

Purchase Order Standard Terms and Conditions

1. Unless Otherwise Indicated, this is a firm, fixed price order for the items and or/services identified herein. No changes, alterations, or substitutions are authorized unless by a written modification
2. A packing slip must be included in each shipment. The PO number must be clearly visible on all documentation and boxes/cartons.
3. The shipment is FOB Destination (inclusive of all charges) unless otherwise indicated. All deliveries must be complete within 30-calendar days of the date of the order unless otherwise indicated.
4. Certificate of Exemption #98-02138-0000 is applicable to this PO.
5. Payment terms are Net 30. Payment will be made upon completion of the order. Partial payments for partial shipments will not be made. By accepting this PO the vendor agrees payment may be made by CCSD credit card for no additional fees or costs.
6. In case of default by the vendor, CCSD may procure the articles or services covered by this order from other sources and may hold the vendor responsible for any excess costs.
7. Any correspondence or inquiries regarding this order shall be sent to the following address (or email) and must include the PO number and any necessary supporting documentation:
For Purchasing: CCSD Strategic Sourcing Department
4350 S. Pitkin Street
Aurora, CO 80015
StrategicSourcing@cherrycreekschools.org
For Billing/Accounts Payable: CCSD Accounts Payable Department
9150 E Union Avenue
Greenwood Village, CO 80111
accountspay@cherrycreekschools.org
8. All provisions and remedies of the Uniform Commercial Code are incorporated herein.
9. CCSD reserves the right to terminate all or part of this purchase order. Settlement not involving delay or late delivery may be resolved by negotiated agreement by the Purchasing Manager. Vendors may appeal the Purchasing Manager's decision to the Director of Purchasing whose decision shall be final.
10. By accepting this Purchase Order, the Vendor certifies that they are not suspended or debarred or otherwise excluded, per the Excluded Parties List System (EPLS) maintained by the General Service Administration

Purchase Order Special Terms and Conditions

1. Definitions.

- A) "Bid" means the Contractor'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 Contractor'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) "Contractor" means the business entity designated on the face of this purchase order that is supplying Deliverables to the District. Contractor shall be synonymous with "supplier", "vendor", or other similar term.
- E) "Deliverables" means the tangible and/or intangible personal property, 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 Cherry Creek School District (CCSD).

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

3. Audit. The District shall have the right to examine and audit Contractor's records related to this Contract. Contractor and its subcontractors shall maintain and preserve all such records for a period of at least three (3) years after final payment to Contractor or after final Contract closeout, as determined by the District.

4. Award of Contract. The Bidder's Bid or quotation is 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 of Education of CCSD pursuant to Colorado law.

5. Acceptance/Rejection of Bids. The District may award a contract on an individual item or combination of items, whichever is in the best interest of the District. A bidder may specify that the District's acceptance of one item shall be contingent upon the District's acceptance of one or more additional items submitted in the same Bid. Bids shall remain open and valid for 120 days after bid opening date unless otherwise stipulated and may be accepted without further written notice by the District. The Bidder may withdraw its Bid at any time before the Bid opening.

6. District Name May Not Be Used. The name and/or logo of the District or any school of the District may not be used in any advertisements or 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 Contractor.

7. Fingerprinting. The Contractor and its subcontractors shall fully comply with the provisions of Education Code Section 45125.1 when Contractor and/or its subcontractors will have more than limited contact with District pupils.

8. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the state of Colorado, without regard to conflicts of laws.

9. Indemnification. Contractor agrees to indemnify and hold harmless the District, the Board, and their 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 Contractor's performance hereunder, breach of its representations, warranties or obligations hereunder, or Contractor's failure to comply with any applicable law, or regulation.

10. Independent Contractor. Contractor shall perform its obligations under this Contract as an independent contractor of the District. Nothing herein shall be deemed to constitute Contractor and the District as partners, joint ventures, or principal and agent. Contractor has no authority to represent the District. Contractor 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.

11. Independence of Bid. Unless Bidder is furnishing a joint bid, by submitting this Bid, Bidder swears under penalty of perjury that it did not conspire with any other supplier to set prices in violation of antitrust laws.

12. Insurance. Upon the District's request, Contractor shall provide, 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 Contract.

13. Joint Bids. A joint bid submitted by two or more bidders participating jointly in one bid may be submitted, and each participating bidder must sign the joint bid. If the contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable under this contract. In addition, the joint contractors must designate, in writing, one individual having authority to represent them all in matters relating to the contract. The District assumes no responsibility or obligation for the division of orders or purchases among joint contractors.

14. License. Upon payment in full for software, Contractor 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 facing page and, if none is listed, this license shall be deemed enterprise-wide and all District end users may use the software

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.

15. Non-Discrimination. Contractor shall comply with all laws prohibiting discrimination in employment and shall include this nondiscrimination requirement in all subcontracts to perform work under the Contract.

16. Order of Precedence. This Contract constitutes the entire agreement between the parties and supersedes any prior or contemporaneous written or oral understanding or agreement and any contrary provisions on packing slips, invoices, or other documents submitted by the Contractor. Any conflict or inconsistency among the components of this Contract shall

be resolved by giving precedence in the following order: (1) these Contract Terms and Conditions; (2) all other attachments incorporated into the Contract by reference; (3) Contractor's Bid. No term or condition of this Contract may be terminated, modified, rescinded, or waived except by a writing signed by both parties. No modification or waiver of this Contract shall be deemed effected by Contractor's acknowledgment, confirmation or other documentation containing other or different terms. Should any such document from Contractor contain additional or different terms than this Contract, those terms shall be considered proposals by Contractor, which are hereby rejected.

