

Jordan School District Standard Terms and Conditions
Applicable to all Purchase Orders

1. **Definitions:** The following definitions apply: (a) "JSD" Jordan School District, (b) "PO" Purchase Order or Contract. (c) "Contractor" or "Seller" or "Supplier" the legal person authorized to bind the company contracting with the buyer and universally used throughout this document.
 2. **Authority:** Provisions of this contract are pursuant to the authority set forth in Jordan School District Purchasing Policy BP178, in accordance with the laws of the State of Utah.
 3. **Laws and Regulations:** The Contractor and any and all supplies, services, equipment, and constructions proposed and furnished under this contract will comply fully with all applicable Federal and State laws, codes and regulations.
 4. **Background Check:** "All persons who will be placed in direct contact with students may be subject to the requirements set forth in Utah Code 53A-3-410. Where applicable, access to JSD property may be granted to Seller's employees only after appropriately cleared by the School Board. All costs associated for clearance of Seller's personnel shall be included in the seller's pricing.
 5. **Acceptance:** Purchase order acceptance constitutes the entire agreement. This order constitutes Buyer's offer and may be accepted by Seller (or Contractor where applicable) only in accordance with the terms hereof. No agreement or understanding varying or extending the terms or conditions of the PO, including but not limited to Seller provided terms and conditions included within a quote or proposal, will be binding unless in writing and agreed to and signed by an authorized JSD buyer. This PO may be accepted by Seller by, written acknowledgment, commencement of work, shipment of goods or furnishing of services. No addition, oral agreement or any instructions, terms and conditions that may be contained in any acknowledgement, of this PO shall be binding upon JSD, if in conflict with JSD terms and conditions, unless authorized in writing, by the JSD Buyer.
 6. **Changes:** Buyer shall have the right at any time by written notice to Seller, make changes or suspend performance, in whole or in part to this PO. Seller shall proceed to perform as changed. If change causes an increase or decrease in the cost or time of performance of this PO, Seller shall notify Buyer immediately and negotiate an adjustment. Any claim by the Seller for adjustment must be asserted in writing within thirty (30) days from the date of receipt by the Seller of the notification of change.
 7. **Shipping:** Buyer reserves the right to route all shipments. Delays in shipment shall be reported immediately by Seller to Buyer. Every package, bill of lading, shipping memorandum and invoice must be marked with JSD's PO number. All shipment will include an itemized packing slip of each package's content.
 8. **Delivery/Title:** Unless otherwise agreed, delivery shall be F.O.B. Destination and title shall pass to JSD upon acceptance at the final delivery point. Risk of damages or loss following shipment and prior to acceptance by JSD shall be the responsibility of Seller. Deliveries will be made even in the event of a strike at Seller's location, unless otherwise authorized by JSD Buyer. If the Seller fails to deliver in accordance with the schedule, Buyer will be entitled, to either a price reduction for late deliveries, or the right to terminate the PO for default. In the event of any anticipated or actual delay in the performance of this PO, Seller will immediately notify the Buyer in writing of the reasons for the delay and what action is being taken to minimize the delay.
 9. **Inspection:** All work and/or supplies on this PO are subject to inspection and testing by an authorized JSD employee at times and places determined by JSD. If JSD finds the goods to be incomplete, non conforming or damaged. JSD may reject the supplies and require Seller to correct them with no additional charges. If Seller refuses to correct such goods, within a reasonable time, the Buyer may cancel the order in whole or in part.
 10. **Hazardous Material Identification and Material Safety Data:** Seller will provide one set of the appropriate Material Safety Data Sheet and container label upon delivery of hazardous material to JSD
 11. **Indemnity Clause:** The Seller agrees to release, protect, indemnify and hold JSD's, officers, directors, representatives and its employees harmless from and against any damage, cost or liability, including reasonable attorney's fees for any and all injuries to persons, damage to property or claims for money. For damages arising from acts or omissions of the Seller, Sellers employees, subcontractors, representatives or volunteers.
 12. **Insurance for Work Performed on JSD Properties:** If Seller, its agents, and/or employees are required to perform this PO or any part on JSD premises, Seller shall provide insurance coverage as follows:
 - a. Worker's Compensation Insurance or qualification as a self-insurer to satisfy the laws of the State of Utah.
 - b. Employee's liability insurance for Bodily Injury per accident limits not less than \$1,000,000 per occurrence.
 - c. Comprehensive General Liability \$2,000,000 combined single limit any one occurrence and shall include coverage for bodily injury and property damage.
 - d. Comprehensive Automobile Liability Insurance \$1,000,000 (owned and hired vehicles) combined single limit per occurrence for personal injury and property damage.
 - e. Umbrella or Excess Liability Coverage \$5,000,000.
- The above policies shall include JSD as additional insured for claims caused in whole or in part by the Sellers negligent acts or omissions during the Sellers operations or performance on this contract. Seller shall provide thirty (30) days advance written notice of changes in or cancellation of any such insurance. Seller will be required to furnish a Certificate of Insurance prior to the commencement of work. Failure to

