct criteria must be satisfied and show that it has taken all reasonable steps to avoid or mitigate the event and its consequences and that there are no alternate means for performing under the contract: (1) The event was beyond the reasonable control of the affected party; (2) The affected party's ability to perform its obligation under the contract were prevented, impeded, or hindered by the event; (3) The affected party has taken all reasonable steps to avoid or mitigate the event or its consequences.

A written notice must be provided within five (5) calendar days from when the affected party first became aware of the event, failure of which will result in a loss of entitlement to claim.

The contractual remedy caused by an event shall consist of either (i) an extension of time to perform those obligations or deliver product(s), (ii) suspension of the contract for the duration of the event, (iii) or if the event extends over a longer period the contract may be cancelled or terminated and shall apply to the Parties.

The remedy shall be free from and exclude escalation fees, facility and storage fees, or increase. Upon any extension of time, suspension, cancellation or termination of the contract, in the event the District's schools or any nonpublic schools serving the District students are closed or otherwise not providing student-based services and/or programs on a normal basis due to the COVID-19 emergency or for any other reason ("School Closure"), nothing in these Terms and Conditions shall be deemed or construed to constitute a commitment by the District to pay the Seller for services not rendered, work not completed, product/equipment not received by the District in accordance with these Terms and Conditions during the period the School Closure is in effect.

A disruption that merely impacts the profitability of the contract is not sufficient for a Force Majeure claim. Nor would an economic downturn or other general adverse business conditions be sufficient for a Force Majeure claim.

DEFAULT

The Buyer may terminate the whole or any part of Seller's work in any one of the following circumstances: (1) If the Seller fails to make delivery or fails to perform within the time specified herein or any authorized extension thereof; or (2) If Seller delivers nonconforming goods; or (3) If Seller fails to perform in accordance with the material provisions of this PO, or so fails to make progress as to endanger performance of this PO in accordance with its terms. In the event of any such failure Buyer will provide Seller with written notice of the default and Buyer's intention to terminate for default if Seller fails to cure



TORRANCE UNIFIED SCHOOL DISTRICT
PURCHASE ORDER STANDARD TERMS AND CONDITIONS

the default to Buyer's satisfaction within seven calendar days of Buyer's notice. If Seller fails to cure or correct the default to Buyer's satisfaction within three (3) days written notice, Buyer may, without further notice to Seller, procure upon such terms and in such manner as the Buyer may deem appropriate, items similar to those terminated and the Seller shall be liable to the Buyer for any excess costs of such similar items; however, the Seller shall continue the performance of this PO to the extent not terminated. The rights and remedies of the Buyer provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this PO.

COMPLIANCE WITH ALL APPLICABLE LAWS

Seller's performance shall in all ways strictly conform with all applicable State, Federal and local laws, regulations, safety orders, and working conditions to which it is subject including, but not limited to, safety rules and regulations, prevailing wages under the California Labor Code. Seller shall execute and deliver any and all documents as may be required to effect or evidence compliance.

PERMITS OR LICENSES: Seller and all of its employees or agents shall secure and maintain in force such licenses and permits as are required by law, and by the City, in connection with the furnishing of Material, Equipment, and/or Services herein requested.

TERMINATION FOR CONVENIENCE OR FUNDING:

Buyer shall have the right to terminate this PO in whole or in part at any time, and from time to time, by written or telegraphic notice effective upon receipt by Seller of such notice, even though Seller is not in breach of any obligation hereunder. Upon receipt of notice of termination, Seller shall immediately discontinue performance and shall comply with Buyer's instructions concerning disposition of completed and partially completed items, work in progress and materials acquired pursuant to this PO. Upon termination, Contractor shall be compensated only for those services or goods which have been adequately rendered and delivered to the District through the effective date of such termination. Contractor shall be entitled to no further compensation. However, said payment shall not exceed the price specified herein for such items. Seller shall advise the Buyer, in writing, of Seller's claim, if any, for termination costs within ten (10) days after receipt of the notice of termination. Termination in accordance with this article shall not affect Buyer's obligation to pay for items accepted by Buyer prior to such termination.

GOVERNING LAW

The definition of terms used, interpretation of this PO and rights of all parties hereunder shall be construed under and governed by the laws of the State of California. Any litigation with respect to this PO shall be brought and conducted in Los Angeles County, California.

INSURANCE

If Seller or its employees or agents come onto Buyer's property in connection with this Purchase Order, Seller agrees to carry (i) Workers Compensation Insurance as required by law and Commercial General Liability and Automobile Liability with coverages and amounts approved by the Buyer.

END OF TERMS AND CONDITIONS

UPDATED JANUARY 25, 2021