

Clackamas Education Service District - Purchase Order -Terms and Conditions

<p>1. Definitions. "Contract" means the written agreement between the parties, including solicitation documents, purchase orders, price agreements and amendments thereto. "Contractor" means a person or entity (including officers, subcontractors, agents, and employees) with which the District has contracted and is synonymous with "seller" as used in the Uniform Commercial Code (UCC) or ORS Chapter 72. "District" means North Clackamas School Dist. No. 12 and is synonymous with "buyer" as used in the UCC or ORS Chapter 72.</p> <p>2. Time is of the essence. Time is of the essence in the performance of this Contract, and District reserves the right to cancel any portion of this Contract not delivered on time.</p> <p>3. Delivery. Deliveries shall be F.O.B. the place of destination. Contractor shall pay transportation and handling costs and be liable for loss or damage until acceptance of Goods. Contractor remains liable for latent defects, fraud, and warranties.</p> <p>4. Payment. All payments shall be remitted by mail 30 days from acceptance or receipt of invoice, whichever is later. District shall not honor drafts nor accept goods on a site draft basis.</p> <p>5. Inspections. District has a right before payment or acceptance to inspect the goods at a time and place determined by District. If the goods fail to conform to the Contract, the District may reject the whole, accept the whole, or accept any commercial unit(s) and reject the rest. This paragraph does not limit District's rights under ORS Chapter 72 or the UCC.</p> <p>6. Purchase Order Number. All written documents and containers (boxes, bags, etc.) related to the Contract shall contain the applicable purchase order number. All shipments related to the Contract shall contain separate invoices and a packing list indicating the contents of the shipment.</p> <p>7. Warranties. Contractor represents and warrants that the Goods are new, current, and fully warranted by the manufacturer. Delivered Goods will comply with specifications and be free from defects in labor, material, and manufacture. All UCC implied and express warranties are incorporated in this Contract. Contractor shall transfer all warranties to District.</p> <p>8. Defective Goods. Contractor agrees to accept for credit, repair, or replacement at no charge any defective goods received by District or proven defective during the warranty period. Contractor shall pay costs related to shipping defective goods to Contractor and shipping conforming goods back to District.</p> <p>9. Force Majeur. Neither party is responsible for delay or default caused by an event beyond its reasonable control. District may terminate this Contract without liability to Contractor upon written notice after determining the delay or default reasonably prevents performance of the Contract. Contractor shall make all reasonable efforts to eliminate the cause of the delay or default and perform its obligations.</p> <p>10. Assignment/Subcontract/Successors. Contractor shall not assign, sell, transfer, or subcontract rights or delegate responsibilities under this Contract in whole or part without prior written approval of District. This Contract shall be binding upon and inure to the benefit of the Parties and their successors and assigns.</p> <p>11. Amendments/Waivers. Amendments and waivers of breach shall be in writing and signed by the Parties. Amendments or waivers of breach shall be narrowly interpreted and effective in only the specific instance and for the specific purpose given. Waiver of one breach shall not constitute waiver of subsequent breaches.</p>	<p>12. Early Termination. This Contract may be terminated (a) through mutual written agreement, (b) by District for Contractor's breach, or (c) by District at its sole discretion and at any time upon written notice to Contractor. Upon written notice, Contractor shall stop performance, and District shall pay Contractor for Goods delivered and accepted.</p> <p>13. Breach of Contract. Contractor shall be liable for any and all damages suffered by District as the result of Contractor's breach of Contract, including but not limited to damages contained in ORS 72.7110 to 72.7170.</p> <p>15. Compliance with Laws. Contractor shall comply with federal, state, local, and District laws, regulations, or policies, including federal and state civil rights laws and rehabilitation statutes and District policies.</p> <p>16. Independent Contractor. Contractor is an independent contractor. The parties shall take or forbear from taking all action necessary or appropriate to establish Contractor's status as an independent contractor.</p> <p>18. Hazardous Chemicals. Contractor shall provide a Material Safety Data Sheet for goods which may release or result in exposure to a hazardous chemical under normal conditions of use. Contractor must label, tag, or mark such goods and shall notify District prior to use of such chemicals.</p> <p>19. Access to Records. Contractor shall maintain accounting records relating to this Contract according to GAAP and records relating to Contractor's performance for the legally required term. Contractor shall grant District access to these records, including the ability to review, audit copy, and make transcripts.</p> <p>20. Award to Foreign Contractor. If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide Oregon Dep't of Revenue all information required by it. District shall withhold final payment under this Contract until Contractor has met this requirement.</p> <p>21. Release and Indemnity from Liability. Contractor shall hold harmless, release, indemnify, defend, and discharge District from liability resulting from performance in furtherance of this Contract. Contractor agrees to these actions to the fullest extent allowed by law. "District" includes its Board of Directors, the individual members thereof, and its officers, agents, employees, and volunteers. "Liability" means claims or demands for any value, compensation, remuneration, or benefit, such as but not limited to lawsuits, tort claims, insurance claims, causes of action, fines, fees, attorney fees, costs, and medical costs. This contractual indemnity provision does not abrogate common law or statutory liability and indemnification to the District, but it is in addition to such common law or statutory provisions.</p> <p>22. Governing Law. This Contract is governed by Oregon law without resort to any other jurisdiction's law. Legal action involving any question arising under this Contract must be brought in Clackamas County Circuit Court or in the United States District Court for the State of Oregon.</p> <p>23. Severability. If any Contract provision or part thereof is legally unenforceable, the remaining provisions or parts shall remain in effect.</p> <p>24. Rule of Construction. The rule of construction that a contract is construed against the drafter shall not apply to any dispute over the interpretation of the Contract.</p>
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