

PASADENA CITY COLLEGE
PURCHASE ORDER AGREEMENT - TERMS AND CONDITIONS

- I. Acceptance of this purchase order is limited to the terms on the face and back hereof. Additional terms on SELLER'S form are objected to and rejected and shall be deemed a material alteration hereof.
- II. THE DISTRICT SHALL PAY THE STATE SALES TAX AND USE TAX IF APPLICABLE, THE FEDERAL EXCISE TAX IS NOT APPLICABLE, AS SCHOOL DISTRICTS ARE EXEMPT THEREFROM. THE DISTRICT SHALL FURNISH THE SUPPLIER SUCH TAX CERTIFICATES AS MAY BE REQUIRED BY THE MANUFACTURER OR SUPPLIER. ANY APPLICABLE TAX WHICH MAY BE IMPOSED BY ANY GOVERNMENTAL AGENCY PRIOR TO DELIVERY OF MERCHANDISE SHALL BE PAID BY THIS DISTRICT.
- III. It is understood that delivery time is of the essence of the contract and that the SUPPLIER agrees to deliver all items on this order under the shipping conditions shown on the reverse side of this order. F.O.B. Destination shall mean the SUPPLIER pays all shipping costs, and title to merchandise and vested interest shall transfer to the DISTRICT only when received for and accepted by the DISTRICT representative. The foregoing is DISTRICT policy. If an exception is made it will be limited to shipping costs. If such exception is made, SUPPLIER shall prepay and invoice the DISTRICT for actual shipping charges. Ownership and vested interest in the merchandise shall remain with the SUPPLIER while in transit and title shall transfer to the DISTRICT only at such times as merchandise is received and accepted at the DISTRICT receiving point. It shall be the responsibility of the SUPPLIER to trace any merchandise lost in transit, and to seek damages from Shipper for any merchandise damaged in transit if he deems it in his best interest to do so.
- IV. All articles furnished shall be subject to inspection by representatives of the DISTRICT for defects or non-compliance with specifications. If SUPPLIER shall fail to deliver as promised or delivers any article which does not conform to specifications, the DISTRICT may at its option, annul and set aside the contract entered into with said SUPPLIER, either in whole or in part, and make and enter into a new contract in accordance with law for furnishing such article or articles so agreed to be furnished. Any additional cost or expense incurred by the DISTRICT in making of such contract and any additional cost of supplying any article or articles by reason of the failure of the SUPPLIER, as stated above, shall be paid by such SUPPLIER and his sureties, if any.
- V. DISTRICT reserves the right to terminate this contract for its convenience. In such event SUPPLIER shall immediately stop all work and observe any instructions from DISTRICT as to work in process. SUPPLIER shall be paid an equitable adjustment for work already performed, not to exceed 100% of purchase order amount but subject to any costs, expenses or damages occasioned by any intentional or negligent conduct on the part of SUPPLIER or its employees or agents.
- VI. DISTRICT may also terminate this contract for cause in the event of a default by SUPPLIER. In such event, DISTRICT shall not be liable to SUPPLIER for any amounts, and SUPPLIER shall be liable for, and shall indemnify and hold DISTRICT harmless from, any damages occasioned by the SUPPLIER'S breach or default. If it should be determined that the DISTRICT has improperly terminated this contract for default, such termination shall be deemed to be for DISTRICT'S convenience.
- VII. SUPPLIER warrants that all goods or services furnished hereunder shall be merchantable and free from any defects in workmanship or material. It SUPPLIER has been informed of the use of the products, SUPPLIER also warrants that the items furnished hereunder are suited and appropriate for such use. SUPPLIER shall indemnify and save the DISTRICT harmless from any breach of this warranty, and no limitations on DISTRICT'S remedy in SUPPLIER'S documents shall operate to reduce this indemnification. SUPPLIER shall extend all warranties it received from its vendors to DISTRICT. This warranty is in addition to all warranties contained under the law.
- VIII. SUPPLIER warrants that the prices quoted hereunder are the lowest prices at which these or similar articles are sold by the SUPPLIER to other customers, and in the event of any price reduction between execution of the purchase order and delivery of the goods, DISTRICT shall be entitled to such reduction.
- IX. DISTRICT may delay delivery or acceptance of goods in the event of any unforeseen event. SUPPLIER shall hold the goods pending DISTRICT'S direction, and DISTRICT shall be liable only for direct increased costs incurred by the SUPPLIER by reason of DISTRICT'S instructions.
- X. DISTRICT shall have the right to make changes in this order at any time and SUPPLIER agrees to accept such changes. In the event such changes result in additional costs, DISTRICT shall make an equitable adjustment in the purchase price provided such additional costs are itemized, in writing, for DISTRICT by SUPPLIER within 30 days of the change.
- XI. The SUPPLIER agrees to indemnify and hold harmless the DISTRICT and its Board of Trustees, officers, and employees from liability of any nature or kind, including but not limited to damages, costs, expenses and attorney's fees, on account of:
 - A) use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, article, or appliance furnished or used under the purchase agreement.
 - B) liability for damages for (1) death or bodily injury to persons, (2) injury to property, (3) design defects or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the SUPPLIER or any person, firm or corporation employed by the SUPPLIER upon or in connection with the work called for in this purchase agreement except for liability for damages referred to above which result from the sole negligence or willful misconduct of the DISTRICT, its officers, employees, agents or independent contractors who are directly employed by the DISTRICT, and
 - C) any injury to or death or persons or damage or property, sustained by any person, firm, or corporation, including the DISTRICT, arising out of, or in any way connected with the work covered by this purchase agreement, whether said injury or damage occurs either on or off school district property, except for liability for damages which result from the sole negligence or willful misconduct of the DISTRICT, its officers, employees, agents or independent contractors who are directly employed by the DISTRICT.