17. Packaging, Delivery and Acceptance. A) Packaging. 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) Delivery. Contractor 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 in this Contract. All deliveries shall be set on the District's dock and/or pallets or as otherwise prescribed by the District. All Deliverables are subject to acceptance by District. District will notify Contractor in writing of any defect or nonconformity and Contractor will repair or replace such defective or nonconforming goods or, at the District's option, refund the purchase price to District.

C) Acceptance. 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 Contractor'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. The District shall give written 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 state the respects 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 Contract with respect to conformity. Title to and risk of loss of Deliverables shall vest in the District upon acceptance.

18. Performance Guarantee. A performance guarantee may be required on award of annual contracts, which exceed \$100,000.

19. Samples. Samples of items may be required by the District for inspection and specification testing and must be furnished free of expense to the District. The samples furnished must be identical in all respects to the items bid and/or specified in the

Contract. Samples must be plainly marked with the name of Bidder, bid number, and date of bid opening. Samples may be retained for comparison with deliveries and if not destroyed by tests, may, upon request at the time the sample is furnished, be returned at Contractor's expense. Bidder/Contractor assumes all risk of loss of or damage to samples.

20. Severability. If any provision or part of this Contract shall be declared illegal, void, or unenforceable, such term or provision shall be deemed stricken and the remaining provisions shall continue in full force and effect to the extent permitted by law.

21. Substitutions. Product substitutions require the prior, express written authorization from an authorized District representative.

22. Tax. The District shall pay only Colorado sales tax and use tax and/or County sales and use tax, as applicable. Contractor shall separately list all applicable taxes on the invoice. The District is exempt from payment of Federal Excise Tax.

Contractor shall cooperate with the District in all matters related to taxation and the collection of taxes. The District may, at its option, self-accrue tax and remit same to the state of Colorado pursuant to the District's permit with the state of Colorado.

23. Termination.

I. The District may, by written notice to the Contractor, terminate this Contract in whole or in part at any time, for the District's convenience or Contractor's default. Upon receipt of such notice, the Contractor 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 District or generated by the Contractor in the performance of this contract, whether completed or in process. Termination of this contract shall be as of the date of receipt of the Contractor of such notice.

II. If the termination is for the convenience of the District, Contractor shall submit a final invoice within sixty (60) days of termination and upon approval by the District, the District shall pay the Contractor the sums earned for the Products/Services actually provided/performed prior to the effective date of termination and other costs reasonably incurred by the Contractor to implement the termination (if any).

III. The Contractor shall not be entitled to anticipatory or consequential damages because of any termination under this Article. Payment to the Contractor in accordance with this Article shall constitute the Contractor's exclusive remedy for any termination hereunder. The rights and remedies of the District provided in this Article are in addition to any other rights

and remedies provided by law or under this Contract.

24. Title. Title to and risk of loss of Deliverables shall pass to and vest in the District upon final acceptance by the District.

25. Warranty.

A) Contractor 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 Contractor warranty.

B) At the time of delivery, no software shall contain any virus, "Trojan horse," timer, counter or other limiting design, instruction, or routine that would erase data or programming or cause the software or any hardware or computer system to become inoperable or otherwise incapable of being used in the full manner for which it was designed and created.

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 Contractor, that, if adversely determined, might affect any Deliverable or restrict the District's right to use any Deliverable. Contractor knows of no basis for any such action, suit, claim, investigation, or proceeding.

D) Contractor 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.

26. Data Privacy. If Contractor is an operator of an Internet website, online service, online application, or mobile application, Contractor shall comply with the requirements of Colorado Business and Professions Code sections 22580 through 22585 (notwithstanding statute operative dates), and District policy as follows:

a) Contractor shall not (i) knowingly engage in targeted advertising on the Contractor's site, service or application to District students or their parents or legal guardians; (ii) use a student's personally identifiable information ("PII") or other non-public information (e.g., metadata) to amass a profile about a District student; (iii) sell information, including PII; or (iv) disclose PII without the District's written permission.

b) Contractor will store and process District Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure Contractor's own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved. Without limiting the foregoing, Contractor warrants that electronic District data will be encrypted in transmission using secure hypertext transfer protocol (HTTPS) with transport layer security (TLS) protocol version 1.2 to enable secure communications over the Internet, and encrypted in transit using cryptographic protocol TLS 1.2 or greater and encrypted at rest using a key no less than 128 bits in length.

c) Contractor shall delete a student's covered information upon request of the District.

27. Compliance with Americans with Disabilities Act If applicable, Contractor shall comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) by supporting assistive software or devices such as large print interfaces, voice-activated input, and alternate keyboard or pointer interfaces in a manner consistent with the Web Content Accessibility Guidelines published by the World Wide Web Consortium's Web Accessibility Initiative, which may be found at <http://www.w3.org/WAI/GL/#Publications>.

28. Contractor Code of Ethics Contractor shall comply with the District Contractor Code of Conduct.