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maintain insurance during the performance of this PO shall cause the Seller to be in default under this PO.

- 13. Sales Tax Exemption:** Prices will be exclusive of state sales, use and federal excise taxes. JSDs sales and use tax exemption number is 11930858-003-STC. JSDs Federal tax identification number is 87-6000497.
- 14. Invoices and Payment:** Seller shall deliver invoices by mail to JSD accounting. Seller shall be paid the prices stipulated on the PO for supplies delivered and accepted. JSD has no obligation to pay for items not included in the PO. The PO number will appear on all invoices, JSD has the right to return any invoice reflecting incorrect pricing. Payments are normally made within thirty (30) days following the date the order is delivered or the date a correct invoice is received, whichever is later. Freight charges, when applicable, shall be separately stated on the invoice. Unless the PO specifies otherwise. Seller may quote a prompt payment discount based upon early payment, the date from which discount time is calculated will be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, then on material acceptance date.
- 15. Warranty:** The Seller agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to JSD under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere. The seller will repair or replace any product whose nonconformance does not meet manufacturer advertised claims, and is discovered and made known to the seller. If the repaired and/or replaced product proves to be inadequate, or fails its essential purpose, the Seller will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies JSD may otherwise have under the PO.
- 16. Records Administration:** The Seller will maintain records necessary to properly account for the payments made to the Seller for costs authorized by this PO. These records will be retained by the Seller for at least four years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later. The Seller agrees to allow the JSD, State and Federal auditors, and State Agency staff, access to all the records to this PO, for audit and inspection and monitoring of services. Such access will be during normal business hours, or by appointment.
- 17. Utah Senate Bill (SB 81) Compliance:** The Seller verifies that they are in compliance with the Utah Senate Bill (SB81), Illegal Immigration. The law makes it unlawful for a Utah employer to terminate a U.S. citizen and replace that individual with an undocumented work hired after July 1, 2009. SB 81 also requires contractors who perform physical services within the State to register and participate in the Status Verification System, as defined in SB 81, before entering into contracts with public employers. Contracts awarded through a request for proposal process require a clause mandating the prime and subcontractor to use an approved Status Verification System.
- 18. Sellers Compliance with Applicable Employment Practices and Laws:** JSD will not have any responsibility to ensure or enforce any employment practices or laws with respect to Seller's employees, agents or contractors. Seller warrants and certifies that it abides by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A., 1953 as amended and title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973; or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Seller agrees to abide by Utah's Executive Order, dated March 17, 1993 which prohibits sexual harassment in the workplace. Seller must include this provision in every subcontract or purchase order relating to purchases made by JSD to insure that the subcontractors and suppliers are bound by this provision.
- 19. No Third Party Rights:** Nothing in the PO or agreement may be construed to create any rights in third parties who are not parties to the agreement or PO.
- 20. Patents, Copyrights, Etc.:** The Seller will release, indemnify and hold JSD, its officers, agents and employees harmless from liability of any kind or nature, including the Sellers use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
- 21. Assignment/Subcontract:** Seller will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval from the Buyer.
- 22. Default and Remedies:** Any of the following will constitute cause for JSD to declare the Seller in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of the PO. JSD will issue a written notice of default providing a specified period of time for Seller to cure. If the default remains, JSD may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate the PO and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Seller from receiving future bid/proposal solicitations.
- 23. Force Majeure:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. JSD may terminate the PO after determining such delay or default will reasonably prevent successful performance of the contract.
- 24. Non-Appropriation of Funds:** The Seller acknowledges