The SUPPLIER at his own cost, expense, and risk shall defend any and all actions, suits or other legal proceedings that may be brought or instituted against the DISTRICT or the Board, its officers and employees, on any such claim or demand referred to in XI A), B), C) and pay or satisfy any judgment that may be rendered against materials and services listed herein.

- XII. The SUPPLIER, while engaged in carrying out the terms and conditions of the purchase agreement, is an independent contractor and not an officer, employee or agent of the DISTRICT. SUPPLIER acknowledges that it has no authority to bind the DISTRICT to any contracts or legal obligations.
- XIII. The SUPPLIER represents that it maintains insurance to cover its operations and activities in connection with this purchase order in at least the following amounts:
1. Comprehensive General Liability -- combined limit of not less than \$2,000,000.00 per occurrence.
 2. Contractual Liability -- combined single limit of not less than \$2,000,000.00 per occurrence.
 3. Comprehensive Automobile Liability -- combined single limit of not less than \$2,000,000.00 per occurrence.
 4. Workers' Compensation Insurance -- in an amount conforming to and as required to meet all applicable labor codes for the State of California and which specifically covers all persons providing services on behalf of the Company and all risks to such persons under this Agreement. All such insurance shall be primary and shall not contribute with any other insurance maintained by the DISTRICT.
- XIV. The SUPPLIER and all of his 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 services listed herein.
- XV. If any material or the ingredients of any material furnished by the SUPPLIER is considered to be hazardous as defined by Federal or California statute, the SUPPLIER shall provide to the DISTRICT a Material Safety Data Sheet (MSDS) pursuant to OSHA's Hazard Communication Rule 29 CFR 1919.1200.
- XVI. This purchase order and any documents referred to on the face hereof constitute the entire agreement between the parties and may be modified verbally, followed with written verification. No part of this order may be assigned or subcontracted without the prior written approval of the DISTRICT. Any monies due DISTRICT from SUPPLIER can be set off from any monies due SUPPLIER from DISTRICT whether or not under this contract. DISTRICT'S failure to insist on any right shall not operate as a waiver of any other right.
- XVII. This agreement is governed by the laws of the State of California without regard to its conflict of law provisions. Venue of any proceeding arising from or related to this agreement shall be in the Los Angeles Superior Court. Company agrees to submit to the personal and exclusive jurisdiction of the courts within the State of California and hereby waives any objection thereto.
- XVIII. Payment for the material on this purchase order will be made after the entire order is delivered or completed to the satisfaction of the DISTRICT. Cash discount will be computed from the date of acceptance of the completed order or receipt of invoices, whichever is later.
- XIX. The term "SUPPLIER" wherever appearing in this Agreement shall include the individual or firm named on the face of this Agreement and all officers, Directors, employees, agents, contractors, and sub-contractors of such SUPPLIER. The term "DISTRICT" wherever appearing in this Agreement, shall include the Pasadena Area Community College District, the Board of Trustees of the DISTRICT jointly and severally, Pasadena City College and all officers, employees, agents, students and volunteers of the DISTRICT.
- XX. The SUPPLIER, by accepting this purchase order or signing this Agreement, certifies that:
- A) The SUPPLIER and any of its principals and/or vendors or subcontractors are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of purchases or contracts by any Federal agency, and
 - B) Have not, within a three-year period preceding this purchase/contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, State or local government contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

This certification regarding debarment, suspension or ineligibility for award is applicable only to purchases/contracts for \$25,000.00 or more, which are funded by Federal funds.

Should SUPPLIER and any of its principals and/or vendors or subcontractors are presently debarred or declared ineligible for the award of purchase orders or contracts by any Federal agency, SUPPLIER must immediately notify the procurement official issuing the purchase order or contract and refrain from delivering any products or services until directed otherwise by the procurement office.

- XXI. The SUPPLIER hereby warrants that the products or services to be provided under this Agreement comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing regulations. SUPPLIER agrees to respond promptly to and resolve any complaints regarding accessibility of its products or services that are brought to its attention. SUPPLIER further agrees to indemnify and hold harmless the Pasadena Area Community College District from and against any claim arising out of its failure to comply with these requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of this Agreement.