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that JSD cannot contract for the payment of funds not yet appropriated by the JSD Board of Education. If funding to JSD is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, JSD may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from JSD upon 30 days written notice. In the case that funds are not appropriated or are reduced, JSD will reimburse Seller for products delivered or services performed through the date of cancellation or reduction, and JSD will not be liable for any future commitments, penalties, or liquidated damages.

- 25. Independent Contractor:** Seller is an independent contractor, and as such will have no authorization, express or implied to bind JSD to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for JSD, except as expressly set forth herein. Compensation stated herein will be the total amount payable to the Seller by JSD. The Seller will be responsible for the payment of all income tax and social security tax due as a result of payments received from JSD for any contract services.
- 26. Price Guarantee, Adjustments:** The contract pricing resulting from this PO, bid/proposal will be guaranteed for the period specified. Following the guarantee period, any request for price adjustment must be for an equal guarantee period, and must be made at least 30 days prior to the effective date. Requests for price adjustment must include documentation supporting the request and demonstrating a logical mathematical link between the current price and the proposed price. Any adjustment or amendment to the contract will not be effective unless approved by JSD Director of Purchasing. JSD will be given the immediate benefit of any decrease in the market, or allowable discount.
- 27. Public Information:** Seller agrees that the PO, related Sales Orders, and Invoices will be public documents, and may be available for distribution. Seller gives JSD express permission to make copies of the PO, related Sales Orders, and Invoices in accordance with the State of Utah Government Records Access and Management Act (GRAMA). Except for sections identified in writing and expressly approved by JSDs Department of Purchasing, Seller also agrees that their response to the solicitation will be a public document, and copies may be given to the public under GRAMA laws. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
- 28. Procurement Ethics:** The Seller understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to JSD is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of JSD, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is

given for their own use or for the use or benefit of any other person or organization (63G-6-1002, Utah Code Annotated, 1953, as amended).

- 29. Conflict of Interest and Procurement Ethics:** Seller represents that none of its officers or employees are officers or employees of JSD or JSD Board of Education, unless disclosure has been made in accordance with 67-16-8, U.C.A., 1953, as amended. Further, Seller certifies that it has not offered or given any gift or compensation prohibited by 67-16-5, U.C.A., 1953, as amended, to any officer or employee of JSD to secure favorable treatment with respect to being awarded this Purchase Order.
- 30. Disputes:** In the event of any dispute relating to the PO, the Seller agrees to make diligent and reasonable attempts to resolve disputes through negotiations.
- 31. Conflict of Terms:** Seller Terms and Conditions that apply must be in writing and expressly approved in writing by JSD Director of Purchasing. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Sellers website, terms listed in a Sellers quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. JSD PO Standard Terms and Conditions; 2. JSD PO and any Supplemental Terms and Conditions 3. Seller Terms and Conditions, if applicable.
- 32. Termination:** Unless otherwise stated in this Purchase Order, this Purchase Order may be terminated for convenience, in advance of the specified expiration date, upon five (5) day written notice given by the other party. If a written notice is delivered under this section, the District will reimburse Contractor for the Goods properly ordered and delivered until the effective date of said notice. The District will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice. Such compensation will be Contractor's exclusive remedy in the case of termination for convenience and will be available to Contractor only after Contractor has submitted a proper invoice. On termination of this Purchase Order, all accounts and payments will be processed according to the financial arrangements set forth herein for approved Goods ordered and delivered prior to date of termination.